



Police officers watch a demonstration by the German extreme right-wing party, the NPD, in Rostock on 1 May 2006. ©AP/Proepper

Several developments in the course of 2006, and continued practices, gave rise to concerns about Germany's compliance with internationally guaranteed human rights standards. The treatment of asylum seekers failed to guarantee them adequate protection under international law; individuals fleeing abuses perpetrated by non-state actors were not granted asylum; and the application of the so-called Dublin II agreement resulted in separation families and the forced return of people to regions where their freedom and life were at risk.

Racially motivated violence increased in Germany in 2006. Between January and August, the German Federal Crime Agency registered a 20-percent increase in violent acts perpetrated by right-wing groups.

The government of Germany was criticized for its methods to fight terrorism, in particular for German authorities' involvement in rendition and secret detention activities led by the US Central Intelligence

Agency (CIA). The German authorities were also criticized for ignoring human rights concerns in its cooperation with the Uzbek government, and there were allegations that Germany had obtained terrorist intelligence extracted under torture by Uzbek authorities. Moreover, in March, the German federal prosecutor rejected a request filed by Uzbek victims of abuse to file criminal charges against former Uzbek Interior Minister Zokir Almatov, who had visited Germany in December 2005 to receive medical treatment.

Asylum seekers and refugees

The number of people applying for political asylum in Germany declined further in 2006: 21,029 asylum claims were filed, a reduction of about 25% from 2005.¹

Refugees fleeing from countries where human rights violations are carried out by forces not under the government's control were rarely granted political asylum. In

most cases German courts decided that individuals applying for asylum on the grounds of abuses perpetrated by non-state actors enjoy protection neither under the 1951 Geneva Convention relating to the Status of Refugees, nor under the European Convention on Human Rights and Fundamental Freedoms.

Moreover, even people who had fled from countries or regions where grave human rights violations were so widespread as to affect virtually the whole population were at risk of deportation from Germany. This applied especially to asylum seekers from Chechnya, whose applications were frequently rejected despite the fact that returning to any parts of the Russian Federation would place them in danger of falling victim to human rights violations.

The impact of the Dublin II agreement

The so-called Dublin II agreement, which came into force in 2003, states that the European Union (EU) member state that serves as the point of entry to the EU territory is responsible for examining the applicant's claim for asylum.

This meant in Germany's case that, for example, claims by Chechen asylum seekers that reached Germany via Belarus and Poland were not processed in Germany but were referred to Polish authorities. The applicants were held in custody pending their removal. In Poland, too, applicants traveling without family were taken into custody.²

In the first half of 2006, more than 23% of all asylum applications in Germany were so-called Dublin-cases, in which the German authorities only had to establish which country was responsible for examining the claims. Humanitarian aspects and family related issues were almost never taken into consideration.³ Such policies often led to separation of families and therefore violations of the respect for private and family life.

◆ Mr. B. arrived to Germany via Poland. On the basis of Dublin II, he was taken into deportation custody. At this time his wife and three children were living in Austria as officially recognized refugees. Efforts by NGOs to allow Mr. B. travel to Austria to be reunited with his family were of no avail. On 25 October he was deported to Poland.

While the German Federal Agency for Migration and Refugees (BAMF) recognized that Chechens could not be deported to Chechnya, it considered that Chechens found sufficient protection elsewhere in the Russian Federation. However, human rights organizations such as the IHF and Memorial have vigorously criticized this approach.⁴

◆ Ms. A. arrived in Germany with her four children in October 2004. Traumatized by violence in Chechnya, she received psychotherapeutic treatment in Germany. In July 2005, her 17-year-old son was taken into custody and deported to Poland, and in May 2006 Ms. A. and her three other children experienced the same fate. In June 2006, after being unable to find protection, the family decided to return to a Russian Federation republic that borders to Chechnya, where it was at serious risk since Chechnyans who had lived abroad were considered opponents of the local administration. Moreover, after living abroad, they were often perceived as "rich" and therefore were at serious risk of abduction for ransom.⁵

Deportation custody

Almost 17,000 people were deported from Germany in 2005.⁶ Many of them spent their last German days, weeks or months in jail, sometimes in the same cell with common criminals. By law, a person could be held up to 18 month in deportation custody.

According to the NGO "Antirassistische Initiative" (Anti-racist initiative), at least 49

people have committed suicide in deportation custody since 1993, and at least 400 people have attempted to commit suicide.⁷

Anti-terrorism measures

As a result of an intervention by the German government, Murat Kurnaz, a Turkish citizen and resident of Bremen, was eventually released in August after being held for more than four years without charge at the US detention center at Guantánamo Bay.⁸ According to media reports citing confidential government sources, the German government had turned down an offer by the US authorities to release Kurnaz already in 2002, although intelligence authorities had concluded that he posed no terrorist threat.⁹ The German authorities were also criticized for interrogating Kurnaz on two occasions during his detention at Guantánamo Bay, where he allegedly was repeatedly tortured and ill-treated.¹⁰

Moreover, following his release, Kurnaz alleged that he had been subjected to abuse by two German soldiers of the Ger-

man Special Commando Forces (KSK) in US custody in Kandahar, Afghanistan, where he was held after his arrest in Pakistan at the end of 2001 prior to being transferred to Guantánamo Bay.¹¹ A criminal investigation was initiated into these allegations and was still ongoing at the end of the year.¹² A German parliamentary committee was also charged with looking into the allegations made by Kurnaz.¹³

In their investigations into the involvement of European governments in the rendition and secret detention activities led by the CIA, the Parliamentary Assembly of the Council of Europe and the European Parliament faulted the German authorities for their role in the case of Murat Kurnaz, as well as for their complicity in the renditions of German citizens Khaled El-Masri (who was rendered to Afghanistan in 2003 and ill-treated during several months of detention without charge) and Muhammad Zammam (who was rendered to Syria in late 2001 and remained detained without charge at the end of 2006).¹⁴



Murat Kurnaz (left), a Turkish national and a permanent resident of Germany, arrested on suspicion of involvement in terrorist activities, at a meeting of a PACE committee, 22 November 2006. Kurnaz was held in Guantánamo for over four years without charge. © AP/Logghe

When appearing before the European Parliament inquiry committee, former British Ambassador Craig Murray alleged that Germany, among other countries, had obtained terrorist intelligence extracted under torture from the Uzbek authorities.¹⁵ More broadly, the German authorities have been criticized for failing to give due attention to human rights concerns in its counter-terrorism cooperation with the Uzbek government and for retaining an airbase in the country even after the May 2005 massacre in the Uzbek city of Andijan, when hundreds of civilians protesting government policies were killed.

German law recognizes universal jurisdiction for torture and crimes against humanity, allowing German courts to try perpetrators of such crimes irrespective of what nationality they have or whether they are present in Germany. However, in March, the German federal prosecutor rejected a request filed by Uzbek victims of abuse to pursue a criminal case against former Uzbek Interior Minister Zokir Almatov on account of torture and crimes against humanity. The prosecutor argued that the likelihood of a successful investigation and prosecution of Almatov, who commanded the troops that bore primary responsibility for the mass killings in Andijan, was “non-existent.”¹⁶ The suit against Almatov was filed in December 2005, when he was allowed to visit Germany to receive medical treatment despite the fact that he was included on a list of Uzbek officials subject to a visa ban adopted by the EU in response to the Andijan massacre. It was supported by, among others, former UN Special Rapporteur on Torture Theo van Boven and current Rapporteur Manfred Nowak.¹⁷

Intolerance, racism and xenophobia

Right-wing violence

Violence perpetrated by right-wing groups increased considerably in 2006.

Between January and August, the German Federal Crime Agency registered 8,000 crimes that had been committed with xenophobic motivation - an increase of 20% compared to the same period in 2005, and of 50% compared to 2004. Charlotte Knobloch, president of the Central Council of Jews in Germany, stated that these cases showed how deeply anti-Semitism and right wing extremism were rooted in some sectors of German society.¹⁸

◆ On 3 October, a 34-year-old national of Lebanon was beaten up by a group of eight men in Fürstenwalde. While beating him, the men shouted racist insults at him. The victim lost conscience after left lying on the street.

◆ On 4 November, journalist Andrea Röpke was attacked by young neo-Nazis after having filmed them with her camera team. Four young people of the group followed the journalists, beat Röpke and choked another member of the crew.

◆ On 26 November, the staff of a bar in the town of Furst beat up a refugee, at the same time shouting racist slogans. The victim suffered injuries on his back, knee, hands and face.¹⁹

The increase in right-wing violence was accompanied by the electoral success of right wing parties: in September 2004, the right-wing National Democratic Party of Germany (NPD) received 9.1% of the votes in the state of Saxony, while the right-wing German People's Union (DVU) received 6.1% in the state of Brandenburg. In September 2006 the NPD received 7.3% in the state of Mecklenburg-Vorpommern. Consequently, extreme right-wing parties were represented in the parliaments of three federal states.

SOURCES FOR FURTHER INFORMATION:

Organizations:

- ▶ Amnesty International Germany, at www.amnesty.de
- ▶ Antirassistische Initiative, at www.anti-rar.de
- ▶ Opferperspektive, at www.opferperspektive.de
- ▶ Pro Asyl, at www.pro-asyl.de
- ▶ UNHCR/Germany, at www.unhcr.de
- ▶ Victims of Right-Wing Violence, at www.opfer-rechter-gewalt.de
- ▶ Federal Service for Migration and Refugees, at www.bamf.de
- ▶ Working Group for Female Refugees, at www.fluechtlingsfrauen.de
- ▶ Refugee Council of Nordrhein-Westfalen, at www.fluechtlingsrat.de
- ▶ Informationsverbund asyl (asylum network of the main German humanitarian organizations), at www.asyl.net
- ▶ Educational center of the trade union DGB, data base on migration, at www.migration-online.de

Publications:

- ▶ Amnesty International *Annual Report 2006*, at <http://web.amnesty.org/report2006/deu-summary-eng>
- ▶ Dick Marty, *Rapporteur for the Committee on Legal Affairs and Human Rights of the Council of Europe, Alleged secret detentions and inter-state transfers involving Council of Europe member states*, June 2006, at http://assembly.coe.int/CommitteeDocs/2006/20060606_Ejdoc162006PartII-FINAL.pdf
- ▶ Documents on asylum and migration (Dublin II, Documents of the Council of Europe, UNHCR and churches), at www.proasyl.de/texte/europe/union/eu-index.htm
- ▶ EU migration legislation, at the website of the German Ministry of Interior, at www.zuwanderung.de/english/2_eu-recht.html

Endnotes

- ¹ Federal Service for Migration und Refugees, "Zugang von Asylbewerbern im Jahr 2006 nochmals gesunken," 9 January 2007, at www.bamf.de/cln_042/DE/Home/home-node.html.
- ² The approaches of EU countries vary considerably in terms of refugee recognition. While almost no Chechens are recognized as refugees in Slovakia, in Poland the recognition rate is 3.5%, in Germany 8.1% and in Austria 84%.
- ³ Speech by Harald Glöde of the Refugee Council Brandenburg, 23 November 2006, at "Haus der Demokratie" in Berlin.
- ⁴ See, for example, Svetlana Gannuschkina, *Menschen aus Tschetschenien in der Russischen Föderation, Juli 2005 – Juli 2006*, Moscow 2006.
- ⁵ The Russian human rights organization "Memorial" documented three cases in 2006 where people having returned to Chechnya from Egypt, France and the Ukraine were killed or tortured.
- ⁶ German Parliament, "Bei 1.983 von 16.865 Abschiebungen auf dem Luftweg Gewalt angewendet," 30 March 2006, at www.bundestag.de/aktuell/hib/2006/2006_101/

- 03.html. 2006 statistics were not available at the time of writing.
- ⁷ *Taz*, 2 September 2006.
- ⁸ Amnesty International Germany, "amnesty international begrüßt Freilassung von Murat Kurnaz," 24 August 2006, at www.2.amnesty.de/internet/deall.nsf/50144ae16ca25cecc12567df002695c7/4554e89574727893c12571d40046a376?OpenDocument.
- ⁹ Amnesty International Germany, "Die Illegal Inhaftierung von Murat Kurnaz – Chronologie," at www.amnesty.de/download/MuratKurnazChronologie.pdf.
- ¹⁰ *Stern*, "Kritik an Schäubles Alleingang," 16 December 2005, at www.stern.de/politik/deutschland/:Streit-Informationen-Kritik-Sch%E4ubles-Alleingang/551642.html; Amnesty International Germany, "Bundesregierung schaute weg, stellte sich taub und schwieg," 15 December 2005; *Focus*, "Merkwürdige Äußerungen – Schäuble und die Foltergeständnisse, 16 December 2005, at http://focus.msn.de/politik/deutschland/wolfgang-schaeuble_nid_22648.html
- ¹¹ *Der Tagesspiegel*, "Deutsche haben mich misshandelt," 4 October 2006, at www.tagesspiegel.de/politik/nachrichten/murat-kurnaz/75973.asp.
- ¹² "Gemeinsame Pressemitteilung der Staatsanwaltschaft Tübingen und des Regierungspräsidiums Karlsruhe: Staatsanwaltschaft Tübingen prüft Vorwürfe gegen KSK-Soldaten im Fall Murat Kurnaz," 4 December 2006, at www.rp.baden-wuerttemberg.de/servlet/PB/menu/1195326/index.htm.
- ¹³ *Die Welt*, "KSK war an Gefangenentransporten beteiligt," 11 November 2006, at www.welt.de/data/2006/11/11/1106583.html; "German Special Forces Admit Encounter with Kurnaz," 19 October 2006, at www.spiegel.de/international/0,1518,443493,00.html.
- ¹⁴ Dick Marty, Rapporteur for the Committee on Legal Affairs and Human Rights of the Council of Europe, *Alleged secret detentions and inter-state transfers involving Council of Europe member states*, June 2006, at http://assembly.coe.int/CommitteeDocs/2006/20060606_Ejdoc162006PartII-FINAL.pdf; European Parliament Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners, *Draft final report*, 24 November 2006, at www.europarl.europa.eu/comparl/tempcom/tdip/default_en.htm. For more information about the investigations of these two bodies, see the chapter on counter-terrorism and the ban on torture in this report.
- ¹⁵ "Deutsche nutzten Folter-Geständnisse," 20 April 2006, at www.stern.de/politik/deutschland/:Britischer-Diplomat-Deutsche-Folter-Gest%E4ndnisse/559827.html; "Neue Vorwürfe in der Folter-Affäre," 21 April 2006, at www.taz.de/pt/2006/04/21/a0071.1/text
- ¹⁶ Human Rights Watch, "Germany: Prosecutor Denies Uzbek Victims Justice," 6 April 2006, at <http://hrw.org/english/docs/2006/04/06/german13124.htm>.
- ¹⁷ Human Rights Watch, "Germany: Uzbek Security Chief Accused of Crimes against Humanity," 15 December 2006, at <http://hrw.org/english/docs/2005/12/15/german12280.htm>.
- ¹⁸ *Sueddeutsche Zeitung*, 17 October 2006.
- ¹⁹ All case examples are from the NGO Opferperspektive, at www.opferperspektive.de/start/inline_plugcontent/chronology/list?page=2