



Australian Government
Refugee Review Tribunal

Country Advice

Germany

Germany – DEU37648 – Wolfsburg –
Lower Saxony – Immigrants – Xenophobia
– Anti-immigration groups – Neo-Nazis –
Right-wing extremists

17 November 2010

1. Please obtain figures on migration to Germany or German citizens whose parents are immigrants. Please include details of countries of origin.

In recent years Germany has received approximately 200,000 immigrants per annum. The most significant countries of origin include Turkey, Poland, Russia and Italy. Out of Germany's total population of 82 million people, nearly 20 per cent have migrant backgrounds, and recent census data indicates that approximately 2.8 million of these are German citizens with parents (or a parent) from migrant backgrounds.

Migration to Germany

A 2010 Organization for Economic Cooperation and Development (OECD) country note on migration movements in Germany reported migration inflows of 232,800 in 2007 and 228,300 in 2008,¹ and a 2010 *Reuters* news report that said Germany had “long had an annual influx of 200,000 immigrants”.² According to the OECD, since 1997 the top ten countries of origin for migrants to Germany have been Poland, Romania, Turkey, Hungary, Bulgaria, Italy, the United States, Russia, China and France.³ A report produced under the auspices of a European Commission-funded project on second-generation migrants indicated that in 2008, the “most important countries of origin” were:

- Turkey (with 20.2 per cent of all immigrants)
- The Russian Federation (6 per cent)
- Poland (6.8 per cent)
- Italy (5.8 per cent)
- Serbia (4.3 per cent)
- Croatia (3.4 per cent)
- Romania (3.0 per cent)
- Greece (3.1 per cent)
- Bosnia and Herzegovina (2.8 per cent)
- Ukraine (2.4 per cent)

¹ Organization for Economic Cooperation and Development (OECD) 2010, “Recent Changes in Migration Movements and Policies (Country notes): Germany”, <http://www.oecd.org/dataoecd/7/11/45627950.pdf> – Accessed 11 November 2010 – Attachment 1, p 207.

² Martin, M 2010, “Germany urgently needs immigrants says demographer”, *Reuters*, 28 October, <http://af.reuters.com/article/worldNews/idAFTRE69R20D20101028> – Accessed 3 November 2010 – Attachment 2.

³ OECD 2010, “Recent Changes in Migration Movements and Policies (Country notes): Germany”, <http://www.oecd.org/dataoecd/7/11/45627950.pdf> – Accessed 11 November 2010 – Attachment 1, p 207.

- Kazakhstan (1.8 per cent).⁴

National statistics indicate that in 2008, Turks made up the largest foreign or migrant group in Germany, followed by Italians, Poles, Greeks, Croatians and Russians.⁵ (Iraqis did not appear among the top 14 countries, but were grouped with smaller migrant populations in an “other” category.⁶) Altogether, in 2008 foreigners made up eight to nine per cent of Germany’s total population,⁷ while “German citizens with migrant backgrounds” accounted for another 10 per cent.⁸

German citizens with migrant backgrounds

Results from the German “Microcensus” of 2007 indicate that approximately 2.8 million German citizens had parents (or a parent) from “migration backgrounds”.⁹ This is equivalent to slightly more than three per cent of the country’s total population.¹⁰ Other sources indicate that about one in three children born in Germany today is from a migrant background – though these children would not necessarily be German citizens, since German citizenship is based primarily on the citizenship of parents, rather than place of birth.¹¹

⁴ Bridge Project 2010, “Report: Second Generation Migrants and the pedagogical intercultural approach based on autobiographical narratives in Germany”, January, http://www.bridge2g.eu/userfiles/file/WP2/P7_National%20Report%20in%20Germany.pdf – Accessed 15 November 2010 – Attachment 3, p 4.

⁵ Nottmeyer, O 2009, “Wedding Bells Are Ringing: Increasing Rates of Inter-marriage in Germany”, Migration Information website, October, <http://www.migrationinformation.org/Feature/display.cfm?ID=744> – Accessed 8 November 2010 – Attachment 4.

⁶ Nottmeyer, O 2009, “Wedding Bells Are Ringing: Increasing Rates of Inter-marriage in Germany”, Migration Information website, October, <http://www.migrationinformation.org/Feature/display.cfm?ID=744> – Accessed 8 November 2010 – Attachment 4.

⁷ OECD 2010, “Recent Changes in Migration Movements and Policies (Country notes): Germany”, <http://www.oecd.org/dataoecd/7/11/45627950.pdf> – Accessed 11 November 2010 – Attachment 1, p 207; Bridge Project 2010, “Report: Second Generation Migrants and the pedagogical intercultural approach based on autobiographical narratives in Germany”, January, http://www.bridge2g.eu/userfiles/file/WP2/P7_National%20Report%20in%20Germany.pdf – Accessed 15 November 2010 – Attachment 3, p 3; United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 4.

⁸ Bridge Project 2010, “Report: Second Generation Migrants and the pedagogical intercultural approach based on autobiographical narratives in Germany”, January, http://www.bridge2g.eu/userfiles/file/WP2/P7_National%20Report%20in%20Germany.pdf – Accessed 15 November 2010 – Attachment 3, p. 3.

⁹ Nottmeyer, O 2009, “Wedding Bells Are Ringing: Increasing Rates of Inter-marriage in Germany”, Migration Information website, October, <http://www.migrationinformation.org/Feature/display.cfm?ID=744> – Accessed 8 November 2010 – Attachment 4.

¹⁰ This figure is calculated with reference to the total population figure referred to in that census, see Nottmeyer, O 2009, “Wedding Bells Are Ringing: Increasing Rates of Inter-marriage in Germany”, Migration Information website, October, <http://www.migrationinformation.org/Feature/display.cfm?ID=744> – Accessed 8 November 2010 – Attachment 4.

¹¹ Levitz, D 2010, “Immigrants are Germany’s future, says integration commissioner”, *Deutsche-Welle*, 7 July, <http://www.dw-world.de/dw/article/0,,5771335,00.html> – Accessed 3 November 2010 – Attachment 6; CX219163 GERMANY: “Survey shows alarming lack of integration in Germany” 2009, *Spiegel Online*, 26 January, <http://www.spiegel.de/international/germany/0,1518,603588,00.html> (CISNET), Attachment 7; Nottmeyer, O 2009, “Wedding Bells Are Ringing: Increasing Rates of Inter-marriage in Germany”, Migration Information website, October, <http://www.migrationinformation.org/Feature/display.cfm?ID=744> – Accessed 8

2. What evidence is there of discrimination and abuse of foreigners or children of foreign parents living in Germany.

Reports by the US State Department, United Nations, German research institutes and other sources indicate that discrimination against ethnic minorities and foreigners does occur in Germany. Ethnic minorities and foreigners have also been the target of violent attacks and harassment by right-wing extremists.

Discrimination against ethnic minorities

Reliable sources indicate that ethnic minorities have been subject to societal and official discrimination in Germany, including in recent years. For example, the US State Department's 2009 *Human Rights Report* reported that "there was governmental and societal discrimination against some minority religious groups",¹² and a 2010 report on Germany by the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (hereafter the UN Special Rapporteur) noted that ethnic minorities experienced discrimination in accessing housing and job opportunities.¹³ Landlords were often reluctant to rent property to ethnic minorities, the report said, and discriminatory hiring practices had a particular impact on young people from migrant backgrounds.¹⁴ Consistent with the UN Special Rapporteur's report, a 2009 report by the European Forum for Migration Studies (EFMS) at the University of Bamberg in Germany underlined that ethnic discrimination in employment and housing persisted in Germany.¹⁵ The EFMS report stated in relation to an OECD statistical analysis that

employment chances of young second generation immigrations...are 15 per cent lower than...[those] of their native German counterparts. As only half of these disparities can be explained by the difference in...educational attainment, the OECD assumes that "labour market discrimination is likely to be a strong explanatory factor".¹⁶

November 2010 – Attachment 4; "Citizenship – How to become a German" n.d., Website of Just Landed (expatriate information services), <http://www.justlanded.com/english/Germany/Germany-Guide/Visas-Permits/Citizenship> – Accessed 17 November 2010 – Attachment 8.

¹² US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9 – see introduction section.

¹³ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5.

¹⁴ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 12, 13.

¹⁵ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 12, 13.

¹⁶ Peucker, M 2009, "Racism, Xenophobia and Ethnic Discrimination in Germany: Update Report 2008", European Forum for Migration Studies (EFMS), www.efms.uni-bamberg.de/pdf/Rassismus%20update%202008.pdf – Accessed 11 November 2010 – Attachment 10, p 14.

The UN Special Rapporteur's report further noted that ethnic minorities were underrepresented in the political process and in public life, especially the civil service.¹⁷ In November 2010 German Chancellor Angela Merkel acknowledged some of these issues publicly, saying that “[w]e currently have a real under-representation of people of immigrant origin in the public service” and “[w]hen someone has a name that doesn't sound very German, for certain jobs it often happens that they have difficulties in being employed”.¹⁸ There have been some positive developments in the area of political representation. For example, in 2008 the *Christian Science Monitor* reported that while Germans with immigrant backgrounds had been “virtually absent from politics” only two years earlier, “[t]oday, six sit at the European Parliament in Strasbourg, 11 in the Bundestag (parliament), 37 in state legislatures, and hundreds more on...city councils”.¹⁹

Muslims in Germany – who are mainly foreigners or from ethnic minority groups²⁰ – have encountered official discrimination in the form of state government restrictions on the wearing of head scarves in public institutions, including schools.²¹ In 2009 such policies applied in eight of Germany's 16 states.²² As noted by Human Rights Watch, although the legislation refers to “religious clothing” in general or maintaining a “neutral” appearance in the workplace, in practice it is Muslim women who are most affected, as the wearing of Christian symbols and clothing (such as the nun's habit) is usually permitted.²³

Attacks on ethnic minorities or foreigners

The US State Department's *2009 Human Rights Report* stated that “right-wing extremist violence and harassment of racial minorities and foreigners were problems” in Germany,²⁴ and official German statistics indicate that the number of violent right-wing politically motivated crimes increased from 2007 to 2008. There were a number of reports of specific attacks on ethnic and religious minorities and foreigners in recent years.

¹⁷ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 18.

¹⁸ Hyslop, L 2010, “Discrimination against immigrants rife in Germany, says Angela Merkel”, *The Telegraph*, 2 November, <http://www.telegraph.co.uk/expat/expatnews/8102057/Discrimination-against-immigrants-rife-in-Germany-says-Angela-Merkel.html> – Accessed 8 November 2010 – Attachment 11.

¹⁹ CX198234: GERMANY: “In Germany, a breakthrough year for immigrant politicians” 2008, *Christian Science Monitor*, 18 April, <http://www.csmonitor.com/2008/0418/p05s01-woeu.html> (CISNET) – Attachment 12.

²⁰ “Study: Significantly more Muslims in Germany” 2009, Spiegel Online (original in German), 23 June, <http://translate.google.com/translate?sourceid=navclient&hl=en&u=http%3a%2f%2fwww%2edw%2dworld%2ede%2fdw%2farticle%2f0%2c%2c4419533%2c00%2ehtml> – Accessed 17 November 2010 – Attachment 13.

²¹ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2c; Human Rights Watch 2009, “Discrimination in the Name of Neutrality: Headscarf Bans for Teachers and Civil Servants in Germany”, February, <http://www.hrw.org/en/reports/2009/02/25/discrimination-name-neutrality-0> – Accessed 11 November 2010 – Attachment 14.

²² Human Rights Watch 2009, “Discrimination in the Name of Neutrality: Headscarf Bans for Teachers and Civil Servants in Germany”, February, <http://www.hrw.org/en/reports/2009/02/25/discrimination-name-neutrality-0> – Accessed 11 November 2010 – Attachment 14; US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2c.

²³ Human Rights Watch 2009, “Discrimination in the Name of Neutrality: Headscarf Bans for Teachers and Civil Servants in Germany”, February, <http://www.hrw.org/en/reports/2009/02/25/discrimination-name-neutrality-0> – Accessed 11 November 2010 – Attachment 14.

²⁴ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, introduction section.

The German government records incidents of right-wing politically motivated crimes, which are defined as “offenses related to the victim’s ideology, nationality, ethnicity, race, skin color, religion, world view, ancestry, sexual orientation, disability status, appearance, or social status”.²⁵ Germany’s Federal Office for the Protection of the Constitution (FOPC, the country’s main domestic intelligence agency) recorded 1,042 violent “right-wing politically motivated crimes” in 2008.²⁶ This was an increase of six per cent on the previous year.²⁷ According to the *New York Times* and other sources, these crimes were “far more commonplace in parts of the former East Germany”, which has historically higher levels of extremist right-wing crime and unemployment.²⁸

The US State Department, UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, European Forum for Migration Studies (EFMS), and various news sources have noted specific instances of racial, ethnic or religiously-motivated violence occurring in Germany in recent years. One of the highest-profile incidents occurred in July 2009, when a man with right-wing extremist sympathies stabbed an Egyptian Muslim woman to death in a courtroom in Dresden in the state of Saxony.²⁹ The woman was due to testify against him for insulting her for wearing a headscarf and calling her a terrorist.³⁰ The man was subsequently condemned to life in prison after the judge determined that he acted out of “revenge and xenophobic hatred”.³¹

²⁵ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6.

²⁶ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6; see also Kimmelman, M 2009, “In Dresden, High Culture and Ugly Reality Clash”, *New York Times*, 14 August, <http://www.nytimes.com/2009/08/15/arts/15abroad.html> – Accessed 10 November 2010 – Attachment 15.

²⁷ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6.

²⁸ Kimmelman, M 2009, “In Dresden, High Culture and Ugly Reality Clash”, *New York Times*, 14 August, <http://www.nytimes.com/2009/08/15/arts/15abroad.html> – Accessed 10 November 2010 – Attachment 15; see also: United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 18; Volkert, B 2009, “Xenophobia: Germany Still Has Trouble Countering Neo-Nazis”, *Radio Free Europe*, 6 June,

http://www.rferl.org/content/Xenophobia_Germany_Still_Has_Trouble_Countering_NeoNazis/1748320.html – Accessed 3 November 2010 – Attachment 16; Moore, T 2009, “In Germany, a Disturbing Rise in Right-Wing Violence”, *Time*, 23 December, <http://www.time.com/time/world/article/0,8599,1949518,00.html> – Accessed 8 November 2010 – Attachment 17; “The rise of the far-right in the East” 2010, *Deutsche-Welle*, 21 September, <http://www.dw-world.de/dw/article/0,5996369,00.html> – Accessed 8 November 2010 – Attachment 18.

²⁹ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2c; United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 10; Kimmelman, M 2009, “In Dresden, High Culture and Ugly Reality Clash”, *New York Times*, 14 August, <http://www.nytimes.com/2009/08/15/arts/15abroad.html> – Accessed 10 November 2010 – Attachment 15; Moore, T 2009, “In Germany, a Disturbing Rise in Right-Wing Violence”, *Time*, 23 December, <http://www.time.com/time/world/article/0,8599,1949518,00.html> – Accessed 8 November 2010 – Attachment 17.

³⁰ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2c.

³¹ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2c; see also United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 10.

Also in 2009, the far-right National Democratic Party (NPD) threatened an Angolan-born German citizen and politician for the centre-right Christian Democratic Union (CDU).³² A week later, NPD supporters attacked an ethnically African British citizen at a NPD election stand after he ripped up a party flier.³³ The man had to be taken to hospital; police arrested his attackers.³⁴

Examples of specific incidents of violence against ethnic minorities or foreigners occurring prior to 2009 include:

- In June 2008, following the European Football Cup semi-final between Germany and Turkey, several “allegedly xenophobic attacks” occurred as a group of 20-30 people damaged Turkish kebab shops and assaulted two kebab shop owners.³⁵
- In March and April 2008, several youths set fire to houses in Berlin – one belonging to a Turkish family, and the other to Bosnians.³⁶ No-one was injured.
- In August 2007 in the town of Muegeln in Saxony, a group of eight Indian nationals was attacked by a mob of 50 people shouting racist slogans such as “foreigners out”.³⁷ The US State Department’s 2009 Human Rights Report said that the state district attorney was “continuing to investigate seven persons involved in the...incident”.³⁸
- In March 2007 a group of Iraqis were verbally abused and then attacked by several German men while travelling on a bus in the eastern town of Magdeburg, Saxony-Anhalt.³⁹ The US State Department reported that at the end of 2009 the state prosecutor was “investigating three suspects” in relation to the incident.
- That same month and again in Magdeburg, four people from Niger were “allegedly harassed and racially abused” by three German men. A fight ensued, in which two of

³² US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6; Kimmelman, M 2009, “In Dresden, High Culture and Ugly Reality Clash”, *New York Times*, 14 August, <http://www.nytimes.com/2009/08/15/arts/15abroad.html> – Accessed 10 November 2010 – Attachment 15.

³³ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6.

³⁴ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6.

³⁵ Peucker, M 2009, “Racism, Xenophobia and Ethnic Discrimination in Germany: Update Report 2008”, European Forum for Migration Studies (EFMS), www.efms.uni-bamberg.de/pdf/Rassismus%20update%202008.pdf – Accessed 11 November 2010 – Attachment 10, p 10.

³⁶ Peucker, M 2009, “Racism, Xenophobia and Ethnic Discrimination in Germany: Update Report 2008”, European Forum for Migration Studies (EFMS), www.efms.uni-bamberg.de/pdf/Rassismus%20update%202008.pdf – Accessed 11 November 2010 – Attachment 10, p 10.

³⁷ “Zero tolerance for ‘Everyday Racism’” 2007, *Spiegel Online*, 21 August, <http://www.spiegel.de/international/germany/0,1518,501049,00.html> – Accessed 3 November 2010 – Attachment 19; Eckardt, A 2007, “Mob attack in Germany sparks outrage”, *MSNBC*, 22 August, <http://worldblog.msnbc.msn.com/news/2007/08/22/4376184-mob-attack-in-germany-sparks-outrage> – Accessed 10 November 2010 – Attachment 20; Moore, T 2009, “In Germany, a Disturbing Rise in Right-Wing Violence”, *Time*, 23 December, <http://www.time.com/time/world/article/0,8599,1949518,00.html> – Accessed 8 November 2010 – Attachment 17.

³⁸ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6.

³⁹ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6; see also “Spate of Hate Crimes in Eastern German City – Pregnant Woman Hospitalized in Racist Attack” 2007, *Spiegel Online*, 12 March, <http://www.spiegel.de/international/germany/0,1518,521058,00.html> – Accessed 10 November 2010 – Attachment 21.

the Africans were injured. A police officer who came to the scene was also attacked. The assailants fled before additional police arrived.⁴⁰

3. Please provide some specific information in this regard about Wolfsburg in Lower Saxony, for example what kind of community it is and evidence of extremist far right groups there.

No information was located regarding attitudes toward, and treatment of, ethnic minorities and foreigners in Wolfsburg, nor were any sources found to refer to extremist right-wing groups or attacks on ethnic minorities or foreigners in this city in contemporary times. However, several sources referred to violent right-wing crimes and far-right groups in the state of Lower Saxony, which indicates that right-wing extremists do have a presence there.

Wolfsburg

Wolfsburg, a city of 120,000 people and the headquarters of Volkswagen in Germany, has been described by Lonely Planet as having an “earthy, working class atmosphere that sets it apart from other cities in the region”.⁴¹ Local government statistics indicate that approximately 10 per cent of Wolfsburg’s population are foreigners, with the largest groups being Italians, Poles, Turks, Serbians, and Tunisians.⁴² There were reportedly 106 Iraqis living in Wolfsburg in 2008.⁴³ (Please note, these figures do not include German citizens with migrant backgrounds; no sources were located to supply this information.) No information was found on community attitudes to foreigners, incidents of racial or ethnic discrimination or violence, or extremist right-wing groups in Wolfsburg.

Lower Saxony

The 2009 European Forum for Migration Studies (EFMS) report on racism, xenophobia and ethnic discrimination in Germany cited official figures showing that in 2006 and 2007 Lower Saxony had the second-highest number of “violent crimes with an extremist right-

⁴⁰ “Spate of Hate Crimes in Eastern German City – Pregnant Woman Hospitalized in Racist Attack” 2007, *Spiegel Online*, 12 March, <http://www.spiegel.de/international/germany/0,1518,521058,00.html> – Accessed 10 November 2010 – Attachment 21.

⁴¹ Schulte-Peevers, A, Christiani, K, Di Duca, M, & A Haywood 2010, *Lonely Planet Germany*, Lonely Planet publications, London, http://www.amazon.com/Lonely-Planet-Germany-Country-Guide/dp/1741047811/ref=sr_1_1?ie=UTF8&qid=1289371218&sr=8-1#reader_1741047811 – Accessed 10 November 2010 – Attachment 22, p. 640.

⁴² “Vervolkerung – Statistisches Jahrbuch Wolfsburg” (Population – Statistical Yearbook Wolfsburg) 2009, http://www.wolfsburg.de/irj/go/km/docs/imperia/mam/portal/strategische_planung_stadtentwicklung_statistik/pdf/wob_statjahrbuch2007-2008_02-bev_lkerung.pdf – Accessed 12 November 2010 – Attachment 23, p 23; for a Google translation of this document, see: “Wolfsburg Statistical Yearbook 2007-2008” (Google translation) n.d., http://translate.googleusercontent.com/translate_c?hl=en&u=http://www.wolfsburg.de/irj/go/km/docs/imperia/mam/portal/strategische_planung_stadtentwicklung_statistik/pdf/wob_statjahrbuch2007-2008_02-bev_lkerung.pdf&rurl=translate.google.com&twu=1&usg=ALkJrhgLnkJdr68iD11INfAtAGSPr0KYOG – Accessed 17 November 2010 – Attachment 24. The Google translation version of the report does not preserve the formatting and tables in the original, but does help in interpretation of its tables.

⁴³ “Vervolkerung – Statistisches Jahrbuch Wolfsburg” (Population – Statistical Yearbook Wolfsburg) 2009, http://www.wolfsburg.de/irj/go/km/docs/imperia/mam/portal/strategische_planung_stadtentwicklung_statistik/pdf/wob_statjahrbuch2007-2008_02-bev_lkerung.pdf – Accessed 12 November 2010 – Attachment 22, p 23.

wing background” of any state in the country.⁴⁴ (The figure for 2007 was 110, and for 2006, 138.⁴⁵) Its per capita rate of these crimes, however, placed it seventh out of the 16 states.⁴⁶ A 2009 report by the European anti-fascist organisation “Foundation Erinnerungsgun Verantwortung Zukunft” (“Foundation EVZ”, or in English, the Foundation for Remembrance, Responsibility and Future) indicated that refugees, migrants, and left-wing groups were among the main targets for this kind of violence in Lower Saxony.⁴⁷

Recent news reports suggest that there are extremist right-wing or neo-Nazi groups in Lower Saxony. For example, articles in the *Times* and English-language German newspaper *The Local* on 2009 and 2010 government raids on a far-right group indicated that its offices in Lower Saxony were among those targeted by the Interior Ministry.⁴⁸ *The Local* and German news provider *Deutsche Welle* indicated in 2010 reports that since 2006, right wing extremists in Lower Saxony have undertaken memorial marches for Nazis held in a British interrogation centre in the town of Bad Nenndorf.⁴⁹ A 2009 article in the *Telegraph* reported that authorities in Lower Saxony had thwarted a right-wing extremist’s efforts to set up a neo-Nazi youth training centre in a rural hotel there.⁵⁰ Although these reports did not provide estimates of the number of right-wing extremists or far-right groups in Lower Saxony, it is clear that they do have a presence in this state.

4. What has the government reaction been to far-right groups and groups that vilify foreigners or display racial hatred? Please include information on government law and policies, the police force and judiciary.

The government has taken punitive and preventative measures to combat far-right extremism in Germany. German law prohibits making or spreading of statements or propaganda inciting racial hatred, endorsing Nazism or denying the Holocaust, and both the police and judiciary are actively involved in countering right-wing extremism. However, extremist right-wing groups remain active in Germany, and xenophobia and

⁴⁴ Peucker, M 2009, “Racism, Xenophobia and Ethnic Discrimination in Germany: Update Report 2008”, European Forum for Migration Studies (EFMS), www.efms.uni-bamberg.de/pdf/Rassismus%20update%202008.pdf – Accessed 11 November 2010 – Attachment 10, p 35.

⁴⁵ Peucker, M 2009, “Racism, Xenophobia and Ethnic Discrimination in Germany: Update Report 2008”, European Forum for Migration Studies (EFMS), www.efms.uni-bamberg.de/pdf/Rassismus%20update%202008.pdf – Accessed 11 November 2010 – Attachment 10, p 35.

⁴⁶ Peucker, M 2009, “Racism, Xenophobia and Ethnic Discrimination in Germany: Update Report 2008”, European Forum for Migration Studies (EFMS), www.efms.uni-bamberg.de/pdf/Rassismus%20update%202008.pdf – Accessed 11 November 2010 – Attachment 10, p 36.

⁴⁷ Grell, B, Köhler, T, Pankowski, R, Sineaeva, N, & M Starnawski (Grell et al) 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25. For more on Foundation EVZ, see their website at: <http://www.stiftung-evz.de/eng/about-us/>.

⁴⁸ “Interior Ministry raids neo-Nazi group locations nationwide” 2010, *The Local*, 7 September, <http://www.thelocal.de/national/20100907-29651.html> – Accessed 11 November 2010 – Attachment 26; Yeoman, F 2009, “Neo-Nazi youth group banned for trying to indoctrinate children in Germany”, *The Times*, 31 March, <http://www.timesonline.co.uk/tol/news/world/europe/article6009970.ece> – Accessed 11 November 2010 – Attachment 27.

⁴⁹ “Court approves neo-Nazi march, but bans counter demonstration” 2010, *The Local*, 13 August, <http://www.thelocal.de/national/20100813-29133.html> – Accessed 11 November 2010 – Attachment 28; “Court approves demonstration against neo-Nazi march” 2010, *Deutsche-Welle*, 14 August, <http://www.dw-world.de/dw/article/0,,5910430,00.html> – Accessed 11 November 2010 – Attachment 29.

⁵⁰ Wroe, D 2009, “German neo-Nazi ‘youth camp’ shut down”, *The Telegraph*, 5 August, <http://www.telegraph.co.uk/news/worldnews/europe/germany/5974017/German-neo-Nazi-youth-camp-shut-down.html> – Accessed 11 November 2010 – Attachment 30.

anti-migrant attitudes are prevalent in the wider population.⁵¹ Some commentators argue that more should be done to counter the growth and impact of right-wing extremism.⁵²

Government response to right-wing extremism

According to the German Federal Ministry of the Interior, in 2002 the German government adopted a “comprehensive strategy” to combat right-wing extremism, xenophobia, anti-Semitism and violence.⁵³ The “four pillars” of this strategy are:

- [1] a consistent human rights policy and human rights education;
- [2] promoting the integration of foreigners;
- [3] strengthening civil society and promoting civic values; [and]
- [4] measures targeted at perpetrators and their milieu.⁵⁴

Consistent with these “pillars”, the government’s approach to right-wing extremism includes both “punitive and preventative measures”.⁵⁵ Punitive measures include restrictions on far-right extremist organisations and activities as well as outright bans on some groups.⁵⁶ The US State Department’s 2009 *Human Rights Report* provides examples of such restrictions in reporting that the German government limits “the freedoms of speech, press, assembly and association for neo-Nazi and other groups it deem[s] extremist”,⁵⁷ and noting that “making or disseminating oral statements or propaganda inciting racial hatred, endorsing Nazism, or denying the Holocaust is prohibited” under the law.⁵⁸ Regarding bans, Germany’s Federal Ministry of the Interior’s has indicated that 24 right-wing extremist organisations have been banned in Germany since 1992,⁵⁹ while a February 2010 report on Germany by the United Nations Special Rapporteur on

⁵¹ As discussed at question six.

⁵² See for example Volkert, B 2009, “Xenophobia: Germany Still Has Trouble Countering Neo-Nazis”, *Radio Free Europe*, 6 June, http://www.rferl.org/content/Xenophobia_Germany_Still_Has_Trouble_Countering_NeoNazis/1748320.html – Accessed 3 November 2010 – Attachment 16; Moore, T 2009, “In Germany, a Disturbing Rise in Right-Wing Violence”, *Time*, 23 December, <http://www.time.com/time/world/article/0,8599,1949518,00.html> – Accessed 8 November 2010 – Attachment 17.

⁵³ Federal Ministry of the Interior (Germany) n.d., “Right-wing extremism”, Website of the Federal Ministry of the Interior (*Bundesministerium des Innern*), http://www.bmi.bund.de/EN/Themen/Sicherheit/Extremismus/Rechtsextremismus/rechtsextremismus_node.html – Accessed 12 November 2010 – Attachment 31; see also Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 59.

⁵⁴ Federal Ministry of the Interior (Germany) n.d., “Right-wing extremism”, Website of the Federal Ministry of the Interior (*Bundesministerium des Innern*), http://www.bmi.bund.de/EN/Themen/Sicherheit/Extremismus/Rechtsextremismus/rechtsextremismus_node.html – Accessed 12 November 2010 – Attachment 31.

⁵⁵ Federal Ministry of the Interior (Germany) n.d., “Right-wing extremism”, Website of the Federal Ministry of the Interior (*Bundesministerium des Innern*), http://www.bmi.bund.de/EN/Themen/Sicherheit/Extremismus/Rechtsextremismus/rechtsextremismus_node.html – Accessed 12 November 2010 – Attachment 31; see also Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 59.

⁵⁶ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 59.

⁵⁷ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, introduction section.

⁵⁸ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2a.

⁵⁹ Federal Ministry of the Interior (Germany) n.d., “Right-wing extremism”, Website of the Federal Ministry of the Interior (*Bundesministerium des Innern*), http://www.bmi.bund.de/EN/Themen/Sicherheit/Extremismus/Rechtsextremismus/rechtsextremismus_node.html – Accessed 12 November 2010 – Attachment 31.

contemporary forms of racism, racial discrimination, xenophobia and related intolerance (the UN Special Rapporteur) cited government officials' advice that over 30 racist organisations had been banned in the previous 20 years.⁶⁰ (Please see sections below for further details on punitive measures against right-wing extremism, including specific information about legal provisions, the police and the judiciary.)

Preventative measures against right-wing extremism include government funded educational and social programs, many of which are targeted at young people.⁶¹ In 2010 the US Department of State noted several such programs in reporting:

To address right-wing extremism, [German] authorities conducted a variety of educational programs to promote tolerance, many focusing on anti-Semitism and xenophobia. The Federal Ministry of Family, Senior Citizens, Women, and Youth implemented three complementary federal programs to combat right-wing extremism: "Diversity is Good", a 19-million-euro (\$27.2 million) per year program designed to train youth, educators, and immigrants about right-wing extremism, anti-Semitism, and xenophobia; "Competent for Democracy," a five-million-euro (\$7.2 million) per year network to provide counselling in conflict situations; and "Places of Diversity," a network of organizations, including political parties, media outlets, churches, and businesses, to promote tolerance and democracy.⁶²

Other examples of preventative measures or programs operating in Germany include:

- production and distribution of educational materials and publications about right-wing extremism
- public exhibitions about the dangers of right-wing extremism
- "exit programs" to help individuals break away from right-wing extremist groups.⁶³

⁶⁰ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 9.

⁶¹ Mentioned in several sources including United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5; Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32; US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6; Federal Ministry of the Interior (Germany) n.d., "Right-wing extremism", Website of the Federal Ministry of the Interior (*Bundesministerium des Innern*), http://www.bmi.bund.de/EN/Themen/Sicherheit/Extremismus/Rechtsextremismus/rechtsextremismus_node.html – Accessed 12 November 2010 – Attachment 31; Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25.

⁶² US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 6.

⁶³ Federal Ministry of the Interior (Germany) n.d., "Right-wing extremism", Website of the Federal Ministry of the Interior (*Bundesministerium des Innern*), http://www.bmi.bund.de/EN/Themen/Sicherheit/Extremismus/Rechtsextremismus/rechtsextremismus_node.html – Accessed 12 November 2010 – Attachment 31; see also Moore, T 2009, "In Germany, a Disturbing Rise in Right-Wing Violence", *Time*, 23 December, <http://www.time.com/time/world/article/0,8599,1949518,00.html> – Accessed 8 November 2010 – Attachment 17.

Legal measures and provisions

A number of reports highlight specific legal measures and provisions aimed at, or used in, countering extremist right-wing groups and crimes.⁶⁴ A 2010 article in the *Journal of Ethnicity in Criminal Justice*, for example, notes various sections of the German Criminal Code that are relevant in the prosecution of right-wing extremism and racially-motivated crimes.⁶⁵ According to the author, Dr Marc Coester of Germany's Crime Prevention Council,

Section 86 of the Penal Code prohibits the dissemination of propaganda of unconstitutional organizations and Section 86a prohibits the dissemination and use of symbols or signs of unconstitutional organizations. This means, for example, that a swastika sprayed on a house wall or the Hitler salute (both symbols of Hitler's former National Socialist Party [NSDAP]) is forbidden. These are punishable offenses with up to 3 years in prison. [...] Section 85 of the Criminal Code also prohibits the continuation of the activities of an organization that has been banned...⁶⁶

A 2009 report by the European anti-fascist organisation "Foundation Erinnerung Verantwortung Zukunft" (Foundation EVZ) also noted Section 86 of the Criminal Code as relevant to right-wing extremists, though it argued that the "list of prohibited symbols is limited to organizations of the Third Reich and a few associations deemed illegal after 1945", which meant that contemporary far-right groups could circumvent the law by using modern symbols or codes.⁶⁷

In addition to Section 86, Section 130 of the Criminal Code is highly relevant to right-wing extremism.⁶⁸ Dr Coester writes:

Section 130 of the Criminal Code (agitation of the people) prohibits inciting hatred or violence against sections of the population (§ 130.1), including through dissemination of publications or broadcasts (§ 130.2); and the approval, denial, or

⁶⁴ For example, Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32; United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5; Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25.

⁶⁵ Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32.

⁶⁶ Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 53.

⁶⁷ Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 42.

⁶⁸ Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32; Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25; United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5.

playing down of the genocide committed under the National Socialist regime (§ 130.3), including through dissemination of publications (§ 130.4). The punishment can be up to 5 years in prison. This is particularly clear with cases of public approval, denial, or making light of “an act committed under the guise of National Socialism.” The so-called Auschwitz denial, that is to say the denial of the Holocaust, is a punishable offense in Germany.⁶⁹

The Foundation EVZ report and 2010 report by the UN Special Rapporteur also underlined the importance of Section 130; the UN Special Rapporteur said that it contained “robust provisions against whomever ‘incites hatred against segments of the population or calls for violent or arbitrary measures against them’, including through the dissemination of writings and broadcasts”.⁷⁰

Regarding “racist crimes” more generally, the UN Special Rapporteur’s report identified Section 46 of the Criminal Code as one that may be relevant.⁷¹ This section “establishe[s] the principles that should be taken into account to determine punishment for criminal offences” and includes a reference to the “motives and aims of the perpetrator”, the report said.⁷² According to Dr Coester,

The racist motivation of an offense may, therefore, be taken into account in this context and the German authorities have reported that there have been cases where stricter sentences have been handed down when the racist motive of the offenders is taken into consideration.⁷³

However, Dr Coester, Foundation EVZ, and the UN Special Rapporteur all noted that Section 46 did not include a specific reference to racist motivations,⁷⁴ and the former

⁶⁹ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 53.

⁷⁰ Grell et al 2009, *Hate Crime Monitoring and Victim Assistancess in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25; United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 5-6.

⁷¹ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 6.

⁷² United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 6.

⁷³ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32.

⁷⁴ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 54; Grell et al 2009, *Hate Crime Monitoring and Victim Assistancess in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 42; United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 6.

observed that a number of NGOs working to combat racism and racial discrimination had argued that

although the German criminal legislation contains comprehensive provisions to deal with the activities of extreme right-wing organizations and their members, the existing legislation is not designed to focus on the racist dimension of offenses...⁷⁵

It appears that UN Special Rapporteur agreed that this was a shortcoming, as he recommended that German legislators add an “explicit reference to racism as an aggravating circumstance in crimes...under section 46”.⁷⁶

Police

As a key law enforcement agency, the German police take an active role in the government’s response to right-wing extremism and xenophobic behaviours. Numerous news sources have reported on police taking action against neo-Nazis and other far-right groups, for example by carrying out surveillance and raids on extremist right-wing organisations, blocking neo-Nazi marches or demonstrations, and arresting youths for broadcasting “racist rock music”.⁷⁷ German police use a registration and classification system to record right-wing extremist crimes including right-wing hate crimes,⁷⁸ and an article in the *Journal of Ethnicity in Criminal Justice* said that there was a “special German police task group to monitor and take action against hate groups on the internet”, which indicates that there are special units within the police force that are assigned to this type of crime.⁷⁹

⁷⁵ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 54.

⁷⁶ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 19.

⁷⁷ See for example: “Interior Ministry raids neo-Nazi group locations nationwide” 2010, *The Local*, 7 September, <http://www.thelocal.de/national/20100907-29651.html> – Accessed 11 November 2010 – Attachment 26; Yeoman, F 2009, “Neo-Nazi youth group banned for trying to indoctrinate children in Germany”, *The Times*, 31 March, <http://www.timesonline.co.uk/tol/news/world/europe/article6009970.ece> – Accessed 11 November 2010 – Attachment 27; Wroe, D 2009, “German neo-Nazi ‘youth camp’ shut down”, *The Telegraph*, 5 August, <http://www.telegraph.co.uk/news/worldnews/europe/germany/5974017/German-neo-Nazi-youth-camp-shut-down.html> – Accessed 11 November 2010 – Attachment 30; US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2 b; Paterson, A 2010, “German police arrest neo-Nazis over ‘racist rock music’ broadcasts”, *The Independent*, 5 November, <http://www.independent.co.uk/news/world/europe/german-police-arrest-neonazis-over-racist-rock-music-broadcasts-2125502.html> – Accessed 8 November 2010 – Attachment 33.

⁷⁸ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany”, February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 10 (we19); Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 5, p 58.

⁷⁹ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 60; as was also indicated by “Germany Launches Massive Crackdown on Neo-Nazi Music” 2009, *Deutsche-Welle*, 4 March, <http://www.dw-world.de/dw/article/0,,4073394,00.html> – Accessed 16 November 2010 – Attachment 34, which notes a special police taskforce devoted to stamping out the distribution of neo-Nazi music.

Relatively few sources were found to recount police failures in relation to right-wing extremists – though informed commentators have identified shortcomings and areas for improvement.⁸⁰ One of the worst cases of police failings in relation to right-wing extremist crime was noted by the *Telegraph* newspaper in 2007, when it reported allegations that police in eastern Germany

routinely ignore[d] racially motivated attacks, according to local politicians...[and were] also ...accused of manipulating statistics to hide the soaring number of incidents involving neo-Nazis.⁸¹

The chief of police in the affected area was made to resign after the problem became known to authorities,⁸² and no reports were found of any other such serious cases in recent years. However, Foundation EVZ said in 2009 that police in the state of Thuringia were “also known for not taking the problem of right-wing extremism seriously” and “[s]everal interview partners observed similar problems in other federal states”.⁸³

Foundation EVZ has also noted allegations of police abuse and mistreatment of migrants and reported that officers in German law enforcement agencies sometimes exhibit xenophobic attitudes and behaviours.⁸⁴ By way of corroboration, a 2004 Amnesty International report on police abuses in Germany related a number of cases in which police had mistreated detainees who were foreign nationals.⁸⁵ A 2010 article in the *Journal of Ethnicity in Criminal Justice* said that German authorities had “established mobile task forces that participate in racial sensitivity police training programs”.⁸⁶

Foundation EVZ further argued that some police possessed an inadequate awareness of the official definition of a hate crime and many showed narrow thinking regarding what

⁸⁰ See for example: de Quetteville, H 2007, “German police ‘routinely ignore racist attacks’”, *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/1571608/German-police-routinely-ignore-racist-attacks.html> – Accessed 3 November 2010 – Attachment 35; Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25.

⁸¹ de Quetteville, H 2007, “German police ‘routinely ignore racist attacks’”, *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/1571608/German-police-routinely-ignore-racist-attacks.html> – Accessed 3 November 2010 – Attachment 35.

⁸² de Quetteville, H 2007, “German police ‘routinely ignore racist attacks’”, *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/1571608/German-police-routinely-ignore-racist-attacks.html> – Accessed 3 November 2010 – Attachment 35; Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 62.

⁸³ Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 63.

⁸⁴ Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 61.

⁸⁵ Paterson, A 2004, “Amnesty accuses German police of brutality against foreigners”, *The Independent*, 15 January, <http://www.independent.co.uk/news/world/europe/amnesty-accuses-german-police-of-brutality-against-foreigners-573212.html> – Accessed 15 November 2010 – Attachment 36; Amnesty International 2004, “Back in the Spotlight: Allegations of police ill-treatment and excessive use of force in Germany”, January, <http://www.amnesty.org/en/library/asset/EUR23/001/2004/en/53f1edbc-d64e-11dd-ab95-a13b602c0642/eur230012004en.pdf> – Accessed 17 November 2010 – Attachment 37.

⁸⁶ Coester, M 2010, “Commentary: Right-Wing Extremism and Bias Crime in Germany”, *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 60.

constituted an extremist right-wing extremist offense.⁸⁷ This problem was noted by other commentators, for example a researcher at the Max Planck Institute for Foreign and International Criminal Law in Germany,⁸⁸ and the UN Special Rapporteur's report appears to broadly support Foundation EVZ's points, insofar as it recommends that the German government develop "additional training for police officers, prosecutors and judges on the identification and characterization of racist hate crimes".⁸⁹

The judiciary

Reports indicate that the judiciary has participated in the German government's broader effort to counter right-wing extremism by prosecuting and convicting perpetrators of right-wing extremist, xenophobic or racist crimes under the provisions of the law.⁹⁰ However, some critics argue that Germany's judicial system should deliver higher conviction rates for these crimes and give out harsher penalties to right-wing extremists.⁹¹

Although no comprehensive or targeted reports were located on the German judiciary's responsiveness to extremist right-wing and/or racially/ethnically-motivated crime in recent years,⁹² reports on individual cases offer some insights on this matter. The US State Department 2009 *Human Rights Report*, for example, notes a number of recent incidents of extremist right-wing, racial, ethnic, or religiously-motivated violence or abuse, and provides limited information on the status of resulting legal cases.⁹³ In most of these cases perpetrators appear to have been convicted; alternatively, the case remained with prosecutors for investigation.⁹⁴ It is worth noting, however, that these were probably relatively high-profile cases in Germany, and the outcome for lower-profile incidents may have been different. In addition, there have been less positive outcomes for some cases, such as that of an ethnically Ethiopian German severely injured in a 2006 attack that he said was racially motivated. Foundation EVZ reported that the two suspects were acquitted due to lack of evidence, and the judge largely dismissed the racial aspect of the

⁸⁷ Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 61.

⁸⁸ Glet, A 2009, "The German Hate Crime Concept: An account of the classification and registration of bias-motivated offences and the implementation of the hate crime model into Germany's law enforcement system", *Internet Journal of Criminology*, November, http://www.internetjournalofcriminology.com/Glet_German_Hate_Crime_Concept_Nov_09.pdf – Accessed 17 November 2010 – Attachment 38.

⁸⁹ United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2010, "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Githu Muigai: Mission to Germany", February, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/116/24/PDF/G1011624.pdf?OpenElement> – Accessed 15 November 2010, Attachment 5, p 19.

⁹⁰ See for example US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9; Grell et al 2009, *Hate Crime Monitoring and Victim Assurances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25; Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 59.

⁹¹ Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 59.

⁹² The exception being a 1995 report by Human Rights Watch, which is now rather out of date (see: Human Rights Watch 1995, "Germany for Germans': Xenophobia and Racist Violence in Germany", 1 April, <http://www.unhcr.org/refworld/country,,HRW,,DEU,,3ae6a7d98,0.html> – Accessed 16 November 2010 – Attachment 39).

⁹³ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9.

⁹⁴ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9.

case, saying that although racist words were used against the victim during the attack, the attack itself was not necessarily racially motivated.⁹⁵

The Foundation EVZ report also comments on legal proceedings and convictions for extremist right-wing crimes with reference to the most recent publicly available statistics (which were from 2001-2003).⁹⁶ Statistics from 2003 indicate that roughly 13 per cent of public prosecutor investigations related to right-wing extremist and/or xenophobic offenses ended in a conviction.⁹⁷ (Less than one per cent ended in an acquittal, and the outcomes of the remainder of investigations were not clear.⁹⁸) Although it is difficult for a non-expert to assess this conviction rate, a 1995 Human Rights Watch report on xenophobia in Germany that was written by a professor of law at Brooklyn Law School in New York described 1992's conviction rate of 14.6 per cent as "low".⁹⁹ In addition, Dr Coester noted in 2010 that

critics have argued that the judicial system has been too weak in dealing with right-wing extremists, resulting in low rates of conviction of perpetrators of right-wing extremism. Many of these critics argue that the judicial system needs to be more effective and that the perpetrators should be given more severe penalties.¹⁰⁰

5. Is there evidence of far -right groups celebrating Hitler's birthday?

Several news stories were found to indicate that neo-Nazis have celebrated Hitler's birthday in Germany in recent years. For example:

- In October 2010 the *Sun* and *Independent* newspapers reported that the town of Jamel in east Germany had a significant population of right-wing extremists, and neo-Nazis there celebrated Hitler's birthday and the summer solstice "by holding parties at which banned Nazi songs are sung".¹⁰¹
- In April 2008, German newspaper *Spiegel Online* reported that police had broken up a noisy and drunken "birthday party for Adolf Hitler" in an apartment in the city of Bremen in the country's north-west. *Spiegel Online* said that the participants, ten

⁹⁵ Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 74

⁹⁶ Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 72.

⁹⁷ Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 73.

⁹⁸ Grell et al 2009, *Hate Crime Monitoring and Victim Assistances in Poland and Germany*, Foundation EVZ, http://www.xenodocuments.org.ua/files/library/other/hate_crime.pdf – Accessed 12 November 2010 – Attachment 25, p 73.

⁹⁹ Human Rights Watch 1995, "Germany for Germans: Xenophobia and Racist Violence in Germany", 1 April, <http://www.unhcr.org/refworld/country,,HRW,,DEU,,3ae6a7d98,0.html> – Accessed 16 November 2010 – Attachment 39.

¹⁰⁰ Coester, M 2010, "Commentary: Right-Wing Extremism and Bias Crime in Germany", *Journal of Ethnicity in Criminal Justice*, Vol 8, pp 49-69 – Attachment 32, p 59.

¹⁰¹ Hall, A 2010, "You're not welcome to Nazi Town: German Hamlet's Hitler Shrine", *The Sun*, 29 October – Attachment 40; Paterson, A 2010, "Germany's neighbours from hell", *The Independent*, 19 October, <http://www.independent.co.uk/news/world/europe/germanys-neighbours-from-hell-2110303.html> – Accessed 9 November 2010 – Attachment 41.

young neo-Nazis, faced prosecution for “displaying illegal symbols”, chiefly the swastika.

- In April 2007, *Reuters* reported that neo-Nazis had “attacked two foreigners after celebrating Hitler’s birthday in an eastern German town”. Four men were arrested and the main attacker was charged with attempted murder, *Reuters* said.¹⁰²

The practice of celebrating Hitler’s birthday may be more widespread than these limited reports would suggest. Given that endorsing Nazism and displaying Nazi slogans or symbols is prohibited in Germany,¹⁰³ neo-Nazi groups or individuals who celebrate Hitler’s birthday probably do in private or secretly in order to avoid trouble with the authorities. Such activities would therefore have minimal visibility and be likely to go unreported.

6. Are there any surveys available dealing with community attitudes to racism, migration etc in Germany?

News stories referred to several recent surveys or polls on community attitudes to immigration and/or xenophobia in Germany. A 2002-2008 study indicated that xenophobic and anti-migrant attitudes had declined during the study period, but more recent surveys indicate that far-right attitudes and anti-foreigner sentiment are on the rise. Some researchers thought this shift might be attributable to the economic crisis.

Surveys on xenophobia and attitudes to foreigners

In November 2008, *Spiegel Online* reported that a study conducted jointly by Leipzig University and left-leaning think tank the Friedrich Ebert Foundation had indicated that xenophobia had declined in Germany since 2002, and “[f]ewer Germans overall think foreigners need to go”.¹⁰⁴ The report from the study did note, however, that the situation in the east of the country had worsened during the study’s six-year period.¹⁰⁵ On the measure “hostility to foreigners”, the states of Saxony Anhalt, Bavaria and Brandenburg were the worst offenders.¹⁰⁶

More recent surveys and polls suggest that the situation shifted somewhat in subsequent years. In 2009 the *Spiegel Online* stated that a “survey by the Allensbach polling institute” had found that over 50 per cent of Germans thought the country had “too many immigrants”,¹⁰⁷ and the *New York Times* reported that

¹⁰² “German arrested for attack on Hitler’s birthday” 2007, *Reuters*, 27 April – Attachment 42.

¹⁰³ US State Department 2010, *2009 Human Rights Report: Germany*, 11 March, Attachment 9, sec 2a.

¹⁰⁴ “Racism Declines in Germany – Mostly” 2008, *Spiegel Online*, 27 November, <http://www.spiegel.de/international/germany/0,1518,593144,00.html> – Accessed 9 November 2010 – Attachment 43.

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¹⁰⁶ “Racism Declines in Germany – Mostly” 2008, *Spiegel Online*, 27 November, <http://www.spiegel.de/international/germany/0,1518,593144,00.html> – Accessed 9 November 2010 – Attachment 43.

¹⁰⁷ CX219163 GERMANY: “Survey shows alarming lack of integration in Germany” 2009, *Spiegel Online*, 26 January, <http://www.spiegel.de/international/germany/0,1518,603588,00.html> (CISNET), Attachment 7.

[a] recent two-year government survey of 20,000 German teenagers classified one in seven as “highly xenophobic” and another 26.2 percent as “fairly xenophobic.”¹⁰⁸

In 2010, a new Friedrich Ebert Foundation survey indicated that “exaggerated nationalism and xenophobia” had increased in the two years since the previous study.¹⁰⁹ Nearly 36 per cent of survey respondents felt that the country was being “overrun by foreigners”, and approximately 54 per cent held negative views of Arabs.¹¹⁰ Almost 60 per cent said the practice of Islam should be restricted in Germany.¹¹¹ Researchers involved in the study suggested that the economic crisis might be a factor in the apparent hardening of German attitudes toward foreigners.¹¹²

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