

RAXEN BULLETIN
Germany
1 August – 15 October 2008

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 non-governmental 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. Update on policy developments

Federal Ministry announces new funding programme against right-wing extremism

In September 2008, the Federal Ministry of Labour and Social Affairs announced a new funding programme which aims to financially support initiatives against right-wing extremist tendencies, particularly those that seek to assist right-wingers who want to leave this milieu. In total seven million Euros are allocated primarily to initiatives which offer labour market related assistance for former right-wingers who want to start a 'new life'. The funding programme also strives to promote the mutual exchange of experiences and good practice of particularly effective approaches in different countries.

www.bmas.de/coremedia/generator/27520/2008_09_12_engagement_gegen_rechtsextremismus.htm
(16.10.2008)

Berlin state body presents brochure on discrimination against Muslim woman

The *Berlin Senate Commissioner for Integration* and the *State Centre for Equal Treatment – against Discrimination* released the brochure 'Mit Kopftuch außen vor?' [Excluded with a headscarf?]. The brochure aims at raising public awareness and redressing prejudices; it draws mainly upon the experiences of the *State Centre for Equal Treatment* and two surveys among Muslim women who wear headscarves. It outlines the legal situation regarding anti-discrimination and the ban on religious symbols in certain domains of public services in Berlin and presents information on anti-discrimination institutions in Berlin. Moreover, numerous cases of discrimination against Muslim women are briefly described; these incidents – though not representative – offer empirical proof on the persistence of discrimination in, amongst others, the access to employment, housing and the health system and in schools. The brochure concludes with concrete recommendations on how to counteract these forms of discrimination.

www.berlin.de/imperia/md/content/lb_ads/kopftuch_klein.pdf (16.10.2008)

Federal Cabinet adopted the National Action Plan against Racism

Meeting its obligation resulting from the UN Conference against Racism in Durban (2001), the Federal Cabinet adopted the National Action Plan (NAP) on the struggle against racism, xenophobia, anti-Semitism and related forms of intolerance. The NAP lists initiatives and measures taken by the government and relevant legal provisions in national and international law; moreover, it refers to 'selected significant phenomena', such as anti-Semitism, resentments against Roma, national minorities, religion and awareness raising activities for the police, public prosecutors and judges.

www.bmi.bund.de/Internet/Content/Common/Anlagen/Themen/Extremismus/Forum_gegen_Rassismus/Nationaler_Aktionsplan_gegen_Rassismus,templateId=raw,property=publicationFile.pdf/Nationaler_Aktionsplan_gegen_Rassismus.pdf (16.10.2008)

2. Update on legal developments and awareness raising campaigns

First conviction due to ethnic discrimination in the access to services

On 23 July 2008, the *Amtsgericht* [Local Court] Oldenburg sentenced the owner of a nightclub to pay compensation of € 500 due to unlawful ethnic discrimination in the access to public goods and services (Sec. 19 I General Equal Treatment Act, AGG). The claimant, a university student of Cameroon origin, had been refused entrance to a night club by the bouncer. According to the court ruling, the bouncer told the student that he had been instructed by his boss to not allow entrance to male foreigners.

The verdict (Ref. E2 C 2126/07) constitutes the first successful court ruling on ethnic discrimination that refers directly to the General Equal Treatment Act (AGG), passed in 2006.

No primary official online source; scanned or hard copy of the ruling available upon request

Federal Government disapproves of the Upper House bill on hate crime provisions

After the Upper House (*Bundesrat*) agreed in July 2008 on a bill that seeks to introduce hate crime provisions into the German Penal Code, the Government released its unfavourable statement on the bill on 21 August 2008: the Government does not consider the intended legal amendments as an appropriate means to redress crimes committed with racist, xenophobic and inhuman motivation. According to the Government, such motives can already be taken into consideration when determining the sentence by the courts. The bill will now be discussed in parliament.

http://www.bundestag.de/aktuell/hib/2008/2008_234/02.html (16.10.2008)

German Anti-discrimination Association (advd) released statement on the shortcomings of the General Equal Treatment Act (AGG)

On the occasion of the second anniversary of the AGG, the anti-discrimination umbrella organisation *advd* released a comprehensive statement pointing to several shortcomings of the AGG and its implementation. The *advd* criticises in particular the weak support and counselling infrastructure (i.e. the work of the Equality Body and the lack of support infrastructure on local level), the insufficient transposition of the EU equality directives through the AGG and several procedural and practical obstacles that make it difficult to take legal steps against experienced discrimination (e.g. burden of proof). The *advd* briefly presents cases of discrimination in order to illustrate the concrete effect of these shortcomings.

www.antidiskriminierung.org/files/Stellungnahme%2020Jahre%20agg_end_12.09.2008.pdf (16.10.2008)

3. Research, studies and reports

Non-representative survey on the awareness of anti-discrimination provisions

On the occasion of the second anniversary of the General Equal Treatment Act (AGG), the Berlin-based antidiscrimination network ADNB at the Turkish Council Berlin-Brandenburg (TBB) released the results of a non-representative survey among 421 people on the awareness of the anti-discrimination provisions in Germany. 52 per cent of the respondents were not aware the law against discrimination; only 16 per cent stated that they feel sufficiently informed about their rights according to the AGG. Only one out of four respondents thought they knew where to turn to in case of experienced discrimination.

ADNB-TBB, press release 18.08.2008; available at: www.openpr.de/news/235027/Zwei-Jahre-Allg-Gleichbehandlungsgesetz-AGG-Wer-weiss-was.html (16.10.2008)

CERD adopted *Concluding Observations* on Germany

In August 2008, the CERD adopted its *Concluding Observations* on Germany's struggle against ethnic discrimination. The report highlights positive aspects such as the introduction of the General Equal Treatment Act, the German Islam Conference and the funding programme *Youth for Diversity, Tolerance and Democracy*, but also criticised, amongst others, the lack of statistical ethnic data, the lack of a definition of racial discrimination in the national legislation and that German criminal law does not contain explicit provisions which consider racial motivation as an aggravating factor by the courts when determining the sentences. Moreover, the CERD expressed its concerns about the persisting discrimination of Sinti and Roma and the overrepresentation of migrant children in special needs schools, "mainly on account of their lack of adequate German language skills", and their under-representation in secondary and tertiary education.

www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.DEU.CO.18.pdf (16.10.2008)

German Human Rights Institute calls for erasing the term 'race' in national and international anti-discrimination documents

The German Human Rights Institute published a policy paper which advocates erasing the term 'race' in national and international (legal) documents in the area of human rights and anti-discrimination. The author of the policy paper outlines the historical development of the terminological use of 'race' before and after the NS era, identifies international and national documents which make use of the term and offers concrete terminological suggestions on how to replace the term without changing their meaning.

H. Cremer (2008) "...und welcher Rasse gehören Sie an?" Zur Problematik des Begriffs „Rasse“ in der Gesetzgebung, Policy Paper No. 10, Deutsches Institut für Menschenrechte: Berlin (online available at: http://files.institut-fuer-menschenrechte.de/488/d81_v1_file_48b3bc51eb1d9_pp_rasse.pdf).

4. Official / unofficial statistical data

Preliminary police statistics on extreme right-wing (xenophobic) crimes: January – August 2008

During the first eight months of 2008, the police registered 9,750 extreme (politically motivated) right-wing crimes – one third more than in the comparable period of 2007. According to these preliminary police statistics, 528 of these extreme right-wing crimes were registered as violent crimes.

1,362 of all right-wing crimes were deemed as xenophobic; this represents a strong increase compared to the first eight months of 2007 (1,019). Among these extreme right-wing xenophobic crimes, the police registered 217 violent crimes (I-VIII 2007: 193). 222 people were injured as a result of these xenophobic, violent crimes – 51 one more than in the comparable period in 2007.

http://www.petra-pau.de/16_bundestag/dok/down/2008_zf-rechtsextreme-straftaten.pdf (16.10.2008)

Preliminary police statistics on extreme right-wing anti-Semitic crimes: first half year of 2008

During the first six months of 2008, the police registered 530 extreme right-wing crimes, committed with an anti-Semitic motivation; this represents an increase by about 13 per cent compared to the comparable period of 2007 (468). Although the number of (extreme right) anti-Semitic violent crimes hardly changed (I-VI 2008: 15; I-VI 2007: 16), the number of people injured as a result of these crimes more than doubled to 24 in the first half year of 2008 (I-VI 2007: 11).

http://www.petra-pau.de/16_bundestag/dok/down/2008_zf_antisemitische_straftaten.pdf (16.10.2008)

Victim support organisations update their annual statistics on right-wing violence in 2007

Two victim support organisations in Eastern Germany have updated their annual statistics on right-wing violent acts. The Saxony-Anhalt based organisation *Mobile Opferberatung* gained knowledge of further 31 such acts, and the Brandenburg-based *Opferperspektive* discovered 14 additional cases of right-wing violence. Adding these 45 incidents to the annual statistics, released in June 2008, the updated unofficial statistics (2007) for Eastern Germany shows the highest number of right-wing violence ever compiled by the Eastern Germany victim support organisations.

During the first half year of 2008, the *Mobile Opferberatung* registered 73 cases of right-wing violence, 20 of these incidents were categorised as racist attacks.

www.opferperspektive.de/Home/750.html; www.mobile-opferberatung.de/index.php?bc=878 (16.10.2008)