Translation

Comments by the German Federal Government
on the Report by Nils Muižnieks,
the Commissioner for Human Rights of the Council of Europe,
following his official visit to Germany
on 24 April and from 4 to 8 May 2015

Preliminary remarks

Germany firmly supports the Council of Europe and works actively to promote its standards and values in the areas of human rights, the rule of law and democracy throughout Europe. Germany believes that it firstly has an obligation always to implement these standards in the best possible way in its own country. The European Convention on Human Rights is a part of the universal values on which the German constitution, the Basic Law, is founded.

The institution of the Commissioner for Human Rights is an indispensable part of the European system of protecting human rights. His work should be supported by all member states of the Council of Europe. That is why the Federal Government attached great importance to the visit to Germany by the Commissioner for Human Rights in April and May 2015.

The Federal Government welcomes his constructive, helpful report on Germany and thanks him for this opportunity to comment on individual passages in the report.

In the view of the Federal Government, the recommendations contained in the report presented by the Commissioner for Human Rights make an important contribution to the self-critical analysis – and, where necessary, further improvement – of aspects of legal and actual framework conditions for human rights protection mechanisms in Germany.

Since summer 2015, hundreds of thousands of people have sought to be taken in by Germany and to find safe abode and shelter there. The Federal Government, the *Länder*, the municipalities and countless volunteers are working tirelessly to aid refugees. In the current European refugee crisis, Germany is undertaking major efforts to contribute its share to handling this crisis in accordance with the universal values represented by the Council of Europe.

The following commentary is intended to add to or comment on the Commissioner’s report in those places where further explanation is necessary in the view of the Federal Government.

Comments

The comments refer to individual passages of the report by the Commissioner for Human Rights, and are organised by sections and numbers on this basis.

Section 1 (nos. 9 – 76) of the report: The institutional and legal framework for the protection and promotion of human rights

Nos. 15 and 66

The report mentions that Germany had not ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the “Lanzarote

Convention”). Regarding this point, the Act on the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Federal Law Gazette II p. 25) entered into force on 28 January 2015. The instrument of ratification shall soon be deposited with the Council of Europe in Strasbourg.

Nos. 17 et seqq.

The report presents the German Institute for Human Rights (GIHR) as inadequately equipped with tasks, powers and financial resources. It should be mentioned regarding this point that the GIHR is now charged with monitoring the implementation of the UN Convention on the Rights of the Child along with its responsibility, as mentioned in the report, for monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities. The GIHR’s independent monitoring body began its work in August 2015. The monitoring body is to perform its tasks particularly by monitoring the executive’s measures in terms of their orientation towards child welfare, political advising, research to strengthen children’s rights, events and public relations work, drafting recommendations for state and political actors, delivering opinions on political discussions or questions, and initiating legal changes.

Nos. 27 and 69

The Federal Anti-Discrimination Agency (ADS) that was established in 2006 performs tasks throughout Germany in accordance with the General Equal Treatment Act, through which four EU anti-discrimination directives have been fully implemented. Six federal *Länder* have since implemented additional anti-discrimination agencies (Berlin, Brandenburg, Rhineland-Palatinate, Thuringia, Schleswig-Holstein and Hesse). Other federal *Länder* have other programmes to promote the implementation of the General Equal Treatment Act. The establishment of such anti-discrimination agencies and programmes is at the discretion of the individual federal *Länder*.

The ADS informs the concerned party about what they are entitled to; can point out options for legal action within the framework of statutory provisions to protect against discrimination; can gather comments from the concerned parties with the aim of achieving an out-of-court settlement; and can arrange trial consultations with other agencies. In a trial, the concerned party can receive support in the court proceedings from an anti-discrimination association. The association can also be brought into oral proceedings. The concerned party can be advised by it before the proceedings, can during the oral proceedings – via their lawyer in the case of legal proceedings in which the parties are represented by lawyers – request a break in the proceedings in order to consult with the association, and can discuss their legal position regularly with their lawyer and the association during a break between sessions. Clarification of these options for anti-discrimination associations, which are available to everyone, is not necessary. Additionally, anti-discrimination associations can act as advisors to the disadvantaged outside of the procedural system.

At a general level, the ADS does work in the areas of public relations, prevention and research. It sensitises and advises employers in order to prevent or effectively counter workplace discrimination. All federal agencies other public authorities in the federal realm are obligated to support the ADS in the fulfilment of its tasks. Together with the Federal Commissioners for Migration, Refugees and Integration; for Matters relating to Disabled Persons; and for Matters related to Ethnic German Resettlers and National Minorities, whose responsibilities are affected, it reports to the German Bundestag every four years and issues recommendations. The ADS thereby has legally proscribed, far-reaching powers and

responsibilities that ensure that it can fulfil its tasks and act effectively against discrimination. Hearings of associations also take place regularly in legislative processes in Germany.

The budget of the ADS has not been cut, but rather increased. In 2011, a budget of 2.64 million euros was available to the ADS, while in the current year, 2015, its budget totals 3.7 million euros. In terms of human resources, the ADS had 17 posts in 2011, while it has 25 in 2015. These numbers clearly show the efforts of the Federal Government to equip the ADS with appropriate resources for carrying out its tasks.

The process of appointing the head of the ADS was established in accordance with the requirements of the relevant EU Directives, and has proven itself, particularly because it ensures the independence of the ADS leadership role. In accordance with Section 26 (1) Sentence 3 of the General Equal Treatment Act, this role is carried out independently and is subject only to the law. The Federal Government has no evidence that provides any reason to doubt the independence of the head of the ADS.

No. 36
The Federal Government considers the work of the Federal Agency for the Prevention of Torture to be absolutely necessary and sensible. The fact that this Agency has not yet discovered any cases of torture is positive news that in no way diminishes the significance of its prevention work.

It should nonetheless be noted that a number of further monitoring mechanisms exist in Germany (for example, the psychiatry commissions and Petitions Committees) and that observing the Federal Agency in isolation therefore falls short. The Federal Government is, however, aware of the need to continuously review the functionality of the Agency.

Nos. 38 – 41
In the area of the Federal Police, there are no organisational or agency-specific reasons, nor structural barriers, for citizens to turn to the complaint handling bodies of the Federal Police or, where applicable, to file charges in the event of alleged wrongdoing of any kind by police officers. There are also additional options, which extend to a petition in accordance with Article 17 of the Basic Law or administrative court action. It is also possible to file a complaint online via the website of the Federal Police.

In the context of the accusations of mistreatment by a Federal Police officer in Hanover (see also comment on no. 169), an additional Federal Police “position of trust” has been created at the Federal Police Headquarters. This position answers directly to the President of the Federal Police and reports only to him. The establishment of this position follows the goal of establishing a point of contact for all employees of the Federal Police who are seeking a contact person in cases of serious misconduct. The concerns brought forward there are processed in full anonymity by request, the legal obligation to testify remains unaffected.

The investigation of potential police misconduct is an important concern of the Federal Government. If misconduct or mistreatment by police officers are contested, channels of redress both within and outside of the agency are available to legally review the behaviour in question in independent proceedings. The principle of legality that is anchored in criminal law guarantees that preliminary investigations are initiated by the public prosecutor in the presence of initial suspicion of a criminal act. Such investigations are to proceed in as comprehensive, effective and objective a manner as possible. Every member of the public and

every police officer also has access to channels of police misconduct redress within the agency along with the legal process in the courts. Everyone can use a complaint against a public servant or a decision to object to police measures that have affected them in order to have the official activities or the individual behaviour of an officer reviewed by a supervisor.

The establishment of an independent police complaints mechanism could offer an additional point of contact for those making complaints. Added value could only be expected from this mechanism if petitioners, for a variety of reasons, would not use the different existing complaints mechanism.

No. 45
The Federal Government points out that only the Federal Intelligence Service is authorised to carry out strategic surveillance in accordance with Article 5 of the G-10 Act. The G-10 Act permits surveillance of up to 20% of the transmission capacity that is available on transmission paths.

No. 47
To supplement the Commissioner's remarks, the Federal Government points out that the G-10 Commission is composed of a chair, three members and four alternate members.

Nos. 53 – 54
In the view of the Federal Government, these findings are the object of a currently running parliamentary committee of inquiry. Its assessments and conclusions are not being prejudged by the Federal Government.

No. 55
In the view of the Federal Government, the description of the mandate of the first committee of inquiry of the 18th legislative period of the German Bundestag seems misleading. The issue concerns the potential (large-scale) surveillance of communication processes from, to and within Germany by the Five Eyes countries and not global spying on Germany by these countries.

No. 58
This description seems abbreviated. The bodies mentioned comprise only one sub-section of oversight – specifically, the parliamentary control of the government and responsibilities that are predominantly reserved to judges. Parliamentary control is a function of the state's separation of powers. This political control is to be distinguished from technical oversight. Political control is particularly intensive in the area of intelligence tasks due to the Parliamentary Control Panel. A comparison of the number of people who are occupied with parliamentary control and the number of employees of the areas of administration they are controlling is therefore misguided. Technical supervision exists separately from parliamentary control, and is carried out by the (sufficient) staff of the respective supreme federal authorities. The individual authorities that are subject to the supreme federal authorities each also have a well-developed organisation for data protection, quality assurance and internal auditing.

No. 60
The conclusion "which makes the oversight ineffective in practice" does not seem accurate. Parliamentary control is typically exercised through the parliamentary right to ask questions and the government's obligation to answer questions. In a state under the rule of law, this reliably rests upon correct reporting by the government. The fundamental assumption that the

government will not provide truthful information and that the parliament therefore needs a permanent administrative structure within the regular organisational structure that is able to monitor the government's answers incessantly is alien to the division of powers under the rule of law and the Federal Government's understanding.

No. 62
The responsibilities of the G-10 Commission are regulated by the law and are not determined by the government. Even if measures do not fall within the area of protection of Art. 10 of the Basic Law (a legal assessment that does not depend on a government decision but rather follows from the scope of the standard), they are not free of controls, but rather are subject to the control of the Federal Commissioner for Data Protection and Freedom of Information – alongside internal revision, technical oversight and parliamentary control. The Commissioner for Data Protection and Freedom of Information has a much larger number of employees than the secretariat of the G-10 Commission.

Nos. 62 to 63 and 75
The Federal Government points out that the Federal Constitutional Court explicitly left open the matter of whether or not the recording of communications abroad, even without a sufficient connection with domestic government activity, falls within the scope of the protection afforded by Art. 10 of the Basic Law, and whether or not Art. 10 of the Basic Law could apply to foreign participants in communications that take place abroad. In the view of the Federal Government, the intelligence activities of a state do not per se violate rights accorded by international human rights instruments (International Covenant on Civil and Political Rights (ICCPR), European Convention on Human Rights).

As international law presently stands, a number of questions remain open concerning when activities outside the territory of a country are to be assessed as an intrusion into a human right and when a justification for such an intervention is present, as verified in accordance with the specific standard of the applicable human rights treaty. The Federal Government continues to actively accompany the international legal analysis of the legal situation and its developments.

No. 74
Oversight bodies' access to information is not limited by classification of information, but rather is guaranteed by law regardless of classification and is also ensured in actual practice.

Section 2 (nos. 77 – 147) of the report: Human rights of immigrants, asylum seekers and refugees

Nos. 81 – 85
The Federal Office for Migration and Refugees strives to process asylum applications as quickly as possible and to expedite processes as much as possible. The average processing time has already been reduced significantly since 2014, and should continue to be reduced. In this connection, the Federal Office's staff capacity is currently continuing to be substantially increased.

Nos. 86 – 91
The categorisation of the three mentioned Western Balkan countries as safe countries of origin has the consequence that it is assumed by law that there is no political persecution there.

Vulnerable people, however, are not left unprotected, as the legal presumption of freedom from persecution can be rebutted. Every asylum applicant has the chance to demonstrate that he faces persecution that deviates from the general situation in the country of origin.

No. 111
The purpose of the law is not presented accurately. The aim of the proposed legislation is to ensure that unaccompanied minor refugees are accommodated in a manner that is in keeping with the best interests of the child. In light of the heavy strain on some municipalities, their staff resources and space limitations are more than exhausted. Distribution of refugees among all the German *Länder* and thus also to suitable municipalities makes appropriate care, support and accommodation possible. If individual *Länder* cannot build up the necessary expertise or find the needed space within the short timeframe available, the law provides for special transitional arrangements that take this into account.

Nos. 112 – 116
To supplement the report's presentation, it is pointed out that the Act on Redetermination of the Right of Residence and of Termination of Residence (which entered into force on 1 August 2015) amended Paragraph 62a of the Residence Act such that special detention pending deportation now depends on the federal level and no longer on the *Länder* level. As there are special federal facilities for detention pending deportation, detention pending deportation does not take place in correctional facilities.

No. 123
Since 1 August 2015, resettled refugees have been treated on an equal footing with recognised refugees as defined in the Geneva Convention on Refugees in terms of family reunification. The same is true of the opportunity to acquire a permanent settlement permit after three years.

No. 134
The report mentions that German language courses for asylum seekers are only offered in five federal *Länder*, while asylum seekers elsewhere have to wait for the outcome – that is, approval – of their asylum claims. It should be noted here that the Federal Government is currently working on opening up integration courses to asylum applicants during the asylum process and tolerated persons who have good prospects of staying in Germany. The Federal Ministry of the Interior has also opened up its Integration through Sport support programme to tolerated persons and asylum seekers after three months' residency in Germany if they do not come from a safe country of origin.

Nos. 137/147
The report mentions long waiting times for visa applications for family reunification for recognised refugees in Germany. It should be noted here that the Federal Government has agreed on a package of measures to simplify entry for family members of Syrian refugees. Numerous procedural simplifications have accelerated the visa application process for family reunification for Syrian beneficiaries of protection in recent weeks and months. Planning is already underway for additional measures to simplify procedures and bolster resources, which should lead to a noticeable reduction in waiting times in the foreseeable future.

No. 139
The Federal Government is working for a functional, joint European asylum system. Features of such a system include joint standards for taking in and recognising refugees as well as

a fair, solidarity-based permanent distribution mechanism for refugees. In this context, the Federal Government supports the reform of the existing Dublin system.

Section 3 (nos. 148 – 197): The fight against racism and intolerance

Nos. 148 – 150
German law conforms to Art. 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Section 130 of the Criminal Code provides for severe punishments in all cases of incitement to hatred if the act in question has the potential to disturb the public peace. The question of whether the relevant act is capable of disturbing the public peace has to be carefully weighed in every case, especially when freedom of speech is to be balanced against the necessity of combating racism.

The Federal Government is of the view that in the context of public debates criminal sanctions should always remain a measure of last resort. Only if the relevant act meets all other criteria of Section 130 may the question of "disturbance of the public peace" come into play. This additional criterion serves as a corrective element in order to eliminate cases which are not severe enough to merit criminal sanctions.

Nos. 148, 155, 173, 185, 190
The statement that only those racist and intolerant criminal acts which are committed by organised extremist groups are included in official data on criminal acts motivated by racism and intolerance is not accurate. The system of defining "politically motivated crime" was introduced in 2001 in order to record criminal acts motivated by racism and intolerance that are not committed by right-wing extremist organisations. Since this time, the motivation for the crime has been taken into account. Criminal acts that are committed on the basis of the target's (perceived) membership in a specific group are recorded as hate crimes – and are further differentiated according to whether the concrete motive for the crime was anti-Semitic, xenophobic, racist, targeted against the disabled, or based on the victim's religion, social status or sexual orientation. All of these criminal acts motivated by intolerance are automatically and simultaneously classified as "politically motivated". In some cases, the designation "politically motivated crime" leads to misunderstandings, as observers who are not familiar with the German legal system frequently infer that special political motivations must be present in addition to the motivation that has been named. This is, however, not the case: every form of hate crime is included in the category of politically motivated crime. Under the German definition of politically motivated crime, this category includes all forms of hate crime:

Offences are considered to be politically motivated crimes if "in the assessment of the circumstances of the crime and/or attitude of the perpetrator, there is reason to suspect that the act was directed against a person because of his or her political views, nationality, race, origin, ethnicity, skin colour, physical appearance, sexual orientation, disability, religion, world view or social status and the offence is thus in a causal relationship to this' or is directed against an institution/cause or object in this context."

Beyond the classification as hate crimes, such acts are, depending on their ideological background, placed into one of four further categories (right-wing; left-wing; foreigners; other politically motivated crimes; crimes not clearly classifiable). This multi-dimensional approach to recording crimes creates informational added value when compared with simply recording

all of these crimes as hate crimes, as it makes clear, for example, whether an anti-Semitic act was motivated by right-wing extremism or by an ideology with origins abroad. This recording system and its terminology are explicitly explained in the instructions for recording such crimes, which use example cases to illustrate the categories and are a part of police officers' education and training. An amendment to the official police instructions that entered into force in August 2015 requires that the possibility of a racist, xenophobic, inhuman or otherwise political motivation be considered as a matter of principle in cases of violent crime and that the results be documented. Regulations also require that particular significance be ascribed to investigating suspects' motives and to acquiring clues about the motivations of unknown perpetrators, e.g. by recording information from victims or witnesses.

No. 159

The number of crimes cited and the terminology "directed at foreigners" are not accurate: the number of xenophobically motivated violent crimes (not to be equated with crimes against foreigners) increased from 494 in 2013 to 554 in 2014.

No. 166

Because the Basic Law guarantees freedom of the press and of broadcasting, it is not possible for public authorities to interfere in radio and television broadcasters' programming decisions or to make decisions about this programming. The same is true of print media. The Federal Government's guidance of media reporting on minorities is thus restricted to the very limited area of "cooperative measures". In November 2014, for example, the German Press Council and the Central Council of German Sinti and Roma held a media symposium in Berlin on the topic of how to write about immigration without using a discriminatory undertone. The event was aimed at journalists and representatives of government agencies and the political and business sectors who are engaged with media reporting and the protection of minorities' rights. The object of the symposium was to hold a public discussion about immigration and the responsibilities of media, the state and political leaders to prevent discrimination against minorities. The Federal Government Commissioner for Matters related to Ethnic German Resettlers and National Minorities took an active part in the event.

In the last Bundestag election campaign, the NPD advertised with anti-Sinti and Roma posters and slogans countrywide, as mentioned in the report. Such rhetoric and agitation is emphatically condemned by the Federal Government.

At the regular conference of *Länder* justice ministers, the Federal Ministry of Justice and Consumer Protection has suggested that international legal norms – such as ICERD – may enable local authorities to take action against any such slogans, whether or not they are used in the context of election campaigns. To this end, the Ministry has commissioned a study by a prominent professor of international law. The study will be presented shortly.

In December 2014, the Federal Agency for Civic Education held an event on the topic of boundaries in the battle of public opinion. More than 200 representatives of the political, civil society (including the Central Council of German Sinti and Roma) and media spheres held a discussion there with Federal Ministers Thomas de Maizière and Heiko Maas about the boundaries between the right to free expression on the one hand and active discrimination on the other, and discussed opportunities for action in everyday work (see also www.bpb.de/presse/198072/grenzen-im-politischen-meinungskampf).

In March 2015, the inaugural meeting of the advisory committee on issues pertaining to German Sinti and Roma took place in Berlin. This committee is made up of members of the German Bundestag and representatives of the Federal Ministry of the Interior and all 16 federal *Länder*. On the side of the German Sinti and Roma, members of the Central Council of German Sinti and Roma take part in the meetings, as do members of the Sinti Alliance of Germany. The advisory committee is intended to ensure that this minority group has contact with the Federal Government and the German Bundestag, and is led by the Federal Government Commissioner for Matters related to Ethnic German Resettlers and National Minorities. In the German Bundestag's discussion group on national minorities, Members of the German Bundestag consult regularly with representatives of national minority groups at the invitation of the Committee on Internal Affairs, including on issues related to the combating of anti-Sinti and Roma prejudice or the advancement of minorities.

The Federal Government Commissioner for Matters related to Ethnic German Resettlers and National Minorities holds a regular exchange with representatives of the national minority of the German Sinti and Roma. This applies both to consultations with the Council of National Minorities, in which all of the national minorities are represented, and which enables political coordination among the national minorities, and to bilateral talks with, for example, the Central Council of German Sinti and Roma and the Sinti Alliance of Germany. The chair of the Central Council also holds a regular exchange with the President of the Bundesrat, the Federal Chancellor and the Federal Minister of the Interior.

As part of the federal programme "Living democracy! Active against right-wing extremism, violence and enmity", which was launched at the beginning of 2015, nine model projects and a central federal organisation have been promoted in the subject area of anti-Sinti and Roma discrimination. The aim of the projects is to develop action models for civil society engagement and to combat the ethnicisation of social problems at the cost of the Sinti and Roma.

Media content that incites racist hatred is harmful to young people according to the Youth Protection Act. Media content that glorifies Nazi ideology or discriminates against people is likewise harmful to young people. Such media are indexed by the Federal Department for Media Harmful to Young Persons. The Federal Ministry of Family Affairs, Senior Citizens, Women and Youth also promotes the website Jugendschutz.net, which continually analyses the methods that right-wing extremists use to lure young Internet users. Jugendschutz.net is also active against offers that can endanger or harm young people.

Regarding further federal and *Länder*-level measures to integrate the Roma in particular, please refer to the current report "EU Framework for National Roma Integration Strategies up to 2020 – Integrated package of measures for the integration and participation of Sinti and Roma in Germany in 2015."

No. 168

In order to continue resolutely combating anti-Semitism and sustainably promoting Jewish life in Germany, an expert commission on anti-Semitism was appointed anew through a Bundestag resolution that was agreed on a cross-party basis. The new report is to be completed by spring 2017 at the latest and is to provide a basis for a discussion in the German Bundestag and in society at large.

Measures to combat anti-Semitic attitudes are a permanent part of the educational offerings of the Federal Agency for Civic Education. Offerings to address the Nazi past, the Holocaust and the Second World War as well as measures to combat extremist attitudes and racist prejudices are to be considered in this context.

No. 169
The Hanover public prosecutor's office is currently investigating the facts presented. On the basis of current knowledge, it appears to be an isolated case. Considering the investigation currently underway, the Federal Police cannot comment on the matter. The Federal Police, however, have a strong interest in the full clarification of the accusations in question, and are supporting the investigation of the Hanover public prosecutor's office with all available resources.

Nos. 170 and 171
The officers of the Federal Police are generally aware of the importance of acting in a non-discriminatory manner and of the illegality of the practice of racial profiling under international and constitutional law. Indications of behaviour that does not conform with the law are taken very seriously as part of supervision and technical oversight, and are investigated on a case-by-case basis. It should also be mentioned that the ban on racial profiling is sometimes so misunderstood by the public that the consideration of nationality or ethnic origin in the context of immigration controls is perceived to be prohibited in principle. The European Union Agency for Fundamental Rights is not alone in recognising that consideration of both criteria is essential to police work in the context of entry checks. According to applicable international law and the legal interpretation of the committee that monitors implementation of the Convention on the Elimination of all Forms of Racial Discrimination, the ban on racial profiling applies only to police measures that are carried out exclusively or predominantly on the basis of the nationality or ethnic background of a person without taking into consideration other suspicious factors or knowledge of the situation.

No. 177
To the extent that this is a question of whether judges were in a position to recognise the racist motivation of the crimes, the Federal Government points out that the criminal trial of the surviving member of the NSU terrorist organisation and other supporters at the Munich Higher Regional Court only began in May 2013 and a verdict is not to be expected before 2016.

No. 185
Insofar as formal initiation by the public prosecutor is required for the prosecution of hate crimes apart from the amendment to Paragraph 46 of the Criminal Code, the Federal Government points out that on the occasion of the meeting of the subcommittee of the conference of Ministers of Justice for Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine in Saarbrücken on 24 and 25 February 2015 it was agreed that with effect from 1 August 2015, following Paragraph 46 of the Criminal Code, the words "especially racist, xenophobic or otherwise inhuman motives" would be included in nos. 15, 86 and 234 of the Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine. No. 15 of the Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine thereby explicitly lays down that these motives are to be resolved as special circumstances for the determination of the legal consequences of the action. The inclusion of these motives in no. 86 of the Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine further stipulates that in these cases a public interest

is to be assumed in private prosecution offences as a rule. The same applies to the amendment of no. 234 of the Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine for the prosecution of offences occasioning bodily harm.

Numbers I 1 and II 31 of the recommendations of the NSU committee of inquiry (Bundestag printed paper 17/14600, p. 861 et seqq.) have thereby been implemented in the Guidelines for Criminal Proceedings and Proceedings to Impose a Regulatory Fine.

Nos. 189 – 197
The Federal Police do not tolerate inhuman or xenophobic behaviour. The Federal Police actively seek applicants with a migrant background. Due in part to specific recruitment measures, the percentage of Federal Police employees who are known to have a migrant background has been brought up to 2.36%. As applicants are not asked whether they have a migrant background, this information is only recorded if it is volunteered, so it can be assumed that the actual percentage is higher. Hundreds of Federal Police officers are active abroad; through this, too, a large number of staff are particularly experienced in interacting with other cultures and social contacts. Human rights are also an integral part of various subjects and fields of law that are taught during police training. In-service training also engages with issues related to human rights and bans on discrimination. The professional and social skills of police officers are thereby constantly enhanced. Various further training measures, for example, inform police officers about the background and causes of discrimination, and inform them about foreign cultures and about the backgrounds and causes of religions and migration. There are also practical exercises.

The report’s descriptions of institutional racism (“structural forms of racism”) are not shared. At the Federal Criminal Police Office too, the issues of human rights, preventing racism and racial discrimination, and the prohibition of discrimination are part of various subjects and fields of law that are taught during training. At the beginning of career training, for example, essential foundations for carrying out a public and legal service and relationship of trust in a democratic state under the rule of law are conveyed. The topics of human rights, basic rights, the prohibition of discrimination, the prohibition of abuse and torture, the UN charter, the European Convention on Human Rights and intercultural competence are addressed in the subjects and areas of state law, constitutional law, political education, European law, the right to intervene, situational and communication training, searches, interrogation and psychology. In-service training also deals with the topics of human rights and prohibitions on discrimination.

The debate of racism, political extremism (right-wing radicalism and neo-Nazism) and discrimination (xenophobia, LGBT) as well as the protection of victims are important subjects of the continuous training of judges and prosecutors. The German Judicial Academy regularly offers training seminars dealing with these issues and challenges to the judiciary and society. Apart from the subject-specific issues, the seminars also approach the topics on an interdisciplinary and behaviour-related level. For example, in 2014 the German Judicial Academy offered a seminar on intercultural competence to raise judges and prosecutors’ awareness of other cultures, while the subject of xenophobia and homophobia was addressed in an interdisciplinary juvenile and family law seminar, and in a seminar about right-wing radicalism/extremism and a seminar about political extremism participants were trained in the versatile and modern appearances of these phenomena. Most of the seminars will be repeated in 2015. Additionally, seminars about the judiciary and Islam, about the judiciary and Judaism, and about the protection of victims in general are offered on a regular basis.