



Permanent Mission  
of the Federal Republic of Germany  
to the Office of the United Nations and  
to the other International Organizations  
Geneva

Ref.: (please quote when answering): Pol 504.14  
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Note Verbale

The Permanent Mission of Germany to the Office of the United Nations and to the other International Organizations in Geneva presents its compliments to the United Nations High Commissioner for Human Rights and – with reference to the High Commissioner’s Note dated 12 March 2008 (CERD state reports) – has the honour to transmit herewith as announced the English translation of the answers of the Government of the Federal Republic of Germany to the list of issues. As regards the attachments the attachments 4 and 6 have not been translated into English. The German versions of these have been transmitted by note verbale 215/2008 dated 18 July 2008.

The Permanent Mission of Germany to the Office of the United Nations and to the other International Organizations would be much obliged if the Office of the High Commissioner for Human Rights could confirm receipt of this note verbale.

The Permanent Mission of Germany to the Office of the United Nations and to the other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 31 July 2008



To the  
Office of the High Commissioner for Human Rights  
Palais Wilson  
Geneva

OECHR REGISTRY

31 JUL. 2008

Recipients : ... CERD ...  
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**1. Please provide updated statistical data on the ethnic composition of the population, including detailed information on immigrant groups.**

For historical reasons, no statistical data are collected on the ethnic composition of the population and immigrant groups in Germany. However, Annex 1 provides detailed information on the migrant background of the German population according to age and gender for the years 2005 and 2006 respectively. Annex 2 contains information according to nationality and age about the composition of the foreign population born and living in Germany (current as of 31 December 2007).

**2. Please provide information on any recent developments regarding the National Action Plan against Racism. Has the State party involved the Länder, local authorities and civil society organizations in drafting the Plan?**

The National Action Plan against Racism is currently in the final stages of the consultation process. The Federal Government plans to submit it to the High Commissioner for Human Rights in Geneva before the end of this year. The civil society has been included in the elaboration of this Action Plan, particularly by way of the "Racism Forum," in which representatives from various fields participate. Furthermore, the *Länder* and other organisations have been involved in the consultation process of the National Action Plan as well.

The Federation and the *Länder* are well aware that, by virtue of Article 6 of the framework convention of the Council of Europe for the protection of national minorities, it is particularly necessary to protect members of autochthonous minorities in Germany from discrimination. The convention has the direct force of law in Germany. In order to implement the convention, implementation conferences take place at least once a year with the participation of the competent federal and *Land* authorities, as well as the national associations of the national minorities, to allow current problems to be dealt with. In this manner, some cases of discrimination have come to light that have affected the members of the national minority of the German Sinti and Roma.

Finally, we would like to point out that the *Länder* and the Federation have developed a general program of anti-discrimination activities, in conjunction with the relevant associations, to protect national minorities from discrimination.

3. *Please provide information on measures adopted with regard to the protection of ethnic minorities which are not officially recognized, such as the ethnic immigrant groups of Turkish and Southeast European origin.*

Like all other groups of immigrants, groups of immigrants of Turkish and Southeast European origin are entitled to unlimited protection under the German legal order. The police laws of the *Länder* of the Federal Republic of Germany provide the police with the authority necessary to protect individuals from concrete dangers. If it is determined that dangers exist for specific groups of individuals, the police will take necessary measures on a case-by-case basis.

Furthermore, the Federation and the *Länder* sponsor extensive activities to combat racism and xenophobia, for example in the "Forum against Racism" or the "Alliance for Democracy and Tolerance" (see also response to question 22).

4. *Has the framework agreement for the protection of Roma and Sinti signed between the Land of Rhineland-Palatinate and the respective Land Association of the Central Council of German Sinti and Roma in 2005 been replicated in other Länder?*

As far as the Federal Government is aware, the Central Council of Sinti and Roma are currently involved in negotiations with the remaining *Länder* of the Federal Republic of Germany regarding the conclusion of corresponding agreements. In Bavaria, an agreement with similar content already exists. Replicating the core idea of the framework agreement concluded between the Rhineland-Palatinate *Land* government and the *Land* association of the German Sinti and Roma on 16 May 2007, the *Land* of Bavaria has signed a joint declaration with the Bavarian *Land* association of Sinti and Roma (see Annex 3). With this declaration, the government of the Free State of Bavaria wishes to open a new chapter in relations between the Free State of Bavaria and the Sinti and Roma. It hopes that this will serve to continue to develop good cooperation in Bavaria, with society, the communities and the people.

It should be added that the meeting of the Permanent Conference of Interior Ministers and Senators of the *Länder* on 6 and 7 December 2007 adopted a resolution on the "protection of national minorities from the use of discriminatory minority characterisations by police authorities," including the Sinti and Roma.

and intensify German-language support at school. In the 2006/07 school year, around 800 pupils received such additional German-language support. In the current school year, this number is expected to increase to 1,400 pupils. Approximately €400,000 will be allocated to the programme.

In Thuringia, children and adolescents with a migrant background start school in the normal classes. Each school that has children and adolescents with a non-German language of origin develops a school-support concept to aid integration of the children, as well as an individual support plan for each child, in which the progress of the child can also be documented.

School attendance of migrants in Thuringia is regulated by the administrative provision "School Attendance of Pupils with a Non-German Language of Origin" of 19 July 2005.

Support of children whose native language is not German is based on German as a Second Language lessons which have been part of the curriculum since the 2003 school year.

The support courses can be attended by one to twelve pupils. There are three types of support courses:

1. intensive course: only in study groups, support up to the A2 proficiency level of the Common European Framework of Reference for Languages (CEFR);
2. basic course: on an individual basis or in study groups, support up to the A2 proficiency level of the CEFR;
3. continuation course: on an individual basis or in study groups, support up to the B1 proficiency level of the CEFR;

In order to establish whether there is a need for support, German-language skills are determined and documented on the basis of the CEFR. Suggestions and assistance in dealing with this procedure and with any questions which may arise during the support of children and adolescents with a migrant background are provided by four regional consultation teams, each of which consists of a teacher and a contact person in the Education Department.

The Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany (*Kultusministerkonferenz*) and the Conference of Youth Ministers (*Jugendministerkonferenz*) in 2004 agreed upon a "Common *Länder* Framework for

Early Education and Children's Day-Care Centres" and the "Strengthening and Further Development of the Overall Relationship Between Education, Upbringing and Care" with regard to cooperation between schools and youth services, in order to improve cooperation between the institutions in the face of different competencies and to ensure smooth transitions by setting educational goals. The implementation lies within the responsibility of the *Länder*. In the mean time, some *Länder* have not only developed educational plans for certain areas but also institutions across the board.

Allocation to a special-education school (*Förderschule*) is preceded by a lengthy process which involves the parents. To clarify whether a need for support exists, many *Länder* offer the opportunity of calling in an intermediary who speaks the parents' mother tongue or language of origin. Allocation to a special-education school is usually done with the parents' consent. Reintegration from special-education schools into the general school system (*Rückschulungsmöglichkeiten*) is possible in all *Länder*.

The issue of such reintegration into the general school system can be examined at the request of the parents, school or school administration.

Depending on the learning and performance opportunities of the pupils, the respective special-education schools/special schools for "under-achievers" (*Sonderschulen*) also lead to all qualifications of the general school system.

In December 2007, the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany and organisations representing people with a migrant background signed the Joint Declaration "Integration as an Opportunity – Working Together for More Equal Opportunities". The goal is to improve cooperation between schools and parents with a migrant background in order to provide support to individual children or adolescents. The associations can play the role of mediator in such cases. To realise this goal, voluntary commitments were established which, among other things, aim to provide better language teaching for the parents too, as well as better information on the German education system in the parents'/childrens' languages of origin. Further talks/contacts are planned in this respect, both on the level of the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany and the level of the individual *Länder*.

5. Please indicate whether any organizations which are based on racist ideas or which justify or attempt to foster racial hatred have been prosecuted as criminal or terrorist organizations under Sections 129 and 129a of the Criminal Code. If so, please provide examples and indicate what sanctions have been imposed on perpetrators (State report, para. 81-86).

Organisations which are based upon racist ideas or seek to justify or promote racial hatred may, according to the circumstances of the specific case, fulfil the elements of a criminal association within the meaning of section 129 of the Criminal Code (*StGB*) or potentially also that of a terrorist organisation within the meaning of section 129a of the Criminal Code, and may correspondingly be subject to criminal prosecution.

In the past few years, several of these types of organisations have been prosecuted in Germany; the following cases serve as examples:

(1) Investigative proceeding on "Landser"

Following an investigative proceeding initiated in 2000, the Federal Public Prosecutor General at the Federal Court of Justice preferred a public indictment against the musicians of the right-wing extremist band "Landser" on 9 September 2002. The band was essentially accused of having founded a criminal association within the meaning of section 129 of the Criminal Code, whose purpose and activities were directed toward committing criminal offences within the meaning of sections 90a, 111 and 130 of the Criminal Code, and of having realised such offences with their song lyrics.

On 22 December 2003, the Berlin Court of Appeals (*Kammergericht*) convicted the band members of two counts of formation of a criminal group in conjunction with disseminating propaganda of unconstitutional organisations and agitation of the people (*Volkshverhetzung*), as well as one count of public incitement to commit criminal acts, approval of crime, disparagement of the State and its symbols, and verbal abuse or insults. Two of the musicians were sentenced to suspended prison terms of one year and eight months and one year and ten months, respectively. The Court of Appeals sentenced the bandleader, considered to be the ringleader, to a prison term of three years and four months without probation.

Following separation (*Abtrennung*) from the above-mentioned proceeding, separate investigative proceedings were led against some individuals considered to belong to the broader circle of the criminal organisation (including the accusation of supporting a criminal

organisation) and passed onto the various *Land* public prosecution offices for continued criminal prosecution.

(2) Investigative proceeding on "*Aktionsbüro Süd*"

In 2003, the Federal Public Prosecutor General instituted an investigative proceeding against originally 18 accused persons for suspicion of forming and supporting a terrorist organisation pursuant to section 129a of the Criminal Code as well as other criminal offences. The proceeding was against members and/or supporters of the leadership circle of the "*Aktionsbüro Süd*," run by one of the accused persons and considered a terrorist organisation. Among other things, they were suspected of having planned a bomb attack at the cornerstone-laying ceremony of the Jewish cultural centre on St. Jacob square in Munich, and of having acquired explosives for that purpose.

As a result of this investigation, the Federal Public Prosecutor General initiated two prosecutions against a total of nine individuals in 2004.

On 4 May 2004, the Bavarian Higher Regional Court convicted four defendants. One defendant was convicted and sentenced to prison for a term of seven years for membership in a terrorist organisation as the ringleader, in conjunction with various offences involving weapons and explosives. One defendant was sentenced to a total prison term of five years and nine months for membership in a terrorist organisation in conjunction with various offences involving weapons and explosives, including the punishment arising from another judgment. Another defendant was sentenced to a total prison term of four years and three months for membership in a terrorist organisation in conjunction with various offences involving weapons and explosives, including the punishment arising from another judgment. The fourth defendant was sentenced to youth custody for two years and three months for membership in a terrorist organisation, including the judgment of another court.

Furthermore, on 5 April 2005, the Bavarian Higher Regional Court convicted five additional defendants. Three defendants were convicted for membership in a terrorist organisation and sentenced to youth custody for one year and six months, to prison for a term of one year and six months, and to youth custody for one year and four months, respectively. One defendant was convicted for membership in a terrorist organisation in conjunction with unlawful conduct and trafficking in explosive substances and sentenced to youth custody for one year and ten months. The fifth defendant was convicted of various offences involving weapons and explosives and sentenced to a total prison term of one year and six months. All of the sentences imposed were suspended on probation.

6. Please provide more detailed information on measures taken to combat racist propaganda on the Internet (previous concluding observations, para.12 and State report, para. 263 and 265).

Germany considers the prosecution of criminal offences committed by way of racist propaganda on the Internet to be an extremely important task. Putting racist propaganda on the Internet may fulfil the elements of sections 86, 86a and 130 of the Criminal Code. Direct linking (hyperlinks) to Internet sites with content relevant under criminal law pursuant to sections 86, 86a, 130 (2) of the Criminal Code is also seen in case law as unlawfully making available and/or using incriminating content, and is correspondingly punished (cf. Stuttgart Higher Regional Court in CR 2006, 542-545). In order to guarantee uniform minimum penalties throughout Europe, approximate penal provisions on minimum penalties, and sanction racist propaganda on the Internet throughout Europe, political agreement was achieved under the German EU Presidency, on 19 April 2007, on a framework decision to combat certain forms and manifestations of racism and xenophobia with criminal law. It is expected that the framework decision will be adopted during the second half of 2008.

One example of the Federal Government's strategy to combat racist Internet propaganda through preventive projects is the federal programme "VIELFALT TUT GUT" ("DIVERSITY IS GOOD FOR YOU") started on 1 January 2007, which is reported on in detail under no. 22 below.

Specific mention should also be made of "jugendschutz.net". The central authority of the *Länder* for the protection of minors on the Internet was established in 1997 by the Youth Ministers of all Federal *Länder* in order to monitor Internet offers with content that could be considered harmful to minors (so-called telemedia) and to exert pressure for compliance with the provisions on the protection of minors. The goal is to attain a measure of youth protection comparable to that in traditional media.

The work of "jugendschutz.net" is based upon a dual strategy in this regard: In addition to taking measures against racist Web activities at the national and international levels, the aim of the work is to strengthen Internet users' awareness of racist and anti-Semitic propaganda and to help sensitise young people and multipliers to the problem by means of education. Since 2001, more than 1,200 racist and neo-Nazi Web sites in Germany and foreign countries have been shut down due to interventions by "jugendschutz.net". In order to be able to take action against racist, anti-Semitic and right-wing extremist Internet offers from



With regard to the remaining accused persons, the Federal Public Prosecutor General dismissed the proceedings pursuant to section 153 of the Code of Criminal Procedure (*StPO*) or section 170 (2) of the Code of Criminal Procedure, and/or transferred the proceedings to the responsible *Land* public prosecution offices due to the fact that the criminal offences did not fall within the prosecution competence of the Federal Public Prosecutor General.

(3) Investigative proceeding on "Freikorps Havelland"

Another example of such a proceeding is a judgment of the Brandenburg Higher Regional Court on 7 March 2005 – file no.: 1-5600 OJs 1/04. In the criminal proceedings involving a total of 11 defendants, who were, among other things, suspected of founding and/or participating in a terrorist organisation – in one case as the ringleader – the criminal panel sentenced the defendants to youth custody sentences of between one year and 4 years and 6 months; whereby all of the youth custody sentences were suspended on probation with the exception of the aggregate youth custody sentence of 4 years and 6 months.

(4) Investigative proceeding on the "Blood and Honour Movement"

In the *Land* of Schleswig-Holstein, four individuals identified as part of the right-wing extremist scene were placed under investigation on suspicion of membership in a criminal organisation. The accused persons were suspected of holding leadership roles in a successor organisation to the "Blood and Honour Movement."

In 2004, an indictment was preferred to the state security panel (*Staatsschutzkammer*) of the Flensburg Regional Court. With regard to the allegations of membership in a criminal organisation, the proceedings were dismissed during trial due to evidentiary difficulties; three defendants were convicted and sentenced to terms of imprisonment between one year and one year and nine months for offences in the area of general crime.

(5) Investigative proceeding on "Kameradschaft Westerwald"

In 2005, the Koblenz Police led an investigation against 42 members of "Kameradschaft Westerwald," among other things due to suspicion of formation of a criminal organisation. The "Kameradschaft Westerwald" was a tightly-run organisation with a right-wing extremist background and became known to the police in 2002. On 28 November 2005, the Koblenz Regional Court convicted six of the 16 defendant members of the "Kameradschaft Westerwald" aged between 22 and 28 to suspended prison terms of between ten months and two years for membership in a criminal organisation.

foreign countries, "jugendschutz.net" founded the International Network Against Cyber Hate in the Internet (INACH). (www.inach.net). Since then, initiatives from 15 countries belong to this network. International coordination is increasingly enabling multi-country Web sites to be closed down as well.

**7. Please provide detailed information on the legislation enacted in the State of Schleswig-Holstein to address right-wing extremist conduct and indicate whether similar legislation has been enacted in other Länder (State report, para. 95).**

The executive order issued in Schleswig-Holstein on 27 June 2000 informs the authorities responsible for averting danger of what decisions and possibilities of taking action are available to them for each individual case, in connection with events by right-wing extremist organisations. The goal of this executive order is to resolutely implement public order and police measures in strict compliance with existing law. The introduction of the order describes the major trends of right-wing extremism and the goals of such events. In terms of content, the focus is on the subsequent portrayal of appropriate police conduct during such gatherings within the meaning of Article 8 of the Basic Law. Proceeding from the case-law of the Federal Constitutional Court, which emphasises the freedom of assembly as an indispensable functional element of a democratic community and stresses the basic applicability of freedom of assembly to right-wing extremist organisations as well, the order starts off by attempting to define the term of "assembly". It describes possible measures in detail; particularly the preconditions necessary for prohibiting or dispersing such assemblies despite the great importance of the aforementioned basic right. Among other reasons, an assembly is to be prohibited if, due to certain circumstances, it must be expected that, for example, criminal offences pursuant to section 130 of the Criminal Code (agitation of the people), section 131 of the Criminal Code (incitement to racial hatred) and section 185 of the Criminal Code (defamation) will be committed and a danger exists that a significant interference with the peaceful coexistence of the population will ensue. The order describes in detail the preconditions necessary for assuming such a danger, and which persons are responsible under police law. The principle of proportionality is put into more concrete terms with regard to certain typical situations of danger. Furthermore, the order describes the police measures that should be undertaken in cases involving solely a gathering of people which is not particularly protected under constitutional law, and provides information on procedures and police tactics. The complete order is included as Annex 4.

To some extent, other *Länder* also have internal orders and conduct guidelines for local decision-makers, thus guaranteeing effective implementation of existing law. Relevant

provisions exist, for example, in Saxony-Anhalt, Rhineland-Palatinate, and Mecklenburg-Western Pomerania.

Furthermore, the principles of Schleswig-Holstein's order of 27 June 2000 are conveyed in all *Länder* on an individual basis by means of corresponding basic and further training measures in order to attain the objective of the order.

**8. Please provide further information on the provisions of the General Equality Act which came into force in August 2006 (previous concluding observations, para. 10 and 14 (b) and State report, para. 95).**

In order to effectively counter discrimination in Europe, the Council of the European Union has resolved the following four anti-discrimination Directives:

- Directive 2000/43/EC on the implementation of the principle of equal treatment irrespective of racial or ethnic origin (Racial Equality Directive),
- Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Framework Directive),
- Directive 2002/73/EC amending Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, and
- Directive 2004/113/EC implementing the principle of equal treatment between women and men in the access to and supply of goods and services.

These Directives have been implemented into national German law by means of the "Law transposing the European Directives on the principle of equal treatment" of 14 August 2006.

Article 1 of the above-mentioned law contains the General Equal Treatment Act (*Allgemeine Gleichbehandlungsgesetz - AGG*) which, due to its broad area of application (labour law, civil law and public law), creates a comprehensive anti-discrimination right in Germany for the first time. An English version of the Act is included as Annex 5.

Section 1 of the General Equal Treatment Act contains the goal of preventing and eliminating discrimination based upon race, ethnic origin, gender, religion or beliefs, disability, age or sexual identity. Furthermore, the scope of application (working life, social protection, social benefits, education, civil-law portion), as well as the definition of the terms "direct and indirect

discrimination", "harassment" and "sexual harassment", will be determined in line with the requirements of the EU Directives.

Section 2 of the Act contains the labour-law provisions for the protection of employees, with an express prohibition of discrimination as well as its rules providing for exceptions. The measures and obligations of employers as well as the rights of employees, some of which arise from the Employment Protection Act, are also described in this section. The core of these rights and obligations are the rules on compensation and reimbursement for damages (section 15 of the Act), which link the requirements of the EU Directives with German compensation law.

Section 3 contains the rules on the protection against discrimination in civil law transactions. In line with the requirements of the Racial Equality Directive (2000/43/EC) and the Directive implementing the principle of equal treatment between women and men in the access to and supply of goods and services (2004/113/EC), it anchors specific civil-law prohibitions against discrimination. In addition to Community law, the characteristics of religion or beliefs, disability, age, sexual identity and gender are also included within the civil-law protection against discrimination, because otherwise substantial portions of societal life would be excluded from the legal protection against discrimination.

The legal protection of people affected by discrimination has been sustainably improved (section 4). In addition to easing the evidentiary burden, already present in civil law (section 611, third sentence of the German Civil Code (*Bürgerliches Gesetzbuch*)) and social law (section 81 (2), no. 1, third sentence of the Social Code (*Sozialgesetzbuch*), 9<sup>th</sup> book), it also affords people the opportunity of receiving support from anti-discrimination associations (section 23 of the Act). In labour law, the works council and the trade unions represented in the company may invoke the labour court in special cases.

The Federal Anti-Discrimination Office plays an important role in combating discrimination. The tasks of the Anti-Discrimination Office are described in the response to question 19.

**9. *Please indicate whether racial motives are considered an aggravating circumstance for the purpose of sentencing in relevant crimes under domestic penal legislation.***

German law provides that sentencing must take racist or other base motives into account as aggravating circumstances – depending on the specific case. According to section 46 (2) of

the Criminal Code, the court must determine punishment by counterbalancing the circumstances which speak for and against the perpetrator. The law expressly mentions the motives and aims of the perpetrator as well as his state of mind reflected in the offence. This means that express xenophobic or racist motives of a criminal offence are to be taken into account by the judge in determining the punishment. Furthermore, as early as 1962, the Federal Court of Justice decided that racial hatred may be considered to be a base motive within the meaning of the elements of murder pursuant to section 211 of the Criminal Code.

**10. Please provide information on measures taken to eradicate, prevent and punish racially motivated acts of violence as well as ill-treatment inflicted by law enforcement officials against foreigners, including asylum-seekers, and German nationals of foreign origin. (previous concluding observations, para. 11) (art. 5 (b)).**

#### Initial and further training

Respect for fundamental rights, particularly human dignity (Article 1 para. 1 of the Basic Law) and the rule-of-law principle rules out racially motivated acts of violence by the police. Racist attitudes are incompatible with the understanding of police work in a democratic state governed by the rule of law. Employment in the police force requires police officers to act constitutionally in accordance with their oath of office. Both the police officer's work and their initial and further training strive to fulfil these obligations.

The training curricula of all police career paths at the federal level include numerous courses that discuss respect and protection of human rights and tolerance in dealing with citizens of German and non-German origin. The thirtieth section of the German Criminal Code (criminal offences committed during performance of official duty) is addressed at considerable length during training and/or studies.

In-service training, too, deals with legal, socio-political and psychological aspects. Courses on xenophobia, racism and migration are aimed at sensitising officers to such issues and serve to generally increase intercultural competence. Behaviour-oriented training measures make up an essential part of further training. Police conduct is therefore also discussed from a social perspective and measured against human rights standards.

The Federal Police deals with the subject of "Human Rights" in training measures such as:

- Training to develop social skills (TASK seminars)
- These training seminars convey and foster an image of humankind based on human dignity and the principles of the free democratic basic order. The topics "Attitude/Basic Attitudes",

"Perception" and "Body Language" are used to provide training in acceptance and understanding towards victims, minorities and non-Germans.

- "Police and Non-Germans" seminars

These seminars provide information on foreign cultures, look at the background and causes of migration, create understanding and tolerance towards foreigners in Germany, and discuss how to deal with foreigners in a conflict-free manner in everyday police work.

- Courses and events on professional ethics

Professional ethics examines issues according to basic values and world views; and also involves detailed discussions of topics such as "Police in a democratic constitutional state", "Police and citizens", "Foreigners and Germans", and "Police and non-Germans".

By means of the initial and further training, police officers are imparted the necessary convictions, attitudes and conduct to enable them to fulfil the role and responsibility of police in a free democratic state governed by the rule of law.

Corresponding training programmes exist for the police at the *Länder* level. Examples can be provided if the Committee wishes.

#### Prosecution and punishment of misconduct

With regard to the prosecution and punishment of racially motivated violent behaviour, it should be noted that provisions (sections 340 ff. of the Criminal Code) are enshrined in German criminal law that impose particular criminal liability upon offences committed by public officials. Racially motivated acts of violence committed by police officers cannot be tolerated. Any transgressions must be rigorously prosecuted under criminal law or punished by disciplinary measures.

In the territory of the Free and Hanseatic City of Hamburg, for example, the prosecution of these special offences as well as all other offences committed by police officers has been outsourced and placed with a separate authority. This Department for Internal Investigations is directly subordinate to the *Staatsrat* (City Council) and ensures that investigations are free of police influence. The police cases handled by the Department of Internal Investigations are pursued by Hamburg Public Prosecution Office's special division for crimes committed by public officials.

Racially/right-wing motivated behavioural misconduct by police employees – irrespective of whether manifested as acts of violence or verbal statements – are rigorously prosecuted and punished by the means available to the public authorities in the Disciplinary Code

(*Disziplinargesetz*) – for civil servants – and the Federal Employees' Collective Agreement (*Bundesangestelltentarifvertrag - BAT*) – for public employees.

In all cases, however, the respective measures under the law governing the public service and/or labour law will be based on concrete suspicion and evidence as well as the severity of the misconduct, which will be examined on a case-by-case basis; a general procedure for racially motivated criminal offences in particular or other misconduct does not exist in this respect.

Usually, however, if suspicions are sufficiently substantiated, all forms of violent acts committed – excepting self-defence, personal protection, and direct force authorised by statute – already lead to serious consequences under the law governing the public service and/or labour law, since such conduct is in no way compatible with the image of a police officer/employee.

In the event of serious suspicion, civil servants can be punished by immediate suspension from duty, followed by a declaration prohibiting them from exercising their office (section 25 of the Act on *Land Civil Servants (Landesbeamtengesetz)*), institution of disciplinary proceedings before public authorities (section 17 (1) of the Disciplinary Code), as well as – in the case of adequate severity of the allegation – temporary removal from office – if appropriate, with a reduction in salary – (section 38 of the Disciplinary Code) as an (immediate) measure. Employment as a civil servant can be terminated only after final clarification of the facts and initiation of a disciplinary proceeding by decision of the Administrative Court (sections 10 and 34 of the Disciplinary Code).

In the event of corresponding misconduct of employees (section 8 of the Federal Employees' Collective Agreement), who, in less serious cases, are in principle initially to be punished with a reprimand, it is possible to terminate employment in serious cases (sections 53ff of the Federal Employees' Collective Agreement). In contrast to the law applicable to the civil service, sufficiently substantiated suspicion in such cases can be sufficient to terminate employment on grounds of suspicion. Reasonable suspicion that a police employee has committed a racially motivated act of violence usually justifies such termination of employment on grounds of suspicion. The reason for dismissal in these cases lies in the fact that the suspicion breaks the relationship of trust between employer and employee which is necessary for the continuation of the employment contract; here too, the further services of the employee are generally dispensed with immediately.

Disciplinary measures which aggressively deal with each specific incident, as well as effective internal and external public relations work, also serve as a deterrent.

**11. To what extent is the Sorbian minority involved in the development and implementation of policies and programmes affecting them, in particular regarding the preservation of a viable Sorbian school network in the Länder of Saxony and Brandenburg. (art. 5 (c) and e (v))**

In the *Land* of Saxony, all matters of fundamental importance are referred to the Council for Sorbian Affairs at the Regional Parliament of Saxony.

The Sorbian School Association is consulted every time new school management posts are filled, and measures are implemented with the consent of the Association to the extent possible. In order to cover the foreseeable need for teachers with Sorbian native speakers, all graduates of the Sorbian grammar school who want to do teacher studies are guaranteed employment by the Free State of Saxony if they complete their qualification successfully. These campaigns are carried out in cooperation with the Sorbian School Association and DOMOWINA e.V.

Despite the fact that pupil numbers have virtually halved due to the drop in birth rates over the last decade, all Sorbian primary schools and the Sorbian grammar school have been kept open. The continued existence of the Sorbian schools has also been assured for the foreseeable future. Since last year, representatives of the Sorbian School Association, the regional associations of DOMOWINA e.V, the respective district authorities, the Saxon Education Agency and the Saxon ministries for cultural affairs and social affairs have been meeting at the regional level to discuss and analyse the reports on the situation of the Sorbian people which have been submitted regularly for years, as well as the areas assigned to Sorbian schools, the work at Sorbian schools, transitions between the schools, and associated problems. The report on further developments of each school location is presented to the Regional Parliament of Saxony.

The next generation of Sorbian scholars and teachers are being educated at the Institute of Sorabian Studies at Leipzig University, which offers Sorbian Studies in the teacher training programme as well as a philological degree in Sorabian Studies. Teaching of the courses includes Upper Sorbian (Free State of Saxony) and Lower Sorbian (*Land* of Brandenburg).

All matters of importance regarding the work of the Institute of Sorabian Studies are discussed with the Council for Sorbian Affairs at the Regional Parliament of Saxony, or the Council is requested to give its opinion on such matters. If necessary, Sorbian associations such as DOMOWINA e. V. and Sorbische Schulverein e. V are also involved in this process.



The *Land of Brandenburg* has a well-developed Sorbian (Wendish) school system tailored to the specific needs of the region, due to the relevant provisions of the *Land* constitution, the Sorbs/Wends Law (*Sorben- (Wenden-) Gesetz*) and the Regulation on School Educational Affairs of the Sorbs/Wends (*Verordnung über die schulischen Bildungsangelegenheiten der Sorben (Wenden)*). In the Sorbian (Wendish) settlement area, general education provides comprehensive educational opportunities to attain all qualifications with Sorbian (Wendish) language components, which include Sorbian lessons as a second or foreign language as well as bilingual classes. This offer is not just available to the families of the Sorbian (Wendish) people but also to all other residents in the Sorbian (Wendish) settlement area.

Since only a small number of Lower Sorbian (Wendish) native speakers exist and the language is hence one of the most endangered languages in Europe, the continuation of the WITAJ project (a project aimed at revitalising the language on the basis of the immersion method), which was initiated by the Sorbian School Association as a member of Domowina e.V., is being supported in the field of general education through measures taken by state authorities. This particularly applies to the realisation of the vocational course that leads to the additional qualification "Bilingual teaching and learning" for teachers needed for implementation of the project.

Against this background, in face of drastically decreasing numbers of pupils in the Sorbian (Wendish) settlement area, success has been achieved over the past years in slightly increasing the number of pupils who take advantage of the educational opportunities incorporating (Wendish) language components.

In order to ensure continuity of work in schools offering courses with Wendish language components, the Council for Sorbian (Wendish) Affairs is consulted on decisions regarding the staffing of management positions in schools in the traditional settlement area of the Sorbs (Wends) as well as in the *Land* of Saxony.

Sorbian committees were and still are intensively involved in the process of debating and shaping decisions regarding the development of school locations in the Sorbian (Wendish) settlement area.

In the *Land* of Brandenburg, a working group has existed since 2003 which is directed by a head of division of the Ministry of Education, Youth and Sports and includes representatives

of the upper and lower school inspectorate as well as representatives of Sorbian (Wendish) educational institutions.

**12. It is reported that the content and use of questionnaires prepared by the authorities of some Länder to facilitate the interview process for specific groups of applicants wishing to acquire German citizenship may be discriminatory towards certain groups, in particular Muslims. Please inform the Committee whether the questionnaires for citizenship procedures which the Federal Office for Migration and Refugees is reportedly in the process of preparing, and which is to be made available to all Länder, is designed to avoid any direct or indirect discrimination. (art 5 (d) iii)**

The citizenship test provided for under section 10 of the Nationality Act, which will enter force on 1 September 2008, will be designed to avoid any direct and/or indirect discrimination. The Institute for Educational Progress (*Institut für Qualitätsentwicklung im Bildungswesen*) at the Humboldt University of Berlin has developed a list of 310 multiple-choice questions, from which 33 questions will be selected for each individual test. 17 correct answers are required to pass the test. The list, which was presented on 8 July 2008, is enclosed as Annex 6.

**13. Has the State party drafted guidelines on minimum standards for the accommodation of asylum-seekers in order to ensure that they enjoy an adequate standard of living? Has the State party considered alternative ways of accommodating asylum-seekers after their initial stay in the first reception centres? (art. 5 e (iii))**

The Federal Republic of Germany has not drafted any guidelines on minimum standards for the accommodation of asylum seekers. However, the Directive on Reception Conditions (Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in Member States – see especially article 14), which has also been implemented into German law, is applicable in this respect. This Directive is supplemented by general statutory provisions, e.g. in respect of the requirements regarding residential premises (room size, room height etc.). The accommodation of asylum seekers falls within the jurisdiction of the *Länder*; also, some statutory provisions are issued by the *Länder*.

Asylum seekers are initially accommodated in first reception centres for a maximum of three months. After this, they are placed in communal housing. There are currently no plans to change this. The reasons for the present form of accommodation are set out in the answer to question 16.

14. Please comment on information that the principle of compulsory primary education is not applied to children of asylum seekers in Hessen, Baden-Württemberg and Saarland.

Compulsory education for children of asylum seekers will soon be introduced in the *Länder* of Baden-Württemberg and Saarland.

In Baden-Württemberg, the parties forming the *Land* government committed themselves in their Coalition Agreement of 2006 to introduce compulsory education for children of asylum seekers and refugees whose deportation has been temporarily suspended on a long-term basis. A change of law to this effect is to take place before the end of this year.

In Saarland, the Regional Parliament decided to introduce compulsory education for asylum seekers' children through the Law to Amend Compulsory Education Provisions (*Gesetz zur Änderung schulrechtlicher Vorschriften*) of 18 June 2008. Section 1 (1) of the Compulsory Education Act (*Schulpflichtgesetz*) has been supplemented as follows:

"Compulsory education within the meaning of sentence 1 also exists for foreign children, adolescents and young adults in possession of a temporary residence permit or temporary suspension of deportation. For foreign children, adolescents and young adults required to leave the country, compulsory education exists until the obligation to leave the country is fulfilled.

The amending law will enter force on the day following its forthcoming promulgation in the Official Journal of Saarland.

Hesse has the Regulation on School Attendance of Pupils with a Non-German Language of Origin (*Verordnung zum Schulbesuch von Schülerinnen und Schülern nichtdeutscher Herkunftssprache*) of 9 April 2003, which regulates, among other things, school attendance of children without a secure residence status.

According to this Regulation, children whose language of origin is not German are subject to compulsory education if they have a valid residence permit or are exempt from having to hold such a permit. Asylum seekers are subject to compulsory education once they are allocated to a local authority. Children whose deportation has been temporarily suspended under the law relating to foreigners are entitled to schooling; i.e. also e.g. those who have lodged an appeal against a government order to leave the country, and thus have a temporary residence status based on temporary suspension of deportation (*Duldungsstatus*) under the

law relating to foreigners. All children who do not fall into these categories have no right to compulsory education.

**15. It is reported that immigrants' children are overrepresented in special schools for "under-achievers" (Sonderschulen) and under-represented in secondary and tertiary education, often for no other apparent reason than insufficient knowledge of the German language. Please provide information on measures taken to address this situation. (art. 5e (v))**

In all *Länder*, children and adolescents of other nationalities as well as with a migrant background have the same educational opportunities as German children and juveniles. Particular emphasis in the *Länder* is placed on promoting German-language skills in pre-school education and school education. Linguistic proficiency in the German language is determined before school enrolment (depending on the *Land*, approx. 10-14 months before the date of enrolment). If necessary, special support measures are provided to ensure the children can follow the lessons right from the first day of school.

Examples of measures taken in the *Länder* of Bavaria and Thuringia are listed below:

In Bavaria, over 90% of children with a migrant background go to normal lessons and are taught together with German children. If necessary, they receive additional German lessons within German-language support courses. Children with a migrant background receive separate language support in German study groups, but in artistic and practical subjects they are taught together with the German children of their "regular class", which they can usually join after a year in the German study group. Children joining the German school system after the compulsory schooling age are offered transitional classes. In the 2007/2008 school year, schools were allocated 19,200 teaching hours just for the preparatory German courses (proportion of hours at primary schools), German study groups and German-language support courses alone. This corresponds to approximately 674 teaching positions and therefore means that the costs for the German-language support amounted to €31.7 million.

The following measures have been taken in child-care facilities and schools over the past years:

- language support through children's day-care centres which is given as early as possible

- introduction of the language development questionnaire "SISMIK" - Language Behaviour and Interest Towards Language in Migrants' Children in Children's Day-Care Centres"
- preparatory German courses organised in collaboration between children's day-care centres and primary schools

continuous, systematic and explicit fostering of German spoken and written language skills in all types of school, age-group levels and subjects, which provides support that is as specifically tailored and sustainable as possible.

The following further measures are planned:

- mandatory assessments of language proficiency for all children in children's day-care centres; at the latest in the year before school enrolment
- increased number of hours for preparatory German courses from autumn 2008 (from 160 to 240 hours)
- introduction of language-advisor programme to children's day-care centres in order to upgrade skills of the educational staff
- organisation and implementation of the further training for teachers of all subjects decided upon by the Ministers of Education and Cultural Affairs, which will take place over the next five years in the fields of language assessment and language support
- development of a concept which, in addition to oral skills, particularly supports literacy skills of pupils with a migrant background, thereby reducing so-called hidden language difficulties. This area is tremendously important for older pupils' academic success in intermediate schools (*Realschulen*) and grammar schools (*Gymnasien*).

Moreover, general conditions for academic success are to be improved:

- in all-day schools, in addition to normal lessons, tutoring will be provided in the afternoon to create the opportunity for language support and integration help.
- as of the 2009/2010 school year, the size of classes in primary schools and secondary general schools (*Hauptschulen*) with a high proportion of pupils with a migrant background will be reduced. If 50% of pupils have a migrant background, no classes should have over 25 pupils; if the percentage is 25%, the highest number of pupils per class should be 28.
- in close consultation with the respective primary and secondary general schools, extracurricular homework help focusing on German-language support will be offered to pupils in German study groups or transitional classes. Even schools who do not offer such help can participate in the programme, whose aim is to promote

**16. Please indicate whether the State party has reviewed the proportionality of restrictions imposed on asylum seekers as to the obligatory residence in accommodation centres and their freedom of movement. (art. 5 e (iii))**

The duty to live in a first reception centre is limited in several respects in order to adhere to the principle of proportionality. The obligation applies for a limited period of time – up to a maximum of three months (section 47 (1) of the German Asylum Procedure Act (*Asylverfahrensgesetz – AsylVfG*). It can also end before three months have expired - e.g. if the person concerned marries in Germany and thereby acquires the right to receive a residence permit (section 48 No. 3 of the Asylum Procedure Act). However, it is mainly section 49 (2) of the Asylum Procedure Act that ensures the obligation can be ended at any time for compelling reasons. It is therefore possible to lift the obligation in cases involving exceptional hardship. Such cases of hardship can be particularly based on personal circumstances involving ill health or family issues. Thus, the obligation to live in a first reception centre can be terminated for reasons of proportionality if the person subject to obligatory residence is the only one who can give necessary care and support to his/her family members or if the person himself/herself is dependant on care from family members outside of the first reception centre.

After accommodation in a first reception centre, asylum seekers are to be placed in communal housing (section 53 (1) of the Asylum Procedure Act). This obligation is particularly terminated if asylum is granted or refugee status is awarded. The accommodation in communal housing ensures a large measure of equal treatment for asylum seekers.

The restriction on freedom of movement beyond assigned districts of residence (the so-called Residence Obligation (*Residenzpflicht*)) also stands up to examination in terms of proportionality. The German Immigration Act (*Zuwanderungsgesetz*) (Act to Control and Restrict Immigration and to Regulate the Residence and Integration of EU Citizens and Foreigners (*Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern*) of 30 July 2004) has relaxed the Residence Obligation by changing section 58 (1) of the Asylum Procedure Act, which now entitles certain categories of cases to be granted permission to leave the district of residence. Due to the change of law, leave must be granted if there is a pressing public interest, if compelling reasons warrant leave being granted, or if refusal to grant leave would constitute undue hardship. In such cases, the aliens authorities do not have any scope to decide according to their discretion. Furthermore, in a decision of 20 November 2007

(Omwenyeki v. Germany, no. 44294/04), the European Court of Human Rights held that the German provisions on the restriction of residence for asylum seekers is compatible with the European Convention on Human Rights and in particular Article 2 of Protocol No. 4 to the ECHR.

**17. Please inform the Committee whether the reported incidents of public hate speech against Roma and Sinti during sports events have been followed up by legal sanctions?**

One example where public hate speech against Roma and Sinti in connection with sports events has resulted in a conviction (Bad Oeynhausen Local Court, 4. November 2005, 5 Ds 46 Js 339/05; 6 months imprisonment on probation) has been brought to the Federal Government's attention. The incident took place on a train carrying football supporters to a match, but not at the event itself. As a general rule, such types of incidents may be subject to criminal prosecution pursuant to section 130 of the Criminal Code (agitation of the people). Furthermore, the national sports tribunal may order that teams whose audiences disseminate hate speech during the sports event must play their games with the public excluded, that points be deducted from their score, or that they must pay a monetary fine. Viewers who conduct themselves in such a way may – according to the circumstances – be subject to a ban from the stadium as well as criminal prosecution by the authorities.

In connection with the hate propaganda against Sinti and Roma during sports events, the commitment of the German Football Federation must be emphasised. The president of the Federation, Dr. Theo Zwanziger, emphasised as early as November 2006 on the occasion of a meeting with the chair of the Central Council of German Sinti and Roma, Romani Rose, as well as the deputy director of the Heidelberg Documentation and Cultural Centre of the German Sinti and Roma, Jacques Delfeld, that the Soccer Federation would take concerted action against every type of racism manifested in the stadiums. In December 2006, the Federation President went to Heidelberg to visit the permanent exhibition of the Documentation and Cultural Centre's permanent exhibition on the nationalist genocide of Sinti and Roma. During the same period, a task force was established, which is equipped with a new notification system and can react quickly to verbal abuse and hate speech at sports events. The work of the task force, which was initiated by the German Football Federation and the German Football League in the fight against violence, racism and xenophobia, has meanwhile been transferred into the structure of the Federation's "prevention and security" division following a resolution by the Federation Steering Committee.

18. Please indicate which remedies, including just and adequate reparation or compensation, are available for victims of racial discrimination. (State report, para. 163 and 176). Does the Act on Compensation for Victims of Acts of Violence (*Opferentschädigungsgesetz*) apply equally to citizens and non-citizens?

In the Federal Republic of Germany, innocent victims of an intentional, unlawful violent assault causing a serious injury of lasting damage receive payments to compensate the health and economic results of the damage according to the Crime Victims Compensation Act (*Opferentschädigungsgesetz* - OEG). Victims of racial discrimination may qualify for such compensation.

Non-citizens are eligible for compensation under the following circumstances:

- if they are EU citizens or if EU law provides that they must be treated like German citizens
- if there is reciprocity or
- if they have been legally residing in Germany for at least three years.

According to Art. 2 para. 2 of the directive 2004/80/EC all EU member states are obliged to provide fair and adequate compensation for victims who have been injured on the national territory of these respective countries. The victims are able to apply for compensation in their home country at the administrative organ designated as Assisting Authority. Then the Assisting Authority is asked to transmit the request to the office which is responsible in the country where the criminal act has taken place. In Germany the Federal Ministry of Labour and Social Affairs is the Assisting Authority.

Furthermore, against the background of the significant rise in right-wing extremist, xenophobic and anti-Semitic crimes, in 2000 the legislators responsible for the budget created in the course of consultations about the federal budget for 2001 the possibility of paying hardship compensation to victims of right-wing extremist assaults. These payments are meant to be an act of solidarity with the victims on the part of the State and its citizens. At the same time, they represent a clear sign that such assaults are to be condemned.

The hardship payments are measured from an equitable point of view and are made in the form of one-time payments, whereby compensation is made upon application of the person affected. The payments are to be viewed as voluntary compensation by the



State; there is no legal claim thereto. Those eligible to apply are persons who have been injured, either bodily or in their general personal rights, by a right-wing extremist assault. As such, payments may be made not only in the case of physical assaults, but also in the case of defamation of or threats to an individual. Those eligible to apply include surviving dependents and so-called emergency helpers, i.e. persons who have suffered health damage in warding off a right-wing extremist assault on third parties. According to practice thus far, the hardship payments made in individual cases have been between € 100 in the case of simple defamation and up to € 250,000 in cases where the victims suffered extremely severe physical injury.

In 2007, a total of 122 applications for hardship payments were submitted. To date, 82 applications have been granted, and hardship payments in the total amount of € 87,400 have been approved. The application was denied in 15 cases, and 25 applications have not yet been decided on. In 2007, individual payments were between € 200 and € 20,000.

In order to make the public aware of the possibility of receiving hardship payments, the Federal Office of Justice annually informs the public prosecution offices of the *Länder* via the prosecutors general, the police divisions via the *Land* criminal police offices, as well as social authorities and victim protection organisations. Furthermore, all necessary information for applicants, as well as an application form and informational sheet, may be downloaded from the Web site of the Federal Office of Justice ([www.bundesjustizamt.de](http://www.bundesjustizamt.de)) under the category "Criminal Law/Victim Assistance."

**19. Please inform the Committee on the role of the Anti-Discrimination Office in collecting qualitative and quantitative data on discrimination cases, including information on victims and perpetrators as well as on circumstances under which racial discrimination takes place? (State report, para. 178).**

The Anti-Discrimination Office (ADO) is conceived as an independent federal office for protection against racial discrimination or disadvantages based on ethnic origin, disability, age, religion or beliefs, gender, or sexual identity (section 25 of the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz - AGG*)). It was established on 18 August 2006 when the General Equal Treatment Act entered force. In February 2007, Dr. Martina Köppen took charge of the Office. Compared to other European states, the ADO is modestly staffed with just 21 employees. However, unlike many other countries in Europe, Germany has well-established local structures, particularly non-governmental organisations and welfare associations which do excellent work at local level for the people concerned.

ADO pursues a horizontal approach in its work, which means that the various characteristics are regarded as equally worthy of protection. This avoids a hierarchisation of characteristics and/or groups of people involved.

ADO's work is supported by an advisory council. The committee consists of 16 representatives of groups of society and organisations as well as experts on issues regarding disadvantages. The advisory council is intended to promote dialogue with groups of society and organisations which have set themselves the goal of providing protection against disadvantages. It advises the ADO on the submission of reports and recommendations to the German Federal Parliament (*Bundestag*) and can make its own proposals on the ADO's submissions as well as on scientific studies.

The central task of the ADO is the ombudsman and advisory function for people who feel disadvantaged due to the reasons set out in the General Equal Treatment Act (section 27 (1) and (2)).

Anyone who is of the opinion that he/she has been discriminated against for one of the reasons stated in the General Equal Treatment Act can contact the ADO. The exercise of this right is not subject to any conditions or time limits. Contact can be made in person, by telephone, letter, fax or e-mail. In the period of 31 July 2006 to 15 December 2007, there were 3,659 advice requests, around 625 of which fell under the category of Companies / Institutions. From January to May, there were a further 945 contacts. For a breakdown according to specific characteristics, please see Annex 6.

The ADO provides information to people affected by discrimination and other actors through its public relations work. People who experience discrimination are to be encouraged to report unequal treatment. Employers can inform themselves of their rights and obligations pursuant to the General Equal Treatment Act via a webpage guide. Further information can be found on the ADO website at [www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de).

Brochures are to be created for different target groups. The ADO organises conferences and congresses to improve networking with non-governmental organisations and other institutions. The research task coexists with the Federal Government's research work, within the scope of the respective department responsibilities. While the ADO supplements this research work, it does not substitute it.

In cooperation with other representatives of the Federal Government, the ADO submits a report to the Federal Government and German Federal Parliament once every parliamentary term. This report also contains recommendations for eliminating discrimination.

The ADO has set up an expert commission on the subject "values-based society as an economic factor". The aim of the work is to create a sustainable alliance with business.

*20. Has the State party strengthened existing educational measures for law enforcement officials who deal with issues involving foreigners, including asylum-seekers, and German nationals of foreign origin? Please also provide updated information, in addition to that provided in the report, on the assessment of training programmes for the police. (previous concluding observations, para.10, and State report, para, 237)*

The Federal Government and the *Länder* are aware that human-rights training for police and prosecution officers is particularly important. It is therefore an integral part of initial and further training of public officials, which is predominantly carried out by the *Länder* according to the constitutional division of competences.

#### Judges and public prosecutors

Since recognising the necessity of training its criminal court judges and public prosecutors in the area of law concerning aliens, Baden-Württemberg has started in 2008 to offer a seminar on the subject of "interrelation between criminal and residence law – the importance of measures and sanctions under the law governing aliens for the determination of sentence and criminal prognosis". The *Land* of Berlin also offers employees of criminal prosecution authorities numerous training courses on dealing with people with a migrant background. Fostering intercultural competence through targeted internal or external further training that takes account of specific requirements of careers in the justice system is a particular focus of the integration work of the *Land* of Berlin's Department of Justice. The further training courses for public prosecutors and judges provide training in dealing with different moral concepts in everyday working life, whereby culture and cultural backgrounds, the effects of cultural influences on social perception, communication and behaviour, recognition and knowledge of cultural differences, dealing with ambiguities, and demands involved in leading intercultural talks are discussed and interactively practiced.

In addition to the *Länders'* educational measures given as examples above, the German Judicial Academy regularly organises nationwide seminars on subjects that relate to aliens.

and asylum law as well as racial discrimination, which are in some cases expressly aimed at criminal court judges and public prosecutors.

#### Prison staff

Intercultural skills are also taught and fostered in the initial and further training of staff employed in prisons of the *Länder*. Berlin and Schleswig-Holstein, for example, offer seminars and further training courses on dealing with prisoners from different cultures. As part of this training, prison staff are also given the opportunity to learn a frequently spoken language in prison, such as Turkish, Russian or Polish. The *Land* of Berlin is currently implementing the measure "Intercultural competence and managing diversity – key qualifications for innovation and overall development processes in service providers of the health and social services sector", in which employees of all Berlin prisons are participating. The aim of this measure is to develop specialised multipliers for prison employees. A well-developed quality management system will ensure that the acquired skills are implemented into the present structures sustainably.

#### Police officers

A central element of police training in the *Länder* is the task of conveying that a lawful exercise of office mandatorily requires basic and human rights to be strictly respected. This commitment of government action to human rights which is laid down in constitutional and international law has full effect for all holders of basic and human rights. It therefore also applies to Germans with a migrant background and foreigners living in Germany.

The *Land* of Berlin supplements its theoretical human rights education with various accompanying measures aimed at sensitising police cadets to negative manifestations of extremism and xenophobia, and racism and anti-Semitism. Part of the training, therefore, particularly includes a visit to a mosque followed by a discussion with the imam about Islam, day-trips and guided tours of former concentration camps, as well as visits to memorials and exhibitions, and the carrying out of project days during which a Jewish contemporary witness from Berlin is interviewed about his/her persecution and life in the underground during the time of the National Socialist reign of terror.

In-service training also increasingly focuses on the problems of ethnic minorities and the need to combat racism and xenophobia. For example, the *Länder* offer further training courses on the following topics:

- Germans of Jewish faith – historical roots and self-perception (*Land of Saxony*)
- Rhetoric against the extreme-right (*Land of Saxony*)
- The Second World War and the repercussions for Germany (*Land of Saxony*)
- Foreign extremism in Germany (*Land of Saxony*)
- The Kurd issue from an ethnic, tactical and psychological perspective (*Land of Saxony*)
- Islam as a religion and political factor (*Land of Saxony*)
- Aliens and asylum law (*Land of Saxony*)
- Importance and application of the General Equal Treatment Act (*Land of Saxony-Anhalt*)
- Police measures in the context of aliens and asylum law (*Land of Saxony-Anhalt*)
- Dealing with foreigners in everyday police work in prisons (*Land of Saxony-Anhalt*)
- Dialogue between Muslim organisations and security authorities (*Land of Saarland*)
- Training for police officers who are charged with the repatriation of foreign nationals (*Land of Saarland*)
- Terrorism, extremism with regard to different cultures, xenophobia, anti-Semitism, and violence against minorities (*Land of Saarland*)

In addition to the general training system, the *Land of Bremen* has established the police post "Commissioner for Integration", who is responsible for dealing with the particular problem areas of migration. The task of such a commissioner is to continuously evaluate the information at his/her disposal and to point out necessary changes. The *Land of Saxony-Anhalt* has also introduced a similar measure in which 150 police officers have been trained in basic and advanced seminars to become Police Commissioners for Matters Relating to Foreigners, thereby providing specific contact people. In the *Land of Berlin* over the past years, the regional police training school has developed close cooperation with the Commissioner of the Senate for Integration and Migration, the anti-discrimination office and representatives of non-governmental organisations and migrant associations. Due to this cooperation, Berlin police officers have visited, for example, the Turkish Community of Berlin (*Türkische Gemeinde zu Berlin*), the Hinbun - a Kurdish family counselling centre, the Association of the Vietnamese in Berlin and Brandenburg (*Vereinigung der Vietnamesen in Berlin und Brandenburg e.V.*) or the Oromo Horn of Africa Centre (*OMRO Horn von Afrika Zentrum e.V.*).

**21. Please comment on reports according to which migrants and asylum seekers as well as ethnic groups such as the Roma and Sinti are victims of racial prejudice and stigmatisation in the media. Please indicate whether the State party has adopted any measures to combat media prejudice and stereotyping. Has the work of the Central Council of German Sinti and Roma helped in reducing discrimination against Roma and Sinti in the media?**

The Federal Government takes the manipulation of viewers and users through questionable media content very seriously. Irrespective of specific regulations in the media sector, articles 1, 2, 3 and 4 of the Basic Law already prohibit any form of discrimination. As regards State measures relating to the media, article 5 of the Basic Law should be noted, which guarantees media freedom as a constitutionally indispensable essential element of a democracy based on the rule of law. This means that the State must in principle abstain from exerting any influence on the media. However, this is not to say that the media freedom is limitless. It reaches its limits in the provisions of the general law – for instance criminal law –, the statutory provisions aimed at protecting young people, and the obligation to respect personal honour.

Farther-reaching regulations to prevent discrimination through or in the media fall into the jurisdiction of the Federal *Länder* due to the constitutional division of competences. According to the programme principles contained in the "Treaty on Radio and Telemedia" (Interstate Agreement on Broadcasting), broadcasters must ensure that their programmes respect human dignity as well moral, religious and philosophical convictions of others. Programmes should strive to promote solidarity in unified Germany as well as international understanding, and contribute to a non-discriminatory society.

The *Länder*'s "Inter-State Treaty on the Protection of Human Dignity and the Protection of Minors in Broadcasting and Telemedia Services" (*Jugendmedienenschutz-Staatsvertrag*) also stipulates that broadcasters and telemedia providers (particularly Internet offers) must respect human dignity. According to this interstate treaty, offers are – without prejudice to criminal liability – among other things, impermissible if they incite hatred against segments of the population or against a group determined by national, racial, religious, or ethnic origin, if they call for violent or arbitrary measures against such groups, or if they attack the human dignity of others by insulting, maliciously maligning or defaming segments of the population or one of the groups described above. The interstate treaty has created a legal basis based on so-called self-regulation to provide protection against radio and online media services that violate human dignity. As a result, institutions of voluntary self-control ensure that the media

providers comply with the provisions of the treaty, and take suitable measures in the event of founded complaints of violation. As the body representing the supervisory authorities for private broadcasters, the Commission for the Protection of Minors in the Media (*Kommission für Jugendmedienschutz*) supervises the correct application of the interstate treaty through the self-control institutions and/or the compliance with the interstate treaty. If providers violate the provisions of the interstate treaty, the Commission for the Protection of Minors in the Media initiates supervisory proceedings.

However, particularly in the event of violation of journalistic fairness or diligence, the media (which has considerable power over public opinion) needs to be monitored using professional ethics provided for in the legal system. In the press sector – which, pursuant to the *Land* press laws, must check the content, truth and source of information carefully, prior to distribution, as the circumstances require – this monitoring task is, for example, the responsibility of the German Press Council (*Deutscher Presserat*). According to the press codex of the German Press Council, a suspect's or perpetrator's association to religious, ethnic or other minorities may only be mentioned in coverage of criminal offences if a justified thematic reference is required to understand the reported incident.

The German Advertising Council (*Deutscher Werberat*) acts as an inter-media institution for voluntary self-control in the area of commercial advertising. With a view to prevent vilification and discrimination of persons, this institution has established principles that prohibit images and texts in commercial advertising from violating human dignity and the general sense of decency. Advertising in particular – especially with regard to children and juveniles – may not create the impression that specific individuals are inferior or can be treated arbitrarily in society, work and the family. In particular, no statements or images may be used which discriminate against persons due to their gender, parentage, race, language, origin, faith, political opinions, age or physical appearance.

The Central Council of German Sinti and Roma represents the interests of the German Sinti and Roma by helping to enforce minority rights. In doing so, it carries out public anti-discrimination work, particularly with regard to the media. The Central Council vigilantly monitors the media landscape and objects to any form of discrimination of the Sinti and Roma, be it in the form of dissemination of racial stereotypes, general criminal accusations or other forms of discrimination in the German media. The Central Council of Sinti and Roma therefore makes a valuable contribution towards ensuring equal participation in Germany's political and cultural life and greatly helps to raise awareness among the public and the media.

22. Please provide more detailed information on the assessment of the programme "Young People for Tolerance and Democracy" as well as the "Exit" programmes against Right-Wing Extremism, Xenophobia and Anti-Semitism (State report, para.189 and 196).

As part of its youth policy, the Federal Government in 2001 created the Action Programme "Young People for Tolerance and Democracy – against Right-wing extremism, xenophobia and anti-Semitism," thus placing a focus on preventing and combating right-wing extremist, xenophobic and anti-Semitic tendencies. Under the auspices of the "Alliance for Democracy and Tolerance – against Extremism and Violence," established by the Federal Government in May 2000, a total of 4,470 preventive and educational models were supported with the Action Programme between 2001 and 2006, primarily in the areas of educational and networking activities targeted to young people. The Federation made more than € 192.4 million available in support funding during that time. The "Young People for Tolerance and Democracy – against Right-wing Extremism, Xenophobia and Anti-Semitism" Action Programme consisted of the programme parts "ENTIMON – together against violence and right-wing extremism," "CIVITAS initiative against right-wing extremism in the new German Länder," and XENOS – living and working with diversity," with their different approaches, they covered various areas of emphasis.

Subsequent to the Action Programme, which ended its term at the end of 2006, the Federal Government created the new programmes titled "Diversity is good for you – young people for diversity, tolerance and democracy" and "Competent for democracy - counselling networks against right-wing extremism." Also, the XENOS component of the program, which focusses on integration in the workplace, is continued until 2011 under the title "Integration and diversity", funded by the European Social Fund.

1) The programme "DIVERSITY IS GOOD FOR YOU. Young people for diversity, tolerance and democracy" focuses on the preventive-educational area and is funded with € 19 million annually. The programme is targeted primarily to children and young people, immigrants, as well as parents, childcare workers, teachers, and local leaders. In the programme, communities develop local action plans in cooperation with civil-society actors. Each of these plans provides for concrete measures and development steps which focus on promoting social integration of young people into democratic structures. Currently, 60 of the total of 90 funded local action plans are in the new (formerly east) German Länder.



Furthermore, the DIVERSITY IS GOOD FOR YOU. Young people for diversity, tolerance and democracy" programme supports more than 90 additional model projects which primarily deal with the questions of "addressing historical and current anti-Semitism," "working with young people at risk of right-wing extremism," "preventive and educational measures for the immigration society," as well as "timely prevention."

More information on the "DIVERSITY IS GOOD FOR YOU. Young people for diversity, tolerance and democracy" programme is available on the programme's home page at [www.vielfalt-tut-gut.de](http://www.vielfalt-tut-gut.de).

2) The programme "Competent for democracy - counselling networks against right-wing extremism" focuses on occasion-specific intervention against right-wing extremism. The Federation funds the programme with € 5 million annually; with this aid, the *Länder* are able to set up counselling networks throughout the respective *Land*, where mobile intervention teams are established in acute threatening situations with a right-wing extremist, xenophobic or anti-Semitic background. These teams provide rapid and professional counselling so that the affected communities and the local population are able to deal effectively with such crisis situations. All German *Länder* are participating in this programme.

More detailed information on the "Competent for democracy – counselling networks against right-wing extremism" is available on the programme's home page at: [www.beratungsnetzwerke.de](http://www.beratungsnetzwerke.de).

3) Another programme, titled "Places of Diversity" was initiated by the Federal Government in November 2007. This initiative is designed to support the commitment of all democratic forces in communities and community alliances for more diversity and tolerance in Germany, and to increase their public visibility. The Federal Government is supported in this endeavour by the *Länder*, leading community associations as well as organisations from civil society, trade unions and industry. All communities throughout Germany are called upon to participate in the initiative. Communities already active in the initiative may compete for the distinction of being termed a "Place of Diversity."

More details on the "Places of Diversity" programme may be obtained on the programme's home page at: [www.orte-der-vielfalt.de](http://www.orte-der-vielfalt.de).

4) Within the scope of the "DIVERSITY IS GOOD FOR YOU. Young people for diversity, tolerance and democracy" programme, support is provided to the model project entitled

"Strengthening families – against violence and extremism" of the Society for a Democratic Culture (*Gesellschaft Demokratische Kultur*), which implements the EXIT programme for those wishing to distance themselves from extremist movements. The goal of this model project is to build up a sustainable and effective network of direct, family-oriented work on exiting extremist environments; as a long-term goal, it strives to illustrate alternative lifestyles to the right-wing extremist scene for young people. The project "Komplex," sponsored by the Rhineland-Palatinate Land office for social affairs, youth and assistance, also receives support from the "DIVERSITY IS GOOD FOR YOU. Young people for diversity, tolerance and democracy" programme; its aim is to recruit and activate affected parents as "exit helpers."

**23. Does the State party envisage ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families?**

The Federal Government has not ratified the above-mentioned Convention and does not believe its signature and ratification to be appropriate. The reasons for this have already been expressed in a declaration in 1990 when the Convention was accepted in the course of the UN General Assembly, and these reasons remain the same:

Basic human rights are already laid down in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights. Without exception, these rights also apply to migrant workers.

The main reason behind the Federal Government's decision not to ratify the Convention is the fact that the "migrant worker" term used in the Convention is not differentiated enough and also includes persons who take up residence illegally and work illegally. The position of the migrant workers who illegally take up residence is thus protected in a manner that far exceeds the uncontested requirement to grant them all human rights. These regulations, therefore, possibly even encourage people to work in Germany without a residence permit. Despite the fact that the Immigration Act is aimed at combating illegal migration, Germany does not intend to ratify the Convention.