

RAXEN BULLETIN
Germany
August – October 2010

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

New federal funding programmes to promote tolerance and combat extremism

Two new multi-annual funding programmes have been launched by the federal government in late 2010.

The programme *Toleranz Fördern – Kompetenz Stärken* [Promoting Tolerance – Strengthening Competence] (2011-2013), coordinated by the Federal Ministry of Family, Senior Citizen, Women and Youth, builds upon the experiences made with the two large-scale funding programmes *Vielfalt tut gut* and *Kompetent. Für Demokratie*, which will both expiry at the end of 2010. Similarly to these two predecessor programmes, the new funding programme provides financial support for projects that aim to foster civil commitment to tolerance, diversity and democratic values. More precisely, co-funding is made available for initiatives that seek to establish new local action plans that strengthen a committed civil society or to ensure the sustainability of already existing local strategies; in addition, state-wide advice and support networks and innovative model projects against right-wing extremism and for conveying democratic principles can apply for funding until November 2010. 24 Mio EUR are allocated to the three-year programme.

The second new funding programme (2011-2013), *Zusammenhalt durch Teilhabe* [Cohesion through Participation], is coordinated by the Federal Ministry of the Interior and aims to strengthen social cohesion in a diverse society through active participation of local civil society initiatives, associations and local municipalities. Within this programme, 18 Mio EUR are available for projects carried out in East Germany. The emphasis of the funding scheme is on further qualification of staff in municipalities and NGOs, support of local NGO networks that foster democratic structures on the local level, and innovative model projects to promote democratic participation.

www.toleranz-fordern-kompetenz-stärken.de (20.10.2010)

www.zusammenhalt-durch-teilhabe.de (20.10.2010)

2. UPDATE ON LEGAL DEVELOPMENTS AND AWARENESS-RAISING CAMPAIGNS

Bill to transpose EU Framework Decision on combating racism

The federal government drafted a bill that aims to transpose both the Framework Decision 2008/913/JHA on combating racism and xenophobia by means of criminal law and the Additional Protocol to the Council of Europe (CoE) Convention on Cybercrime. In mid-August, the bill was passed on to the Upper House (*Bundesrat*), which gave its official approval on 24 September; it will now be presented and discussed in the federal parliament.

According to the government, the current German legislation largely complies already with the minimum standards requested by the Framework Decision and the Additional Protocol of the CoE. Only Art. 1 (1) a and b of the Framework Decision and Art. 2 (1) in conjunction with Art. 3 (1) of the Additional Protocol require an amendment to the German criminal code provision on incitement (Sec. 130 StGB). This is due to the fact that the current version of Sec. 130 StGB bans incitement against 'parts of the population' but not against individuals. Moreover, the amended Sec. 130 (1) StGB shall explicitly mention the groups – as defined in Art. 1 (1) of the Framework Decision – against which incitement is unlawful.

Germany/Bundesrat, printed matter 495/10 (13.08.2010; 24.09.2010)

Dismissal due to a Russian accent is unlawful discrimination

The state labour court (LAG) Bremen confirmed the first instance ruling of the labour court Bremen-Bremerhaven which held in November 2009 that the dismissal of an employee because of her Russian accent is considered a case of unlawful discrimination on the grounds of ethnic origin. After the claimant had finished her internship at the small logistic company, she took up regular employment there as administrative employee with a probation period of six months. During this period, the new managing director dismissed the woman arguing that customers would be scared by her Russian accent. He further elaborated that customers might think: 'What a shit company in which only foreigners work'. Due to the explicit reference to the woman's origin from a Russian-speaking region, this dismissal was considered an act of direct discrimination on the grounds of ethnic origin according to the German Equal treatment Act (AGG). The employer was sentenced to pay compensation of three monthly wages (5,400 EUR). The ruling did not only clarify the issue of unequal treatment due to one's language or accent, but also strengthen the jurisdiction according to which dismissal is covered by the AGG – although Sec 2 (4) ASGG explicitly excludes this issue from the scope of the AGG.

Landesarbeitsgericht Bremen, 1 Sa 29/10 (29.06.2010)

Arbeitsgericht Bremen-Bremerhaven (Bremen), 8 Ca 8322/09 (25.11.2009)

3. RESEARCH AND REPORT

Publications on labour market discrimination against Muslims

In October 2010, the German equality body ADS published two reports that explore the current state-of-the-art on labour market discrimination against Muslims due to their Islamic religion and/or ethnic origin; applying a legal or a socio-economic perspective. The reports – one applying a legal and one a sociological perspective – are both based on intensive desk-research and conclude with recommendations on how to prevent and redress these forms of discrimination. The reports shed light on the complexity of multiple discrimination due to one's religion, origin and on other grounds; moreover, they show the deficient data situation on religious discrimination, which does not allow for accurate statements on the quantitative extent of discrimination. The empirical (mainly qualitative) data available suggest that Muslim migrants face ethnic discrimination in the access to the labour market, which seems to be aggravated by discrimination due to their Islamic belief: women with a Muslim headscarf are confronted with discriminatory hurdles in the access to employment and anti-Muslim stereotypes are being used by gatekeepers to justify the rejection of job applicants with a Muslim background. In addition, legal provisions were identified that create discriminatory barriers for Muslims in the access to the labour market.

M. Peucker (2010) Diskriminierung aufgrund der islamischen Religionszugehörigkeit im Kontext Arbeitsleben – Erkenntnisse, Fragen und Handlungsempfehlungen. Erkenntnisse der sozialwissenschaftlichen Forschung und Handlungsempfehlungen. Berlin: ADS, online available at: http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/sozialwissenschaftliche_expertise.pdf?__blob=publicationFile (12.04.2011)

D. Frings (2010) Diskriminierung aufgrund der islamischen Religionszugehörigkeit im Kontext Arbeitsleben – Erkenntnisse, Fragen und Handlungsempfehlungen. Diskriminierungen von Musliminnen und Muslimen im Arbeitsleben und das AGG. Berlin: ADS, online available at: http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/rechtswissenschaftliche_expertise.pdf?__blob=publicationFile (12.04.2011)

Xenophobic and anti-Muslim attitudes on the rise due to economic crisis

Commissioned by the Friedrich Ebert Foundation (FES), a team of researchers carried out a representative survey in April 2010 among 2,411 people on various facets of extreme right-wing attitudes and how their prevalence has changed over the past few years, in particular during the economic crisis. The survey examined, amongst others, xenophobic, anti-Semitic and Islamophobic attitudes and viewpoint related to Social Darwinism and the trivialisation of National Socialism and compared these 2010 findings with the results of previous polls carried out with a comparable design. The researchers found a considerable increase in xenophobic and Islamophobic and, more generally, anti-democratic attitudes compared to 2008 – a finding that seems to be attributed to the effects of the economic crisis, as the researchers conclude.

55.4 per cent of the respondents state that they can well understand 'that some people find Arabs unpleasant' (2008: 44.2 per cent). While one out of four respondents expressed xenophobic attitudes (2008: one fifth), the approval rates for statements such as 'foreigners exploit our social system' or 'foreigners should be sent back when a job shortage occurs' are consistently above 30 per cent. Xenophobic attitudes are more widespread in East Germany and among people with a lower education, men and elderly people as well as unemployed and retired respondents.

O. Decker et al. (2010) Die Mitte in der Krise. Rechtsextreme Einstellungen in Deutschland 2010, Berlin: FES, online available at: <http://library.fes.de/pdf-files/do/07504.pdf> (20.10.2010)

4. OFFICIAL AND UNOFFICIAL STATISTICAL DATA

Latest preliminary police statistics on politically motivated right-wing crimes

According to the monthly updated preliminary figures on **politically motivated (PMK) right-wing crimes**, the police counted 8,723 extreme right-wing crimes between January and August 2010 (I-VIII 2009: 9,537); 432 of these crimes were registered as *violent* offences - only four crimes less than in the comparable period in 2009.

In the PMK sub-category of extreme right-wing **hate crimes**, 1,699 crimes were recorded in the first eight months of 2010, about ten per cent less than in the comparable period in 2009, when 1,870 such crimes were registered. The number of *violent* extreme right-wing hate crimes also decreases from 208 (I-VIII 2009) to 186 (I-VIII 2010).

While the total number of PMK right-wing crimes with a **xenophobic background** dropped from 1,151 (I-VIII 2009) to 1,067 in the first eight months of 2010, the number of extreme right-wing xenophobic *violent* crimes increased from 154 (I-VIII 2009) to 162 (I-VIII 2010).

According to the quarterly preliminary statistics on PMK right-wing crimes with an anti-Semitic background, the number of **anti-Semitic crimes** registered by the police dropped significantly from 547 in the first half of 2009 to 471 in the comparable period in 2010; seven of these offences were recorded as violent crimes (I-VI 2009: 9).

www.petra-pau.de/17_bundestag/dok/down/2010_zf-rechtsextreme-straftaten.pdf (18.10.2010)

www.petra-pau.de/17_bundestag/dok/down/2010_zf-antisemitische-straftaten.pdf (18.10.2010)

Updated PMK/right-wing statistics for the first half of 2010

As the above described monthly updated statistics on PMK right-wing crimes are preliminary and significantly below the final figures, the parliamentary group DIE LINKE makes parliamentary query twice a year to get more accurate, but still preliminary statistics. In response to this parliamentary query, the federal government published updated figures on PMK right-wing crimes recorded in the first half of 2010.

According to the information available to the police as to 28 July 2010, 7,891 extreme right-wing crimes were registered in the first six months of 2010, among those 387 violent crimes. These updated statistics point to a substantial decrease in the number of registered PMK right-wing offences: according to the comparable updated statistics for the first half year of 2009, 9,119 PMK right-wing crimes were recorded, including 427 violent offences.

Germany, Bundestag, printed matter 17/3014 (24.09.2010) www.petra-pau.de/17_bundestag/dok/down/1703014.pdf (18.10.2010)