



## RAXEN BULLETIN I February – April 2009

### GERMANY

The information provided in the RAXEN bulletins feeds into the FRA Bulletin. The FRA Bulletin offers a snapshot overview on developments in the EU, which are relevant to FRA's mandate and work. Its purpose is to provide factual up-to-date and accurate information for policy-makers as well as for experts from nongovernmental organisations (NGOs), think tanks and intergovernmental organisations (IGOs).

This RAXEN Bulletin was compiled by the *European forum for migration studies* (efms) within the framework of the RAXEN project, commissioned by the EU Agency for Fundamental Rights (FRA).

### 1. POLICY DEVELOPMENTS

#### **Germany's human rights records under review of by the Human Rights Council**

On 2 February, representatives of the German government presented the first German country report in the UN Human Rights Council (UN-HRC) within the scope of the UN mechanism *Universal Periodic Review*, set up to review the human rights records of UN member states. The German report covered, amongst others, asylum and integration policies and racism and xenophobia. In addition to the government report, the nongovernmental organisation *Forum Menschenrechte* and the German Institute for Human Rights submitted independent statements to the UN-HRC.

The UN-HRC recommendations were presented in March 2009 urging the German government, amongst others, 'to ensure adequate cooperation between anti-discrimination organisations operating on the State level' and to ensure adequate resources and independence of action for the federal equality body ADS. The government was also called upon to increase its effort in the struggle against racism and ethnic and religious discrimination.

NGOs such as the *Forum Menschenrechte* and *amnesty international* criticised the German report as severely lacking self-criticism.

[www.ohchr.org/EN/HRBodies/UPR/5CPAGES/5CDESession4.aspx](http://www.ohchr.org/EN/HRBodies/UPR/5CPAGES/5CDESession4.aspx);

[http://files.institut-fuer-menschenrechte.de/437/UPR\\_forum\\_menschenrechte.PDF](http://files.institut-fuer-menschenrechte.de/437/UPR_forum_menschenrechte.PDF);

[http://files.institut-fuer-](http://files.institut-fuer-menschenrechte.de/437/German_Institute_for_Human_Rights_UPR_submission_Germany_2009.pdf)

[menschenrechte.de/437/German\\_Institute\\_for\\_Human\\_Rights\\_UPR\\_submission\\_Germany\\_2009.pdf](http://files.institut-fuer-menschenrechte.de/437/German_Institute_for_Human_Rights_UPR_submission_Germany_2009.pdf)

#### **Federal ministry bans neo-Nazi youth organisation**

On 31 March, the Federal Ministry of the Interior banned the nationwide right-wing extremist youth organisation HDJ [*Heimattreue Deutsche Jugend*]. The ministry argued that the HDJ's objective is to form a neo-Nazi elite by offering leisure time activities for youngsters aiming to systematically spread racist and Nazi ideologies among them; in educational seminars of the HDJ foreigners and Jews have been described as a threat to the German people and children are taught about the racist concepts of 'blood purity'.

[www.bmi.bund.de/cln\\_095/SharedDocs/Pressemitteilungen/DE/2009/mitMarginalspalte/03/verbot\\_hdj.html?nn=109632](http://www.bmi.bund.de/cln_095/SharedDocs/Pressemitteilungen/DE/2009/mitMarginalspalte/03/verbot_hdj.html?nn=109632)

; for more information on the HDJ, see the 2007 Internal Security Report:

[www.verfassungsschutz.de/de/publikationen/verfassungsschutzbericht/vsbericht\\_2007/](http://www.verfassungsschutz.de/de/publikationen/verfassungsschutzbericht/vsbericht_2007/)



## 2. LEGAL DEVELOPMENTS AND AWARENESS-RAISING CAMPAIGNS

### **Legal headscarf ban in Baden-Württemberg in line with Constitution**

The Federal Administrative Court (*BVerwG*) held that the legal ban on religious symbols for teachers, in particular on Muslim headscarves, introduced through an amendment to the Baden-Württemberg state school law in 2004, is in compliance with the constitutional principle of equal treatment (January 2009; Ref. 1 B 42.08). With this decision the highest administrative court rejected the appeal of a German Muslim teacher and confirmed the preceding verdict of the Upper Administrative Court in Baden-Württemberg (March 2008; Ref. 2 B 46.08). The *BVerwG* emphasised, however, that the Christian faith must not be privileged by the state school law provisions.

[www.kohlhammer.de/doev.de/download/Portale/Zeitschriften/Doev/Leitsaetze\\_Volltexte\\_2009/E\\_0306.pdf](http://www.kohlhammer.de/doev.de/download/Portale/Zeitschriften/Doev/Leitsaetze_Volltexte_2009/E_0306.pdf)

### **Court rejects ethnic discrimination complaint in the access to housing**

On 17 March 2009, the Regional Court (*Landgericht*) Aachen rejected the discrimination claim of a German family of African origin who sued the head of an estate management company, because they had been refused to look at a flat offered for rent in September 2006. According to the claimant, the caretaker of the building, who was supposed to show would-be tenants the flat, rejected the family explicitly because of their African origin referring to instructions of the estate management company. The latter denied having given such instructions. The court ruled that the estate management company is not the right party to be sued as the contractual partner of a possible lease would be the owner of the flat and not the defendant. According to the court, the estate management company is not obliged to disclose the contact details of the owner to the claimants (LG Aachen Ref. 8 O 449/07).

The anti-discrimination office GBB Aachen, who supported the claimants together with the legal aid foundation *Leben ohne Rassismus*, announced its intention to appeal.

[www.justiz.nrw.de/nrwe/lgs/aachen/lg\\_aachen/j2009/8\\_O\\_449\\_07urteil20090317.html](http://www.justiz.nrw.de/nrwe/lgs/aachen/lg_aachen/j2009/8_O_449_07urteil20090317.html)

### **Successful court ruling on indirect ethnic discrimination**

The Labour Court in Berlin sentenced a Berlin-based art institute to pay compensation (equivalent of three month wages) to the German claimant, a 48 year-old woman born in the Dominican Republic, due to indirect ethnic discrimination according to the German anti-discrimination act AGG. The art institute had rejected the claimant's job application arguing that German was not her mother tongue. The court regarded this as a case of indirect discrimination on the grounds of ethnic origin without objective justification (ArbG Berlin, Ref. 55 Ca 16952/08; 11.02.2009). The claimant was supported by the antidiscrimination office ADNB of the TBB, a migrant organisation in Berlin.

Press release of the ADNB of the TBB; available at:

[www.antidiskriminierung.org/files/PM\\_AGG\\_Urteil\\_Muttersprache\\_Deutsch\\_23Feb2009.pdf](http://www.antidiskriminierung.org/files/PM_AGG_Urteil_Muttersprache_Deutsch_23Feb2009.pdf)



### 3. RESEARCH

#### **Expert NGO presented results of discrimination testing in housing**

The NGO *Planerladen* published the results of an explorative discrimination testing project on the housing market, which had been carried out between July 2007 and June 2008. In seven cities in North Rhine-Westphalia, 482 flat advertisements, posted in regional newspapers, were tested by two matched testers, one of them "German", the other one a "Turkish" migrant. The contact with the gatekeepers was made via phone: whereas in 79 per cent of the cases both testers received the same response, in 90 cases (19 per cent), the "Turkish" tester was treated less favourably than the "German" one; the "Turkish" tester received double as many rejections as the "German" tester.

*Planerladen e.V. (2009) Ungleichbehandlung von Migranten auf dem Wohnungsmarkt. Ergebnisse eines telefonischen "Paired Ethnic testings" bei regionalen Immobilienanzeigen*  
[www.planerladen.de/50.html?&tx\\_ttnews\[tt\\_news\]=208&tx\\_ttnews\[backPid\]=7&cHash=080c4f6dd8](http://www.planerladen.de/50.html?&tx_ttnews[tt_news]=208&tx_ttnews[backPid]=7&cHash=080c4f6dd8)

#### **Human Rights Watch criticised legal ban on headscarves**

In February 2009, *Human Rights Watch* released a report on the implications of state provisions prohibiting teachers and partly other public servants to display religious symbols in eight German *Länder*. Based on extensive research, the report came to the conclusion that these legal bans affect only Muslim women; they force those who wear a headscarf to choose between their jobs and their religious belief and have caused women to give up their careers or to leave Germany.

*Human Rights Watch (2009) Discrimination the Name of Neutrality. Headscarf Bans for Teachers and Public Servants in Germany, available at: [www.hrw.org/sites/default/files/reports/germany0209\\_web.pdf](http://www.hrw.org/sites/default/files/reports/germany0209_web.pdf)*

#### **Equality body published study on discrimination and anti-discrimination policies**

The federal equality body *Antidiskriminierungsstelle* (ADS) published the report *Discrimination in Everyday Life – Perception of Discrimination and Anti-discrimination Policies in our Society*, carried out by the *Sinus Sociovision* Institute. It encompassed qualitative analyses and a representative survey among 2,610 adult persons, which were categorized on the basis of a sophisticated differentiation of social milieus. The study showed that the majority of Germans – especially in the lower stratum milieus – do not show a high level of personal interest in equality policies and do not consider anti-discrimination an important policy field. 40 per cent of the respondents even regard anti-discrimination policies as redundant. Only one third stated that they have heard of the German anti-discrimination act AGG; and only 23 per cent have heard about the ADS. The study also unveiled widespread prejudices, irrational fears and negative attitudes towards migrants and Muslims in Germany.

*Antidiskriminierungsstelle des Bundes (2009) Diskriminierung im Alltag. Wahrnehmung von Diskriminierung und Antidiskriminierungspolitik in unserer Gesellschaft*  
[www.antidiskriminierungsstelle.de/bmfsfj/generator/ADS/Service/downloads,did=121488.html](http://www.antidiskriminierungsstelle.de/bmfsfj/generator/ADS/Service/downloads,did=121488.html)



#### 4. Official / unofficial statistical data

##### **Official statistics on extreme right-wing, xenophobic and anti-Semitic crimes in 2008**

According to the police statistics on politically motivated (PMK) right-wing crimes, 20,422 **extreme right-wing** offences were registered in 2008 – 16 per cent more than in 2007 and the highest number ever since the introduction of the PMK registration system in 2001. 1,113 of these right-wing crimes were deemed as violent offences (2007: 1,054) – including two cases of homicide – and 69.9 per cent were registered as propaganda offences. The number of extreme right-wing crimes committed with a **xenophobic motivation** increased by 2.9 per cent to 2,950 in 2008 (2007: 2,866). 409 of these xenophobic offences were deemed as violent - seven per cent less than in 2007.

In 2008, the police registered 4.2 per cent less extreme right-wing crimes with an **anti-Semitic background** (1,496; 2007: 1,561). 44 these offences were registered as violent crimes (2007: 61).

The Federal Ministry of the Interior pointed out that the high number of extreme right-wing crimes is partly due to an amendment and nationwide harmonisation of the PMK registration criteria.

*Germany, Federal Ministry of the Interior, press release on 20.04.2009*

[www.bmi.bund.de/clin\\_095/SharedDocs/Pressemitteilungen/DE/2009/04/entwicklung\\_politisch\\_motivierte\\_kriminalitaet.html?nn=303936](http://www.bmi.bund.de/clin_095/SharedDocs/Pressemitteilungen/DE/2009/04/entwicklung_politisch_motivierte_kriminalitaet.html?nn=303936) (21.04.2009)

##### **Victim support organisations: unofficial statistics on right-wing violence in 2008**

The regional victim support organisation *Opferperspektive* counted 104 acts of violence committed with a right-wing motivation in **Brandenburg**, including 77 cases of bodily harm; 30 of all acts were committed with a racist motivation. Altogether 174 people were affected by these 104 violent acts. The figures show, for the first time since 2003, a decrease in the number of right-wing attacks in Brandenburg.

The NGO *ReachOut* counted 148 acts of right-wing violence in **Berlin** in 2008, which constitutes a significant increase compared to 2007. In 65 cases, *ReachOut* assumed a racist motivation (2007: 39); four attacks were committed with an anti-Semitic motivation.

153 right-wing violent acts were registered by two regional victim support organisations in **Saxony-Anhalt**; 226 people were directly affected. In more than 60 per cent of the cases, alternative and non-right-wing youngsters were the victims; 27 per cent of the registered attacks were deemed as racist violent acts, directed against migrants, refugees, Afro-Germans and foreign students. The figures are on a similar level as in 2007.

[www.mobile-opferberatung.de/index.php?bc=1036](http://www.mobile-opferberatung.de/index.php?bc=1036) , [www.opferperspektive.de/Home/853.html](http://www.opferperspektive.de/Home/853.html) ,  
[www.reachoutberlin.de/index.php?name=News&file=article&sid=685](http://www.reachoutberlin.de/index.php?name=News&file=article&sid=685) (all 21.04.2009)