

ECRI REPORT ON GERMANY (sixth monitoring cycle)



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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI’s country monitoring deals with all member States on an equal footing. The work takes place in 5 year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidence. They are analyses based on information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 19 June 2019; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fifth report on Germany on 5 December 2013, progress has been made and good practices have been developed in a number of fields.

The German Institute for Human Rights was given a legal basis and more *Länder* have established entities that promote equality. In Berlin there are plans to set up an independent equality body.

The ministers of education of the *Länder* have elaborated a set of recommendations on inclusive education and the *Länder* are implementing large projects to prevent and counter racism, homophobia and transphobia at school.

Some core fundamental rights of irregularly present migrants are protected by so-called firewalls that provide that schools, teachers and doctors do not have to report those migrants for the purposes of immigration control.

Surveys show high levels of openness and understanding for homosexual persons among the general population. In 2017, same-sex marriage and in 2018 a third gender category "divers" were introduced. The authorities are working on new regulations on gender recognition of transgender persons and "gender-normalising" medical measures on intersex children.

Germany warmly welcomed an extraordinarily large number of asylum seekers in 2015. The Chancellor and ministers publicly spoke out against hate speech and called on social networks to enforce their guidelines on removing hate speech. Managers also publicly condemned hate speech.

In 2018, the Network Enforcement Act came into force; it obliges big social network providers to remove hate speech in clear cases within 24 hours came into force. The most serious and open forms of hate speech disappeared from the large social media platforms.

The police services of several *Länder* work intensively with civil society to improve the detection and recording of hate crimes. The police improved their hate crime statistics and the judiciary started in 2019 to collect hate crime data nationwide.

The parliament introduced into the law provisions that will allow to discontinue the public financing of racist political parties; another amendment provides that racist or other motives of a criminal offender that show contempt for humans now constitute an aggravating circumstance.

The authorities have invested many resources in early integration of the high number of newcomers to Germany. They have also started revising their National Action Plan on Integration (NAP-I) with a holistic approach that aims at full inclusion in society.

The enrolment rate of children with migration backgrounds in preschool education increased and these children can obtain additional language support. More of them enrol in the highest stream of secondary education and enter higher education. More people with migration backgrounds work in public administration and a significant number of the refugees who arrived in 2015 are employed.

Sinti and Roma mediators contribute to improving schooling results of Sinti and Roma children and to building bridges to newly arrived Roma groups.

ECRI welcomes these positive developments in Germany. However, despite the progress achieved, some issues give rise to concern.

The scope of the mandate of the Federal Anti-Discrimination Agency (FADA) is too narrow: it lacks fundamental victim support and litigation competences, is not fully independent and is underfunded. There are no independent equality bodies in the *Länder*.

The standards on human rights education are not sufficiently implemented and teachers do not feel adequately prepared to teach in a diverse environment.

The draft act on gender recognition severely restricts the right to self-determination of transgender persons. Intersex babies and infants continue being subject to medically unnecessary and deferrable surgery and therapies.

There are high levels of Islamophobia and the public discourse has become increasingly xenophobic. Racism is particularly blatant in two suborganisations of a new political party and the constant Islamo- and xenophobic discourse from the extreme right also has an impact on the mainstream political discourse.

The police do not sufficiently co-operate with civil society to detect and register hate crime; this results in a considerable degree of under-reporting of such offences. Evidence of online hate speech is not systematically transmitted to police and prosecution services.

The number of right-wing extremists ready to use violence increases. Right-wing and Islamist terrorists have committed a number of racist attacks. Asylum seeker victims of hate crime are deported before they can testify in the criminal proceedings.

The National Action Plan for Integration does not contain indicators to measure progress and the process for its revision is slow. The enrolment rate in day care facilities of children aged under three with a migration background only increased to 20%. In primary education, children with migration backgrounds lag behind with regard to their reading competences and this gap continues to widen through to the 9th grade; they are more than twice as likely to leave school without a diploma.

The results of the language tests among people with migration backgrounds continue to regress and their unemployment rate is still more than twice as high than that of the rest of the population. German Sinti and Roma are in need of assistance in the field of education and migrant Roma are often victims of exclusion and exploitation in the labour and housing market.

Even though there is strong evidence for extensive racial profiling, numerous police services and representatives are unaware of or do not admit its existence.

In this report, ECRI requests that the authorities take action in a number of areas and makes a series of recommendations, including the following.

The authorities should bring the provisions on the FADA's competences, powers, independence and effectiveness in line with ECRI's standards. They should also establish a coherent system of organisations that provide victims of discrimination with effective support including legal assistance throughout the whole country and engage in establishing independent equality bodies in all *Länder*.*

The *Länder* should introduce human rights and equal treatment in their education acts and obligatory parts of the curricula and reinforce teacher training on inclusive teaching in diverse classrooms.

They should fund low-threshold counselling and assistance for irregularly present migrants and ensure that services responsible for the reimbursement of health care are not obliged to report such migrants to immigration control services.

Germany should swiftly enact legislation that prohibits unnecessary surgery and other treatment on intersex children and establish counselling and assistance services for intersex children and their parents.

The authorities should standardise the reporting of online hate speech on social media platforms and ensure that evidence of such speech is systematically transmitted to the police. The police should analyse, together with civil society, evidence for hate crimes, initiate studies about the investigation of hate crime and publish hate crime reports.

The police and intelligence services should implement measures to prevent radicalisation and help extremists to exit from racist, homo- and transphobic groups. Training of police, prosecutors and judges on hate crime should be intensified and victims whose applications for asylum were rejected should not be deported before they have testified.

The authorities should speed up the updating of the NAP-I, define and insert integration indicators into it and include the objective of and measures for increasing the share of children with migration backgrounds that attend pre-school education. The Diversity Charter should be encouraged to develop an index for regular evaluation of its member's activities to promote diversity.

The authorities should finance Roma mediators in all places where German Sinti and Roma or recently-arrived Roma live.

The police of the Federation and the *Länder* should commission and participate in a study on racial profiling with the aim of eliminating this form of institutional racism.*

* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies¹

1. Regarding the existence, mandate, independence and effectiveness of the German equality bodies, ECRI regrets that a number of shortcomings persist. The German Federal Anti-Discrimination Agency (FADA) was established in 2006 through the General Law on Equal Treatment (Allgemeines Gleichbehandlungsgesetz - AGG) as a stand-alone body with its own legal personality (see §§ 1 and 2 of ECRI's General Policy Recommendation (GPR) No. 2 on Equality Bodies). The mandate of the FADA is limited to the scope of the AGG and does not explicitly cover hate speech, the discrimination grounds of skin colour, language, citizenship and gender identity and intersectional discrimination, as recommended in § 4 a and b of GPR No. 2. In addition, not all areas in both the public and private sector fall under the FADA's mandate (§ 4c of GPR No. 2).
2. With regard to the promotion and prevention function of equality bodies, the FADA lacks the competence to intervene in the legislative procedure (§ 13j of GPR No. 2). It also lacks substantial competences with regard to the support and litigation function: while the FADA has the competence to assist persons exposed to racism and intolerance by providing information, redirecting them to other organisations and by mediating, it cannot provide them, as recommended in § 14a, c, d and e of GPR No. 2, with legal assistance, represent them before institutions, adjudicatory bodies and the courts, bring cases in its own name or intervene as *amicus curiae*, third party or expert. The members of the FADA's network against discrimination cannot provide such assistance throughout Germany either. As pointed out in ECRI's last report on Germany, the FADA also lacks the power to question persons and to apply for an enforceable court order or impose administrative fines if an individual or institution does not comply with a decision related to its investigation powers (§ 21 c and d of GPR No. 2).
3. Also with regard to the FADA's independence, ECRI regrets to note certain shortcomings. The head of the FADA is appointed by the Federal Ministry for Family Affairs based on a proposal of the Federal Government (§ 26.1 of the AGG), while, according to § 23 of GPR No. 2, the executive should not have a decisive influence in any stage of the selection procedure. In addition, the duration of the mandate of the head is tied to the legislative term of the parliament, and civil society points out that the recent vacancy was not publicised widely and in a transparent manner. In practice, this led, for the second time in the relatively short lifetime of the FADA, to a complaint by an unsuccessful applicant to the administrative court; as a result, the position has been vacant for many months. Furthermore, the law only provides for the drafting of a common report by the FADA and other institutions every four years for debate in Parliament. In contrast, equality bodies should, according to §§ 30 and 35 of GPR No. 2, publish annual reports that are discussed by parliament and government but are not subject to their approval or the approval by any other external party.
4. The German Institute for Human Rights (GIHR) also has an equality mandate that covers the public sector. While the GIHR, which was originally set up as an association, was given a legal basis in 2015 to comply with the basic conditions for independence, it has no competence to receive complaints and lacks other basic support and litigation competences (see § 14 of GPR No. 2). It cannot, for example, bring cases of racial profiling before the courts (see also §§ 104 et seq. below).

¹ For terminology, see ECRI's glossary, <https://rm.coe.int/ecri-glossary/1680934974>.

5. ECRI understands that, according to Articles 30, 83 seq. and 92 of the Basic Law - the German Constitution – it falls in principle under the legislative competence of the *Länder* to establish judiciary and (independent) administrative bodies such as equality bodies. In this context, ECRI is pleased to note that, following its recommendation to set up equality bodies in all the *Länder* (§ 22 of its fifth report on Germany), more *Länder* have established or designated entities that are responsible for promoting equality and fighting racism and intolerance. At the 2019 annual meeting of these entities, 11 of the 16 *Länder* were represented. ECRI however regrets that these anti-discrimination entities have been set up within the administrations of the *Länder* and are not independent. While ECRI acknowledges the important role that such government departments have in promoting equality and fighting racism and intolerance, it highlights that there is a strong need for the *Länder* also to set up independent equality bodies. In this respect, ECRI strongly welcomes the initiative of the *Land* Berlin to adopt its own anti-discrimination law² that covers the public sector of the Land and establishes an independent Ombud's office as an equality body with the mandate to mediate in cases of discrimination emanating from public authorities of the Land and to request, in case of unsuccessful mediation, the relevant authority to remedy the situation.³
6. Through its thematic years, research and awareness-raising campaigns, the FADA has made, with its restricted resources, a valuable contribution to preventing and combating discrimination and intolerance. Regarding the GIHR, members of the Parliament's Committee on Human Rights and Humanitarian Aid informed ECRI that its annual reporting contributes substantially to better informing the public about the issue of discrimination.
7. Given the strongly increasing diversity of German society (see § 72 below), ECRI considers that the authorities should invest more in their equality structures. In ECRI's view, the FADA remains - with a budget of 4.4 million Euros and 27 posts - significantly understaffed and underfunded. The funding and staffing of the FADA should be calculated on the basis of objective indicators (cf. § 101 of the explanatory memorandum to GPR No. 2) and in particular take into account the increasing diversity within Germany's society.⁴
8. ECRI is aware that there is considerable resistance to strengthening equality bodies and anti-discrimination legislation, which has led to a blocking by Germany of new equality initiatives also at EU levels. It particularly regrets that the Confederation of German Employers' Associations has only calculated the costs that the introduction of anti-discrimination legislation has incurred,⁵ but that it has not put any figure on its positive effects. More equal treatment and less discrimination not only result in societal progress, but also in economic growth, when people from all backgrounds improve their school results in a discrimination-free education system, get better diplomas, are hired in discrimination-free job application systems and evolve and contribute in a discrimination-free working environment.⁶ ECRI therefore encourages the authorities to evaluate, together with the social partners, such positive impacts of more solid equal treatment structures in order to prepare the ground for strengthening the FADA and the existing anti-discrimination networks, enabling them to provide effective support including legal assistance to victims of discrimination, establishing independent equality bodies in the *Länder* and for providing all equality bodies with victim support and litigation

² Abgeordnetenhaus Berlin, Drucksache (Printed Paper) no. 18/1996 of 12 June 2019.

³ Berliner Zeitung 2019.

⁴ Data on the resources of equality bodies in other countries can be found on the website of Equinet, http://www.equineteurope.org/spip.php?page=tableau_neb§ion=members, accessed on 15.05.2019.

⁵ BDA 2018.

⁶ See on such positive aspects BDA 2016 and c.

competences to help them enforce the rights of people exposed to racism and intolerance.

9. When revising the provisions of the General Equal Treatment Act on the FADA, the authorities should also strengthen the federal anti-discrimination legislation on the lines of ECRI's GPR No. 7, the concrete recommendations in §§ 11 to 17 of ECRI's fifth report on Germany and the evaluation of the AGG made by the FADA. When establishing independent equality bodies, the *Länder* should also adopt anti-discrimination laws that cover the parts of the public sector that fall under their legislative competence, in particular education and policing.
10. ECRI recommends that the German authorities bring the provisions on the Federal Anti-Discrimination Agency's competences, powers, independence and effectiveness in line with ECRI's General Policy Recommendation No. 2 on Equality Bodies. In particular, they should (i) extend its mandate to cover hate speech, the grounds of skin colour, language, citizenship and gender identity and intersectional discrimination; (ii) make sure that its mandate covers all areas of the public and private sector that are under the competence of the Federation; (iii) provide it with the competences to intervene in the legislative procedure, provide people exposed to racism and discrimination with legal assistance, represent them before institutions, adjudicatory bodies and the courts, bring cases in its own name and intervene in legal proceedings as *amicus curiae*, third party or expert; (iv) provide it with the power to hear witnesses; (v) reform the appointment procedure for its head; (vi) stipulate that it drafts annual reports for discussion by parliament and government; and (vii) provide it with sufficient human and financial resources.
11. ECRI recommends that the authorities establish a coherent system of organisations that provide victims of discrimination with effective support including legal assistance throughout the whole country. To this end, the German *Länder* should engage in setting up independent equality bodies in line with ECRI's General Policy Recommendation No. 2.

B. Inclusive education

12. This section deals with education policies that address exclusion and marginalisation through inclusive education for all children and aim at creating an inclusive and tolerant society (Sections II and III of GPR No. 10).
13. In Germany, the legislative and administrative competence for education lies with the *Länder*, which have established the Standing Conference of the Ministers of Education and Cultural Affairs (KMK) to elaborate non-binding recommendations. ECRI is pleased to note that in 2013 the KMK presented a revised recommendation "Intercultural Education in Schools"⁷, and in 2015 a recommendation on "Educating Teachers to Embrace Diversity" as well as a joint declaration "Presentation of Cultural Diversity, Integration and Migration in Educational Media". In 2018 it totally revised its "Recommendations on Human Rights Education". The KMK is now working on a document regarding the history, culture and way of life of Sinti and Roma.⁸ According to its standards, human rights education is one of the cross-curricular topics in secondary education of children aged from 10 to 19 years.⁹
14. ECRI was however informed that these standards are not sufficiently implemented in the *Länder*. According to a study of the GIHR, only three of the 16 federal states' education acts mention knowledge of human rights as part of their general educational goals. During its country visit ECRI was informed that also in practice there is insufficient focus on learning about human rights, equality and values.

⁷ Kultusministerkonferenz 2018.

⁸ Information transmitted by the German authorities by letter of 30 October 2018.

⁹ Kultusministerkonferenz 2017: 129.

According to the GIHR, some school books and materials include stereotypes and derogatory representations in relation to origin, religion or gender and many school books fail to convey diversity as an everyday normality.¹⁰

15. ECRI is furthermore concerned about the results of a study from 2017, according to which 18% of people originating from Sub-Saharan African countries and 15% of people originating from Turkey felt discriminated in the German educational institutions as a student or a parent.¹¹ Around 16% of all German 15-year-olds surveyed reported being regular victims of bullying at school at least “a few times a month”;¹² antisemitic bullying affected schools especially in Berlin.¹³ Teachers are not adequately prepared to teach in a diverse environment, as neither human rights, teaching in diverse classrooms or addressing discrimination and bullying have been made an obligatory part of initial teacher training at university, the trainee programme “Referendariat” or the continuous training by the *Länder*.¹⁴
16. ECRI welcomes the fact that the Federation and the *Länder* have developed various **good practices** to remedy these shortcomings. Among them are a network of more than 1 000 teachers with migration backgrounds in the *Land* North Rhine-Westphalia (NRW) that contributes to promoting diversity and inclusion in the education system. Berlin recently established the Anti-discrimination Commissioner of the Berlin Senate Administration for Education, Youth and Family Affairs who dealt within the first full school year of her activities with more than one hundred complaints on racial discrimination in schools, many of them involving teachers.¹⁵ 170 anti-bullying experts were sent into selected schools across the country to counter antisemitism.¹⁶ The 115.5 million Euro programme “Live Democracy” of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth supports initiatives that cover, amongst others, issues of diversity and violence-free and respectful coexistence in schools.¹⁷ One of the projects, “School without racism – School with courage” invites children to fight discrimination and contributes to a non-violent, democratic society.¹⁸ Action plans on sexual diversity and gender stereotypes and the project “A School of Diversity – A School without Homophobia” address LGBTI issues in education. In particular with regard to the federal programme “Live Democracy”, a number of interlocutors pointed out that there is a need for sustainability and some form of institutionalisation of the good practices developed, and for rolling-out and mainstreaming them in schools and other parts of the public administration.
17. In view of the great diversity in German classrooms, ECRI considers that all *Länder* should introduce human rights and equal treatment in their education acts and the obligatory parts of their curricula. They should also transfer and roll out in schools good practices that have developed in projects. In addition, teachers should be better trained to provide quality and inclusive education in diverse classrooms, to intervene in cases of bullying and discrimination and thus to create the conditions under which pupils from all backgrounds can grow in a protected space, reach their potential and obtain the best possible school results.

¹⁰ German Institute for Human Rights August 2017: 4.

¹¹ EU FRA 2019.

¹² OECD 19 April 2017.

¹³ Telegraph 2018.

¹⁴ German Institute for Human Rights, August 2017: 4; European Agency for Special Needs and Inclusive Education 2019; cf. also UN Committee on the Rights of the Child recommendations 2014: § 20b; UN Committee on the Rights of Persons with Disabilities 2015: § 28c; UN Committee on the Elimination of Racial Discrimination 2015: § 10iv, 11c and 16.

¹⁵ http://www.antidiskriminierungsstelle.de/SharedDocs/Kontakt/DE/Kontakt_AntidiskrB_Sen_BJF_Berlin.html?nn=8026478, accessed on 14.03.2019; Morgenpost 2018.

¹⁶ Telegraph 2018.

¹⁷ <https://www.demokratie-leben.de/>, accessed on 15.05.2019.

¹⁸ <https://www.schule-ohne-rassismus.org/startseite/>, accessed on 15.05.2019.

18. ECRI recommends that the authorities of all German *Länder* introduce human rights and equal treatment in their education acts and the teaching of these topics in the obligatory parts of their curricula. They should furthermore mainstream good practices from projects on schools and reinforce initial and continuous teacher training on inclusive teaching in diverse classrooms and on intervening in cases of bullying and discrimination.

C. Irregularly present migrants

19. ECRI recommends in its GPR No. 16¹⁹ to establish clear “firewalls” to protect fundamental human rights of irregularly present migrants in fields such as education, health care, housing, social security and assistance, labour protection and justice. Such firewalls should decouple the activities of state authorities which provide social services from immigration control and enforcement obligations to make sure that irregularly present migrants do not refrain from contacting state authorities out of fear of deportation.²⁰
20. While German authorities are under a general duty to inform the Immigration Office of any suspicion concerning the irregular presence of migrants (§ 87.2 of the Residence Act (RA)),²¹ ECRI is pleased to note that in 2011 a firewall was introduced with regard to education: since then, educational institutions such as schools, kindergartens and nurseries are exempt from the general reporting duty (§ 87.1 and 87.2 RA). Already before that date, several local and regional authorities had introduced similar firewalls.²² Moreover, juvenile or adolescent foreigners and their parents can be granted a temporary residence permit notably if the adolescent resided in Germany for four years without interruption and if she/he successfully attended a German school for four years (§§ 25a.1, 25a.2 and 26.1 RA).²³ As of the end of December 2018, 4 842 temporary residence permits had been granted under section 25a.1 RA.²⁴
21. As regards health care, the authorities informed ECRI that irregularly present migrants can ask for asylum and that they then have immediately access to medical treatment under §§ 1.1.1, and 1.1.4 to 1.1.6 of the Asylum Seekers’ Benefits Act. In addition, doctors are, according to § 88.2 RA, in principle not allowed to pass on data on irregularly present migrants. However, no similar provision and thus no firewall exist with regard to the services responsible for reimbursing the cost of medical treatment. Because of the resulting threat of being reported by these services and deported, irregularly present persons including pregnant women and people in need of emergency treatment often do not dare to contact doctors or hospitals.²⁵ ECRI is pleased to note the **good practices** of some local administrations that offer health services to such people in a way that does not trigger deportation. In addition, a number of doctors established the network of 36 Medibüros that provide medical assistance to irregularly present migrants.²⁶ ECRI considers that the authorities should ensure that the core human right of access to basic health care of irregularly present migrants is protected and that

¹⁹ See §§ 3, 4, 11 and 12 of the GPR and §§ 3, 4, 11 and 12 of its Explanatory Memorandum.

²⁰ Estimates based on the police criminal statistics state that in 2014 more than 100 000 people lived in Germany without a right of residence, Vogel, D. 2015. See also EU Destatis 2019.

²¹ For this section, see Hastie, B. 2015; Internationale Gesellschaft für Menschenrechte 2019.

²² For instance, the *Land* Hesse allowed children to enrol in school without proof of local residence since 2009, and several municipalities, including Frankfurt, Hamburg and Munich have lifted the obligation of staff working in the education sector to report irregularly present migrant children in schools, while school authorities in Hamburg and Berlin revised their data collection practices after parents’ associations and other activists campaigned for data protection.

²³ A temporary residence permit enables the applicant to work. It may be issued and extended for a maximum period of three years.

²⁴ Bundestag, Bundestagsdrucksache (Printed Paper) no. 19/8258 of 12 March 2019.

²⁵ See in this respect § 5.4.d of the National Action Plan against Racism, Federal Government 2017.

²⁶ <https://medibuero.de/>, accessed on 10.04.2019.

they have access to such health care throughout the country without running the risk of being reported to the immigration services.

22. In the field of employment, ECRI notes with concern reports on exploitation of irregularly present migrants in particular by non-respect of minimum-wages or unpaid overtime.²⁷ At the same time, it finds it positive that Labour courts do not examine issues of legal residency if undeclared migrants bring civil cases against their employer for payment of wages (cf. § 30 of GPR 16). Civil society organisations such as the Respect Network in Berlin defend the labour and human rights of migrant women in paid housework regardless of their residence status (cf. § 35 of GPR 16) and the provision of legal assistance and representation of undocumented migrants in labour court proceedings by the United Services Trade Union (*Verdi*) are also **promising practices**.²⁸
23. Civil society organisations informed ECRI that up to one third of the migrants that contact them without having a legal status are in fact entitled to some sort of residence permit, but are neither aware of their rights nor able to assert them. ECRI therefore considers that the authorities should support and fund low-threshold counselling and assistance services throughout the country where migrants without residence permits can explore options to regularise their situation and obtain assistance to assert their residence rights without being systematically reported to immigration control services.²⁹
24. ECRI recommends that the authorities (i) extend the existing firewall against the reporting of irregularly present migrants asking for emergency health care and other forms of necessary health care to the services responsible for the reimbursement of such treatment; (ii) fund low-threshold counselling and assistance services throughout the country where migrants without residence permits can explore options to regularise their situation and obtain assistance to assert their residence rights; and (iii) take measures to raise awareness about the legal framework available for irregularly present migrants, such as firewalls in the fields of health care and education.

D. LGBTI equality

25. In a face-to-face survey from 2016, 1.5% of the participants from each sex declared themselves predominantly or exclusively homosexual and 1% bisexual.³⁰ In 2017, a female-only survey found that 5% of German women identify as lesbian or bisexual.³¹ This leads to the estimation of at least two million homosexual and bisexual persons in Germany. According to the latest micro census of the Federal Statistical Office there were 130 000 same-sex couples, of which 37 000 were married and another 38 000 registered as same-sex partnerships.³² According to the authorities, approximately 1 to 4% of the population do not or only partially identify themselves with their registered gender; about 4 000 transgender people (5 out of 100 000 inhabitants) underwent medical treatment. Depending on how many forms of intersexuality are considered, the number of intersex persons varies between 0.02% and 1.7% of the population.
26. In a survey published in 2017, 83% of the participants agreed or strongly agreed that same-sex couples should be allowed to marry in the same way as heterosexual couples, 76% that they should have the same adoption rights, 67%

²⁷ GIHR 2018: 37 et seq.

²⁸ Deutscher Bundestag Drucksache: 18/11101; FRA 2011: 39.

²⁹ The Fair Integration advice centres (<https://www.faire-integration.de/en/topic/44.about-us.html>, accessed on 07.10.2019) counsel refugees, in particular with regard to employment conditions. It would be desirable to extend their mandate to counselling migrants in irregular situation, in particular with regard to the question whether they are entitled or can obtain a residence permit.

³⁰ Haversath, J. et al. 2017.

³¹ IFOP 2017; see also LSVD 2019.

³² Statistisches Bundesamt 2019a.

that they should get the same support for in vitro fertilization and 86% that convictions under the former provisions on homosexuality should be repealed. At the same time, 81% agreed that homosexual and bisexual people are still discriminated against and treated unfairly in Germany.³³

27. ECRI notes with satisfaction that the constitutions of several *Länder* contain an explicit prohibition of discrimination on the ground of “sexual identity” and that Article 46 of the German Criminal Code (CC) covers the homo- and transphobic motivations of hate crimes³⁴ and makes them aggravating circumstances. As in its previous report, ECRI encourages the authorities to open the list of discrimination grounds and introduce the discrimination grounds of sexual orientation and gender identity explicitly in Article 3 of the Basic Law, which is the German Constitution.
28. ECRI is pleased to note that same-sex marriage was introduced in Germany on 1 October 2017³⁵ and that the authorities are working on a revision of the legislation on descent in order to remove discrimination of lesbian couples who currently need to apply for second parent adoption to obtain full custody of a child; ECRI encourages the authorities to finalise this revision as soon as possible.
29. ECRI noted already in its fifth report (§ 103) that the Federal Constitutional Court (FCC) has declared unconstitutional several core provisions of the Act on Transsexuals. ECRI welcomes the new draft legislation on gender recognition, which became public on 9 May 2019 and proposes that the courts remain responsible for deciding on gender recognition and the change of first names. Civil society organisations criticise the fact that applicants need to present a certificate of a “qualified advisor” declaring and justifying that the person is seriously and permanently committed to the other or to no gender. The authorities informed ECRI that this requirement aims to prevent any abuse of the procedure for gender recognition. ECRI encourages the authorities to take inspiration from other countries that give more room to the right to self-determination of transgender persons. A good solution could be to give the persons concerned the right, in principle, to ask for gender recognition and change of their first name without any certificate, and to provide for the authority deciding on the request to require the production of a certificate only if there is indication of a possible abuse of rights.³⁶
30. ECRI is also pleased to note that the Federation and 15 out of the 16 *Länder* have implemented the recommendation made in § 110 of ECRI’s fifth report to adopt an action plan or a comprehensive programme to promote tolerance vis-à-vis LGBT persons and combat homophobia and transphobia. In line with the recommendation made in § 112 of ECRI’s fifth report, they have also included some specific transgender issues in their action plans.³⁷
31. In this monitoring cycle, ECRI also covers the situation of intersex persons, who are born with chromosomal, hormonal levels or genital characteristics which do not correspond to the given standard of “male” or “female” categories as for sexual or reproductive anatomy. In October 2017, the German FCC decided that the existing regulation for the registration of intersex persons was unconstitutional and set a deadline for the adoption of a new regulation.³⁸ ECRI is pleased to note that

³³ Antidiskriminierungsstelle des Bundes 2017.

³⁴ In the present report, hate crime should be understood as any criminal offence motivated by hate or prejudice on grounds such as “race”, colour, language, religion, citizenship, national or ethnic origin, sexual orientation or gender identity, whether real or presumed. For further information about the notion of hate crime, see <http://hatecrime.osce.org/what-hate-crime>.

³⁵ Deutscher Bundestag 2019.

³⁶ See in this context CoE PACE 2015: § 6.2.1 and www.Yogyakartaprinciples.org 2017: Principle 31.C.i.

³⁷ See for example the National Action Plan against Racism (NAP), Federal Government 2017: 27, 29 and 109.

³⁸ FCC 1 BvR 1 BvR 2019/16, decision of 10. October 2017.

Germany introduced a third gender category “diverse” in December 2018³⁹ and considers this **good practice**. At the same time, it regrets the general requirement to present a medical certificate confirming that a variant of gender development exists. ECRI again encourages the authorities to put a minimum of restrictions on the right to self-determination of intersex persons.⁴⁰

32. ECRI finds it disquieting that intersex babies and infants in Germany are reportedly still subject to medically unnecessary and deferrable surgery and therapies with the aim of making their physical appearance and function consistent with a binary gender conception. These interventions are generally irreversible and can cause severe long-term physical and psychological suffering.⁴¹ ECRI is also concerned that counselling centres for intersex persons and their families exist only in a few places.⁴² It furthermore regrets to note that intersex persons report problems accessing healthcare. Due to the binary health insurance system it becomes difficult to obtain reimbursement for a prostate treatment of an intersex person assigned female or for breast cancer screening of an intersex person assigned male.
33. In ECRI’s view, it is of utmost importance to take legislative and procedural measures to protect intersex babies and children against premature surgery.⁴³ Therefore, it is pleased to note that the authorities are drafting a bill to regulate “gender-normalising” medical measures, and that a group of experts including physicians, psychologists, intersex persons, associations and law professors has contributed to this draft.⁴⁴ ECRI also considers that there is a strong need to further raise awareness of the existence of intersex persons and their specific situation and needs. This will help to create the necessary space for them in society where they can grow up without pressure to undergo unnecessary surgery or other medical treatment only to comply with binary gender concepts. It therefore encourages the authorities of all *Länder* to provide for counselling service with low-threshold access and web-sites for intersex persons that put a special focus on counselling and assisting the parents of new-born intersex babies when they have to take fundamental and irreversible decisions concerning the bodies and lives of their children. ECRI further encourages the authorities to take the necessary measures to ensure effective access of intersex persons to health care.
34. ECRI recommends that Germany swiftly enacts legislation that prohibits unnecessary surgery and therapies on intersex children. It further recommends that all *Länder* establish services with low-threshold access that provide counselling and assistance to intersex children and their parents.

³⁹ Before the enactment of this legislation, it was possible to let the gender field blank when registering a new-born child. The person concerned could then, during their lifetime, either choose their gender or keep the gender unspecified.

⁴⁰ EU European Parliament 2019: § 9 ; www.Yogyakartaprinciples.org 2017: Principle 31.C.i.

⁴¹ German Institute for Human Rights, August 2017: 9.

⁴² ECRI received information about the existence of such centres in Berlin, North Rhine-Westphalia, Schleswig-Holstein and Lower Saxony.

⁴³ See also EU, European Parliament 2019.

⁴⁴ Bundesministerium der Justiz und für Verbraucherschutz 2018. The issue was also introduced in the coalition agreement.

II. HATE SPEECH AND HATE MOTIVATED VIOLENCE

A. Hate speech⁴⁵

Data

35. ECRI welcomes the German police authorities' inclusion of several new categories in their hate crime statistics.⁴⁶ However, they only specify "hate postings on the Internet", but do not contain a category containing cases of hate speech in other fields. Out of the total of 7 913 hate crime cases⁴⁷ (2016: 10 751), 2 270 were registered as hate postings on the Internet in 2017. The judiciary has been collecting data on xenophobic and right-wing extremist offences since 1992. As of 1 January 2019, it compiles data on hate crime nationwide, but ECRI did not receive information from the authorities whether these statistics will be connected to those of the police and allow retrieving cases from the initial investigation up to sentencing.
36. Another important source of data on hate speech are the sets of six-monthly transparency reports that social network companies have published under the Network Enforcement Act (NEA) as of the first semester of 2018. Google reported that it received requests for the removal of 304 425 contents for You-Tube during the first semester of 2019 (250 957 during the second and 214 827 during the first semester of 2018) of which 95 950 concerned hate speech or political extremism. Among the 71 168 removed contents there were 23 567 cases of hate speech or political extremism. 88% of these were removed or blocked within 24 hours.⁴⁸ Facebook received removal requests for 1 050 pieces of content during the first semester of 2019 (1 048 during the second and 1 704 during the first semester of 2018), which led to the deletion of 349 (369 and 362) posts, which corresponds to 33% (35% and 21%) of all such requests.⁴⁹ Further analysis of these figures can be found below in § 53.
37. In 2018, the German Press Council received 112 complaints concerning § 12 of its Press Codex⁵⁰ that prohibits discrimination (2017: 164, 2016: 162). In a recent global research Germany was among the countries showing the highest degree of social hostility and ranked 3rd on a social hostility index among the 47 Council of Europe member states, and its hostility score has increased in recent years. According to this research Muslims are the most targeted religious group in Germany.⁵¹ Such high levels of Islamophobia are confirmed by another recent survey, in which almost half of all Muslim respondents from Sub-Saharan Africa (48%) reported having experienced harassment due to their ethnic or immigrant background at least once in the 12 last months.⁵²

⁴⁵ According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

⁴⁶ They now contain 11 categories: Antisemitism, anti-Tsiganism, xenophobia, intellectual disability/impairment, "anti-Christianism", social status, Islamophobia, racism, other ethnic groups, other religions and sexual orientation.

⁴⁷ 1 903 of these hate crime cases were directed against asylum seekers, 1 504 (2016: 1 468) against Jews, 1 075 against Muslims, 312 against asylum shelters (2016: 995), 129 against Christians, 41 against Sinti and Roma and 39 against other groups. Concerning hate crime against Roma see also Amoro Foro 2018.

⁴⁸ Google 2019.

⁴⁹ Facebook 2019 a and b.

⁵⁰ Presserat 2017a.

⁵¹ PEW Research Centre 2018: 37 et seq.

⁵² EU FRA 2017.

Public discourse

38. ECRI regrets to note that German public discourse has become increasingly xenophobic in recent years, and that hate speech has become more common. In October 2014, the nationalist, anti-Islam PEGIDA-movement started weekly demonstrations in Dresden that gathered up to 25 000 people. During the same year, the National Democratic Party of Germany (NPD) used election posters with racist slogans.⁵³ Networks of international and domestic far-right activists and some foreign media used social media networks to spread one-sided content on issues such as migration, foreign policy and the war in Syria and to promote anti-migration themes in order to influence voters and media and undermine trust in institutions. Studies revealed that such small groups of extremists gained considerable influence over the online discussion and subsequently over the public debate, traditional media and elections in the Federation and the *Länder*.⁵⁴ In 2015, the Federal Minister of Justice as well as the German Chancellor publicly asked Facebook to take stronger action against hate speech.⁵⁵
39. Against this background, ECRI highlights very positively that many Germans warmly welcomed, on the initiative of the Federal Chancellor, the extraordinarily large number of about 890 000 asylum seekers who arrived during the autumn of 2015. This “welcome-culture” mobilised hundreds of thousands of individuals who contributed to accommodating and assisting the new arrivals, many of whom were refugees from Syria. Muslim communities played an important role in this context.
40. Other parts of the population,⁵⁶ however, showed concern about the wave of migration. Hostile and xenophobic attitudes increased and the public debate worsened. The political party “Alternative for Germany” (AfD), which was founded in 2013, took a strong position against migration. The AfD politician Beatrix von Storch for example expressed on Facebook the opinion that border guards could use firearms against migrants that arrive at the border and do not respect the injunction to stop. Issues such as the investigation of large numbers of complaints of sexual assault and theft after the New Year’s celebrations of 2015/2016 in Cologne and the suspicion that many asylum seekers were among the suspects, sparked a huge public debate, affected the general sense of security and contributed to increasing islamophobic and xenophobic sentiment and hate speech.⁵⁷ Repeated public and media attention to other offenses allegedly committed by asylum seekers, the attack by an Islamist terrorist on the Berlin Christmas market on 19 December 2016 and other similar attacks in neighbouring countries further amplified fears, xenophobia and racism. The AfD gained 12.6% of the vote in the 2017 federal elections and, for example, 15.1% in the elections in Baden-Württemberg, 20.8% in Mecklenburg-Western Pomerania and 24.3% in Saxony-Anhalt.
41. When deciding on a motion to ban and disband the NPD, the FCC held in January 2017 that it was similar in character to National Socialism, given its concept of a “national community”, its general antisemitic attitude and its contempt for the existing democratic order. However, as the court did not find enough evidence that

⁵³ Among these were posters with the slogan “Money for grandmother rather than for Sinti and Roma” or “Maria instead of Sharia” and a third one “Give gas!”. For a legal analysis see Schmahl 2015 and GHR 2017. On 24 May 2019, the FCC rejected several urgent motions of the NPD to annul decisions to take down more recent racist election posters, decisions 1 BvQ 45/19 and others.

⁵⁴ ISD 2017 and 2019.

⁵⁵ Zeit online 2015 a and b with examples of hate posts; for further examples see <https://perlen-aus-freital.tumblr.com/archive>, accessed on 18.03.2019.

⁵⁶ Among them were older people with lower levels of education and incomes, often living in smaller municipalities, in particular in East Germany. Zick, A., et Preuß M. 2016: 24 ; IPSOS 2017: 8 et seq.

⁵⁷ For more details see Police North Rhine-Westphalia Cologne 2017; Parliament of North Rhine-Westphalia 2017 and Zeit online 2017.

the NPD would be able to abolish the constitutional system, it rejected the motion to ban it.⁵⁸ Further action taken in this connection is dealt with in § 56 below.

42. A significant number of neo-Nazis have also been identified among the members of the AfD. Several of them were excluded from the party after showing the Hitler salute or in other ways manifesting adherence to or sympathy with the Nazi ideology. In January 2018, racist and xenophobic posts were deleted from the social media accounts of three MPs of the AfD.⁵⁹ In January 2019, the Federal Office for the Protection of the Constitution (BfV) declared, based on an extensive report, that there was sufficient evidence that unconstitutional tendencies are present within two sub-organisations of the AfD, “The Wing” and the youth organisation “Young Alternative”. According to the report, the greatest danger emanating from the AfD is its racism, which is based on a “biological-racist or ethnic-cultural concept of the people”; this racism is particularly concentrated and blatant in the already mentioned sub-organisations The Wing and Young Alternative; some members of the “Wing” have connections to extremist organisations.⁶⁰ According to research by a well-known newspaper, at least 27 staff of MPs of the AfD have in the past been activists or followers of radical or extreme right organisations.⁶¹
43. The constant Islamo- and xenophobic discourse emanating from the extreme right also had an impact on the mainstream political discourse. During the election campaign in Bavaria, the federal Minister of the Interior publicly stated in March 2018 in Germany’s biggest tabloid that “Islam does not belong in Germany”.⁶² In a press conference on 10 July 2018 he acknowledged that 69 Afghans had been deported on his 69th birthday.⁶³ In ECRI’s view, this implicit presentation of the deportation of 69 migrants as a birthday present and the use of their fate to please the minister promotes the denigration of the persons concerned on grounds of their ethnic origin. In August 2018, a heated public debate started over whether events in Chemnitz should be qualified as a hounding of migrants and pogroms committed by a mob, after racist and xenophobic slogans were yelled during the manifestations following a murder, allegedly committed by an asylum seeker (see also § 65). While the President of the BfV was removed from office for belittling the events, the Minister of Interior stated in the context of the riots that “migration is the mother of all political problems”⁶⁴. ECRI noted with satisfaction that he later toned down his rhetoric when organising an Islam-conference in November 2018.⁶⁵

Responses to hate speech

44. As outlined in its GPR No. 15 on combating hate speech, ECRI considers that action is required in several areas to effectively prevent and combat hate speech. These encompass awareness-raising, prevention and counter speech, support to victims, self-regulation, the use of regulatory powers and, as a last resort, criminal investigation and punishment.

⁵⁸ FCC, no. 2 BvB 1/13, 17 January 2017 §§ 805 et seq.

⁵⁹ Beatrix von Storch tweeted in reaction to information published by the German police in Arabic: “Do you think you will soothe the barbaric, Muslim, gang raping hordes of men in this way?”, Welt 2018; Alice Weidel posted: “The year begins with the censorship law and the subjugation of our authorities to the imported, marauding, grabbing, beating, knife stabbing migrant mobs to which we should get accustomed.” From the account of MP Jens Meier a Tweet was sent that attacked Noah Becker, the son of tennis-star Boris Becker stating “It seems the little half-negro simply got too little attention”, The Local 2019.

⁶⁰ Bundesamt für Verfassungsschutz 2019: A.I.2; Süddeutsche Zeitung 2019.

⁶¹ Zeit 2018.

⁶² Bild 2018. Prior to that, the then-President Wulf in 2010, the Chancellor in 2015 and many other politicians had affirmed that Islam belongs to Germany, Zeit 2015; Reuters 2015.

⁶³ Spiegel online 2018b.

⁶⁴ Tagesspiegel 2018b.

⁶⁵ NTV 2018.

45. With regard to awareness-raising and prevention of hate speech, ECRI takes positive note of the many initiatives that have been developed. The National Action Plan against Racism (NAP) contains a section on hate speech and the coalition agreements for the governments of the *Länder* Hesse and Thuringia provide for the development of action plans against hate speech and anti-Gypsyism respectively. The above-mentioned initiatives to strengthen human rights education pave the way to a systematic contribution of the regular education establishments to raising young people's awareness of the importance of equal treatment and the dangers of hate speech. Within the framework of the project "Live Democracy" of the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth and similar projects of the *Länder*, many **good practice** examples have been developed to prevent and counter hate speech. They comprise online-campaigns to counter cyber-hate speech by hash tags such as #ichbinhier or #wirsindmehr; in this respect, ECRI refers back to the recommendation made in § 18. The Federal Chancellor and Ministers have several times reacted to hate speech by counter speech, established expert groups on combating antisemitism and anti-Gypsyism, and they promote a positive vision of inclusive integration and diversity within the society.⁶⁶ Prominent managers such as the CEO's of Siemens, Daimler and EON spoke out against racism and hate speech after the events in Chemnitz⁶⁷ and a number of large counter-manifestations and concerts were organised after such instances of hate speech and hate crime. After an attack on a person wearing a Kippa in April 2018 in Berlin, 10 000 kippahs were handed out in a show of solidarity and "kippah marches" took place on this and other occasions in several cities.⁶⁸
46. ECRI regrets however that the NAP does not contain concrete objectives, measures, timelines, budgets, indicators with starting and target values, and the authority and member of staff responsible for achieving each objective and implementing each measure. As ECRI already underlined in its fifth report, such shortcomings in the design of action plans negatively affect their implementation, impact and monitoring. ECRI furthermore refers to the recommendation made in § 18 of this report to strengthen human rights education in schools.
47. With regard to the second strand of actions outlined in GPR No. 15 - to support victims of hate speech - ECRI considers, as already outlined in §§ 5 et seq. of this report, that there is a lack of a sufficiently robust and dense network of counselling services for victims. Equality bodies should be given a clear mandate, the necessary competences and resources to assist victims of hate speech (see the recommendation in § 10 above).
48. ECRI takes positive note of the fact that the Bundestag and the parliaments of the *Länder* have at their disposal codes of conduct that provide for sanctions in cases of hate speech. In Baden-Württemberg, two members of the AfD were excluded from a sitting, among others for a racist statement. Exclusion from the following three sittings was pronounced as an additional sanction for not complying with the initial order.⁶⁹
49. In March 2017, the German Press Council changed § 12 of its Press Codex and published guidelines for its interpretation⁷⁰ following a public debate on the media coverage of events that involved criminal offenses possibly committed by foreigners and in particular the assaults on women on New Year's Eve 2015/2016.

⁶⁶ Another positive example is the public statement of a Minister that the arrival of a Syrian family with their children allowed to maintain the basic school in a rural municipality.

⁶⁷ Süddeutsche Zeitung 2018a; Spiegel online 2018c.

⁶⁸ DW 2018. In 2018, the number of violent attacks on Jews almost doubled and rose from 29 to 49, BMI 2019b.

⁶⁹ One of them stated, alluding to the Turkish origin of the parliament's president: "Like this, you can lead a parliament in Anatolia, but not in Germany", Göttinger Tageblatt 2019.

⁷⁰ Presserat 2017 a and b.

Guideline 12.1 of the Press Codex now states that the affiliation of suspects to ethnic, religious or other minorities should normally not be mentioned, unless there is a well-founded public interest. ECRI recalls that such information should only be disclosed by the police if it is strictly necessary and serves a legitimate purpose.⁷¹

50. With regard to online hate speech, ECRI finds it positive that the Federal Minister of Justice and subsequently the Federal Chancellor called on social network providers to enforce their existing self-regulatory guidelines and to remove hate speech quickly and comprehensively from their networks. However, this pressure alone was not sufficient to motivate the companies in question to enforce their self-regulatory guidelines and the criminal prohibition of hate speech.⁷² ECRI therefore welcomes the further initiative of the Federal Government to react to this lack of efficient self-regulation by adopting the Network Enforcement Act (NEA) that entered into force on 1 October 2017. This act requires providers of social networks with two million or more users in Germany to remove since 1 January 2018 illegal content, including hate speech, in clear cases within 24 hours of notification by any user. The Federal Office for Justice can impose fines of up to 50 million Euros for breach of this obligation.
51. ECRI is aware of the wide public debate that surrounded the enactment of this law, which interferes with freedom of expression. In its view, the restrictions imposed by the NEA can be considered as necessary in a democratic society in the sense of Article 10.2 of the European Convention on Human Rights (ECHR), in particular to protect the reputation and the rights of privacy and honour of the persons exposed to hate speech (Article 8 ECHR) and to prevent disorder and crime.⁷³
52. During the country visit, ECRI was informed about the positive effects of the NEA: the large social network providers have invested considerable resources in applying the law in an efficient manner.⁷⁴ Many stakeholders confirmed that the most serious and open forms of hate speech have disappeared from the large platforms and thus do not any more reach the big number of their users. ECRI furthermore welcomes the initiative of some social network providers that have requested the setting-up of a self-regulatory body competent to decide on difficult cases. Given the high value of liberty of expression, ECRI considers that the authorities should ensure that there is effective access to judicial control in each case where content has been removed. In this respect, ECRI also takes positive note of the growing body of case-law on the application of the NEA. ECRI finally notes that it did not receive evidence for a serious issue of “overblocking” of content under the NEA during the extensive consultations it had during its country visit.⁷⁵ ECRI will continue to monitor this issue very closely.
53. ECRI regrets that, according to civil society, access to the reporting mechanism is not easy to find on the sites of some social networks and that the procedure is laborious; this could explain the relatively small amount of reported content on some sites. In this respect ECRI notes with interest that a fine of 2 million Euros has been imposed on Facebook, among other things, because its NEA reporting form was too difficult to find.⁷⁶ ECRI also regrets that there is no mechanism in place that would ensure that social networks systematically transfer criminally relevant content and the related evidence to the police and prosecution. Thus, the

⁷¹ See § 88 of the Explanatory Memorandum to ECRI's GPR No. 11.

⁷² See in this respect for example the results of the 2016 and 2017 EU monitoring exercises, EU EC 2018: 3.

⁷³ ECHR, *Delfi v. Estonia*, no. 64569/09, 16 June 2015: §§ 131 et seq. The ECtHR excludes, based on Article 17 ECHR (prohibition of abuse of rights), the most blatant cases of hate speech even from the protection of Article 10 ECHR, ECtHR 2019: 1; Harris D.J., O'Boyle M. et al. 2018: 603 et seq. and 836 et seq.

⁷⁴ Facebook has hired more than 1 000 content moderators in Germany, *Süddeutsche Zeitung* 2018c, and Google started working on the NEA with around 100 staff.

⁷⁵ Golem 2019; Rebehn S. 2019.

⁷⁶ Bundesamt für Justiz (Federal Office of Justice) 2019.

general preventive effect of the prosecution and sentencing of hate speech cases cannot fully develop and further contribute to the elimination of online hate speech. In addition, new challenges appear as individuals and groups spreading hate speech have moved to smaller providers, servers located in countries that do not enforce anti-hate speech legislation and to closed WhatsApp groups; in this way they continue violating the German criminal law provisions against hate speech.⁷⁷

54. ECRI recommends that the German authorities standardise access to, and rules for, reporting hate speech on social media, ensure that evidence of online hate speech is preserved and transmitted to the law enforcement authorities and develop ways for the police and prosecution to close new channels for the dissemination of hate speech online.
55. ECRI is pleased to note that the new National Action Plan on Integration (NAP-I, see below § 76) will have a chapter on media. ECRI encourages all stakeholders involved in its revision to develop measures that help curb the spread of hate speech and avoid messages that unintentionally trigger racism and xenophobia.
56. While ECRI takes note that there are few civil law cases on hate speech, it strongly welcomes the German government's implementation of its recommendation to introduce into the law an obligation to discontinue the public financing of political parties and other organisations that promote racism (§ 19 of ECRI's fifth report); new Article 21.3 of the Basic Law on the suppression of the public financing of anti-constitutional parties allows de facto to do so. A motion to suspend the public funding of the NPD is pending before the German FCC. Given the results of the report of the BfV about the AfD and its sub-organisations (see § 42 above), ECRI considers that a similar procedure against this party should be examined.
57. The recording, investigation, prosecution and punishment of hate speech will be dealt with in the following section on racist, homo- and transphobic violence.

B. Hate-motivated violence

58. Over the five last years, statistics of civil society continue to show higher numbers of potential hate crime cases than the official statistics. For 2018, the Victim Counselling Services in the five new *Länder* and Berlin registered 1 212 attacks as being motivated by extreme right, racist or antisemitic hatred (2017: 1 123), whereas the police registered for all 16 *Länder* only 871 (2017: 821) hate crimes committed by (extreme) right-wing perpetrators.⁷⁸ A recent survey shows an even higher degree of under-reporting: 8% of all Muslim respondents from Sub-Saharan Africa, for example, reported having experienced physical violence over the preceding 12 months.⁷⁹ Disparities in the statistics also exist with regard to the number of victims killed by people with a racist or extreme right-wing motivation.⁸⁰
59. Given such disparities, ECRI considers it **good practice** that several *Länder* have, together with academic institutions, re-evaluated murder cases dating back to 1990 that civil society and media consider to be hate crimes; this re-evaluation led to a

⁷⁷ It would seem that German criminal law is applicable if such hate speech is displayed and read in Germany, as in this case the harm intervenes on German territory.

⁷⁸ BMI 2018a: 5; Der Tagesspiegel 2019a. Many of these attacks were directed against asylum seekers and refugees, 65 against Muslims, 49 against Jews, 12 against LGBT people and 7 against Roma, BMI 2019b.

⁷⁹ EU FRA 2017: 46.

⁸⁰ The number of attempted and completed homicides, which is not apparent from the hate crime statistics (Bundesministerium des Inneren 2018a: 5 et seq.) but only from the Reports on the Protection of the Constitution, is of 12 cases of attempted homicide with a xenophobic motivation in 2016 and for four such cases in 2017. The reports further cover three homicides (among them one attempted) with an Islamist/fundamentalist background. In contrast, civil society qualified the death of nine victims as fatalities of right-wing violence since mid-2013, Amadeu Antonio Stiftung 2019; Zeit online 2018; Der Tagesspiegel 2018a. Not all victims were killed out of a racist, homo- or transphobic motivation.

substantial revision of the official statistics.⁸¹ Furthermore, the NGO Victim Counselling Service in Brandenburg informed ECRI that sustainable co-operation developed out of the intense joint analysis of these cases; since then the police transfers data on a weekly basis to the NGO and examines whether additional cases need to be qualified and investigated as hate crime. The designation of specialised police units and prosecutors for hate crime has also contributed to improving the reporting and recording of hate crime.⁸²

60. ECRI takes further positive note of the fact that the police and judiciary have reacted to the recommendations of the federal parliament's second committee of enquiry on the NSU-crimes (see §§ 50 et seq. of ECRI's fifth report) by broadening the definition of hate crime, by introducing the obligation for police officers to tick a box regarding the presence of evidence indicating a hate motivation and by creating new subcategories in the hate crime statistics.
61. While these modifications have led to the registration and investigation of a substantially higher number of hate-motivated offences, many such cases are still not reported to the police. Among the reasons for this under-reporting are the misleading title "Statistics on Politically Motivated Offences", under which hate crimes are recorded, the definition of hate crime⁸³ that is still narrower than suggested by ECRI in § 14 of its GPR No. 11⁸⁴ – any incident which is perceived to be racist by the victim or any other person – lack of continuous cooperation with civil society with resulting lack of trust in the police, and lack of training for police, prosecutors and judges.⁸⁵
62. ECRI recommends that the police services in the Federation and all 16 *Länder* systematically analyse, together with civil society organisations and academic institutions, evidence for past and present hate crimes including punishable hate speech in order to identify and record hate crime cases as completely as possible. To this end, they should in all *Länder* establish specialised police and prosecution units that investigate hate crime and develop regular dialogue with civil society organisations on hate crime cases.
63. ECRI furthermore recommends that the police services in the Federation and all 16 *Länder* initiate studies about the investigation of hate crime including punishable hate speech, link their statistics with those of the judiciary and publish detailed reports analysing their hate crime statistics and their activities regarding the prevention and investigation of hate crime. These reports should cover the most serious hate crime cases, contain more disaggregated data (e.g. concerning the different hate-crime related articles of the Criminal Code, disaggregated data for all 16 *Länder*, categories of perpetrators and victims) and outline measures for improving the recognition, recording and investigation of hate crime cases.
64. ECRI regrets to note that a wave of attacks on asylum shelters occurred after the above-mentioned arrival of high numbers of asylum seekers in the second half of 2015. In January 2016, 326 cases of hate crime against these victims were recorded and in May 2016 a peak of 67 violent offences was registered.⁸⁶

⁸¹ Brandenburg, Berlin and Saxony-Anhalt have reinvestigated these cases and Thuringia and Saxony are in the process to do so. As a result, the official number of people killed by right-wing extremists for the period since 1990 was revised upwards to 85 in January 2019, Der Tagesspiegel 2018c and 2019b.

⁸² According to the authorities, specialised contact points for one or more groups have been established in Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Mecklenburg-Western Pomerania, Rhineland-Palatinate, Saxony-Anhalt, Schleswig-Holstein and Thuringia.

⁸³ See Bundesministerium des Inneren 2018b: 22.

⁸⁴ This meets with the recommendation of the Bundestag committee of enquiry to record a racist motive that has been invoked by the victim or a witness, Bundestag 2013: 861.

⁸⁵ See in this respect also the recommendations in the Legal Opinion ADS 2015.

⁸⁶ Bundesministerium des Inneren 2018a.

According to the authorities, one third to half of the perpetrators were not known to the police for having committed any criminal offenses.

65. According to the report on the Protection of the Constitution, the number of right-wing extremists ready to use violence continues to increase and was estimated at 12 700 at the end of 2017.⁸⁷ Among the attacks on asylums shelters, a series of five bomb attacks stands out, which was committed by a group of right-wing terrorists from Freital in Saxony. Eight of the perpetrators were sentenced for attempted murder, formation of a terrorist organisation and other offences to terms of imprisonment of between 4 and 10 years; the appeals were dismissed on 16 May 2019.⁸⁸ Extreme right-wing and neo-Nazi groups were also involved in the riots that broke out in Chemnitz after a murder, which was allegedly committed by an asylum seeker. In 2019, a lawyer who had represented a victim of the racist terrorist organisation National Socialist Underground (NSU) repeatedly received death-threats signed by a group “NSU 2.0”.⁸⁹ The only surviving member of the NSU (cf. §§ 50 et seq. of ECRI’s fifth report) was sentenced to life imprisonment on 11 July 2018 for 10 cases of murder, 32 cases of attempted murder, aggravated arson and membership in a terrorist association.⁹⁰
66. Among the terrorist attacks with an Islamist background, the one committed on 19 December 2016 on the Berlin Christmas market caused the highest number of fatalities. The perpetrator, who killed 11 people and injured about 100 others when driving a truck into the crowd, recorded a video in which he pledged allegiance to Daesh and called for supporters to take revenge against “crusaders” bombing Muslims.⁹¹
67. ECRI takes positive note of the fact that the police and intelligence services of the Federation and the *Länder* have set up the Joint Extremism and Counter-Terrorism Centre as a platform for weekly meetings to fight extremism.⁹² The authorities have also continued to disband racist organisations. During the country visit, ECRI was informed that the prevention of extremism is mostly dealt with in projects that are funded by the Federation and the *Länder*. Given the repeated cases in which right-wing extremist, neo-Nazi and Islamist groups were involved in deadly series of racist hate crime, ECRI considers that the police and intelligence services should intensify their action in the fields of preventing radicalisation, by approaching the members of racist and homo- and transphobic organisations and persuading them to exit from these organisations⁹³, investigating their activities and criminal offences and disbanding such organisations. Firm action is needed in particular in the five eastern *Länder*⁹⁴ in order to reverse, together with the intensification of human rights education in schools (see §§ 12 et seq. above), the tendency of increasing xenophobia, racism, homo- and transphobia and radicalisation of parts of the population. In this context, ECRI is appalled by the attitudes of neighbours in the case of a burning house in Plauen (Saxony) inhabited by Roma, who shouted “Let them burn”, showed the Nazi-salute “Sieg Heil!” and attacked and tried to prevent

⁸⁷ Bundesministerium des Inneren 2018b: 51.

⁸⁸ Higher Regional Court of Dresden, no. 4 St 1/16, 07.03.2018; Bundesgerichtshof, no. 3 StR 575/18, 16.05.2019; Süddeutsche Zeitung 2018b.

⁸⁹ There is also evidence that the authors of the letters had ties and received information from within the police.

⁹⁰ Oberlandesgericht München 2018. See also §§ 50 et seq. of ECRI’s 5th report on Germany.

⁹¹ The Guardian 2016; concerning other attacks see BMI 2017: 155 et seq.; 2018b: 165 et seq. and BBC 2016. The attack on a synagogue and the homicide of passers-by in the area by a self-confessed far-right extremist in Halle on 8 October 2019 occurred after the date covered by this report (see the foreword to this report).

⁹² Bundesministerium des Inneren 2018b: 17 et seq. and 321 et seq.

⁹³ See in this respect for example §§ 45 et seq. of ECRI’s 5th report on Norway.

⁹⁴ According to a recent study, the risk for asylum seekers to become victim of a hate crime is up to 10 times higher in the eastern *Länder*, in particular in areas with previously low shares of migrants that face large-scale immigration of asylum seekers, ZEW 2019.

the police and fire-fighters from saving the 42 inhabitants, 22 of whom were injured, some severely burned.⁹⁵

68. ECRI recommends that the police and intelligence services of the Federation and the 16 *Länder* develop and implement strategies and measures to prevent radicalisation and approach and persuade members of racist, homophobic, transphobic and neo-Nazi groups to definitively exit from the relevant organisations.
69. With regard to the investigation of hate crime, ECRI welcomes the implementation of one of its fifth-cycle recommendations in 2015 by an amendment to § 46 of the Criminal Code (CC), which now provides that the racist, xenophobic or any other motive of a perpetrator that shows contempt for humans constitutes an aggravating circumstance.⁹⁶ Subsequently, the guidelines of the police and the prosecution have also been amended⁹⁷ and a training programme for judges and prosecutors has been initiated by the Federal Ministry of Justice and Consumers and the GIHR.⁹⁸
70. At the same time, ECRI received reports about ongoing shortcomings in the investigation and sentencing of hate crimes in particular during the field visit of its delegation to Saxony. Investigations sometimes progress slowly, experienced police officers are removed from the investigation of hate crimes, asylum seeker victims of hate crimes are deported before they can testify in the criminal proceedings, the motivation of perpetrators is not sufficiently investigated or taken seriously, and judges do not always apply hate crime provisions, in particular the new § 46 CC.
71. ECRI recommends that the Federation and the *Länder* intensify the initial and continuous training of police, prosecutors and judges on recognising, investigating and sentencing hate crime including punishable hate speech and that they introduce binding rules to ensure that victims of hate crime whose applications for asylum were rejected are not deported before the final decision in any criminal proceedings.

III. INTEGRATION AND INCLUSION

A. Migrants

72. In 2017, around 23.56% of the German population had a migration background.⁹⁹ In some *Länder*, this ratio is of almost one third and in some agglomerations it amounts to more than a half. The largest groups originate from Turkey (2 774 000), Poland (2 100 000), Russia (1 381 000), Kazakhstan (1 237 000), Italy (859 000), Romania (859 000) and Syria (706 000).¹⁰⁰ Half of them have German citizenship.¹⁰¹ During the summer and autumn of 2015, a big wave of asylum seekers arrived in Germany, which by the end of 2018 had taken in a total of 1 780 000 people in need of protection.¹⁰²

⁹⁵ Spiegel online 2018a; Taz.de 2018.

⁹⁶ ECRI also takes positive note of plans to amend § 130 CC on incitement to hatred, LTO 2018.

⁹⁷ GIHR 2017b.

⁹⁸ GIHR 2019.

⁹⁹ In Germany, this term refers to persons who were not born as German national or who have at least one parent not born as German national. Statistisches Bundesamt 2018b: 4 et seq.

¹⁰⁰ Statistisches Bundesamt 2018b: 61; Frankfurter Rundschau 2017.

¹⁰¹ Statistisches Bundesamt 2018b: 37; Konferenz der für Integration zuständigen Ministerinnen und Minister/Senatorinnen und Senatoren der *Länder* (IntMK) 2019: 4.

¹⁰² This figure comprises foreigners seeking protection in Germany, in particular refugees and people granted subsidiary protection. It corresponds to 215 persons per 10 000 inhabitants, Statistisches Bundesamt 2019c: 28.

73. As described in ECRI's fifth monitoring report on Germany, the competences for integration policies are divided between the Federation and the *Länder*.¹⁰³ ECRI welcomes the fact that the Federation clearly follows an early integration strategy for newcomers since the Act on the acceleration of the asylum procedure came into force on 24 August 2015. Asylum seekers with good prospects of being granted a status have access to integration courses and other labour market-related measures already before they get a protection status. Persons entitled to asylum, recognised refugees and beneficiaries of subsidiary protection are also entitled to take part in an integration course. Asylum seekers with an unclear perspective have access to courses that provide a first orientation including basic language instruction and may also be granted access to labour market-related support measures.¹⁰⁴ The main integration instrument is the Integration Course combining German language training (600 or more hours) and civic orientation (100 hours). Participation can be made mandatory and the courses have to start at the latest six weeks after the registration of the person concerned.¹⁰⁵
74. ECRI commends the outstanding gesture of Germany to open its border for the many asylum seekers and migrants that moved through Europe during the second half of 2015. Many individuals and NGOs contributed to welcoming and receiving them; the large number of newcomers resulted in 890 000 asylum claims (see also § 39 above).¹⁰⁶ Germany started investing massively in their integration, and in 2018 the Federation and the *Länder* spent about 15.1 billion Euros for the reception and integration of asylum seekers and refugees.¹⁰⁷
75. The authorities informed ECRI that they are in the process of updating the second National Action Plan on Integration (NAP-I) from 2012, and that the recommendations made by ECRI in its fifth report would be duly taken into account. The updated NAP-I will cover all groups of migrants, including refugees, EU migrants, skilled workers and those who have been living in the country for a long time. It will focus on five phases of immigration and coexistence: the one before migration, initial integration, integration, growing together and cohesion. With the involvement of the *Länder*, municipalities, non-state actors and migrant organisations, fields of action and concrete measures will be developed. ECRI welcomes this holistic approach that will cover the full process of inclusive integration, which can start even before the arrival in Germany and leads through different stages to full inclusion into society. ECRI is also pleased to note that the plan will cover several new topics including the one of anti-discrimination.
76. While the process for the revision of the NAP-I started in June 2018, ECRI regrets to note that no significant progress has been made and encourages the authorities to speed up the process.¹⁰⁸ As in its previous report and in § 46 above, ECRI underlines that efficient action plans need to contain concrete objectives, measures, indicators to measure progress, baselines and target values to reach, time-lines and budgets, and that they should clearly designate the persons and authorities that are responsible for achieving each objective and implementing each measure. In this context, ECRI is pleased to note that the Federation and the *Länder* continue to fine-tune their system of integration indicators, which already today allows to monitor progress, compare and identify positive trends in different

¹⁰³ Citizenship, freedom of movement, migration and extradition come under the legislative competence of the Federation, while the *Länder* have exclusive competences in the fields of education, policing, justice, health and housing, ECRI 2013: § 64.

¹⁰⁴ For this and the following paragraphs, see: EU, EP 2018.

¹⁰⁵ The rejection or abandoning of an Integration course can be sanctioned by benefit cuts. In addition, receiving a permanent residence permit is now conditional on individual efforts to integrate, which is defined as having reached A2 level in German and being able to predominantly ensure the means of subsistence. Refugees can obtain permanent residency already after three years (instead of five years) when they have reached C1 level in German.

¹⁰⁶ Bundesamt für Migration und Flüchtlinge 2016: 89.

¹⁰⁷ Federal Government 2019.

¹⁰⁸ The Commissioner for Migration, Refugees and Integration 2018.

Länder and to search for the success factors and good practices that are behind such trends.¹⁰⁹ ECRI strongly encourages the authorities to integrate these indicators into the NAP-I during its revision.

77. ECRI recommends that the authorities speed up the process of updating the National Action Plan on Integration and define and insert core integration indicators for its objectives and measures. They should furthermore insert for all objectives and measures baselines and measurable targets to reach, timelines and budgets, designate persons and/or authorities that are responsible for achieving each objective and implementing each measure, and establish a mechanism for regular evaluation.
78. Four *Länder* – Berlin in 2010, North Rhine Westphalia in 2012, Baden Wurttemberg in 2015 and Bavaria in 2016 – have adopted their own integration laws, and all 16 *Länder* and many municipalities have developed integration concepts or guidelines.¹¹⁰
79. When evaluating Germany's integration policies, UNESCO recently highlighted the investment of an additional 800 million Euros in language learning in pre-schools and the system for the recognition of foreign diplomas, which it refers to as best practice. At the same time, it considered that there is room for improvement with regard to equality and that many refugees lack language proficiency and other qualifications to access the labour market.¹¹¹ During the 2015 assessment under the Migrant Integration Policy Index (MIPEX), which applies 167 indicators, Germany was ranked in the top 10 among 38 countries studied. The German authorities point out that some integration indicators recently showed less positive trends, as a large number of newcomers are rather at the beginning of their integration process.¹¹²
80. With regard to education, ECRI expressed in its previous report concern about the enrolment rate of children with migration backgrounds in day care and pre-school facilities, which was far below average. This topic is of utmost importance as the number of children with migration backgrounds continues to rise and in many places exceeds 50% of the children born each year. ECRI underlines that pre-school education is particularly important for the inclusion of children who do not speak the future language of instruction at home and whose parents have not gone through the national education system. If they do not have the opportunity to learn German in kindergartens or preschool, they start their schooling with a decisive disadvantage. While ECRI welcomed the fact that all children over the age of twelve months are entitled to a place in a day care facility since 1 August 2013, it was informed during its country visit that, due to the insufficiency of available places in particular in larger cities, it is still very difficult for people with migration backgrounds to find places for their children. While the enrolment rate in pre-school of children aged under three with migration backgrounds almost doubled between 2009 and 2017¹¹³, ECRI expresses its concerns about the fact that it only increased to 20% and remained at half of the rate for children without a migration background (40%). For children aged 3 to 6 years, the enrolment rate increased to 84%, but remained 14% below the share of children without a migration background. It should be highlighted that these differences are much lower in certain *Länder*.¹¹⁴

¹⁰⁹ Statistisches Bundesamt 2019e; IntMK 2019.

¹¹⁰ Hanewinkel, V. & Oltmer, J. (2018); OECD (2018b): 12.

¹¹¹ UNESCO 2019.

¹¹² IntMK 2019: 7.

¹¹³ Authoring Group Educational Reporting 2016: 17.

¹¹⁴ Authoring Group Educational Reporting 2018: 74 with reference to table C3-14web. In Berlin for example, the enrolment rate reached 95.1%.

81. ECRI strongly recommends that the authorities of the Federation, the *Länder* and the municipalities introduce into the National Action Plan on Integration the objective and measures of increasing significantly the share of children with migration backgrounds that attend pre-school education.
82. ECRI is pleased to note that the majority of the *Länder* have introduced screening processes for children in preschools that take place 12 to 24 months before their transition to primary school to identify those in need of additional language support. The most common practice to improve children's German skills is the child-oriented approach "language education in daily routines" (*Alltagsintegrierte Sprachliche Bildung*), which was implemented through the federal programme "Early Chances: Childcare centres with special focus on language and integration", and continued through the follow-up programme "Language day nurseries: Because language is the key to the world".¹¹⁵
83. With regard to primary and secondary schooling, ECRI regrets to note that children with migration backgrounds lagged behind with regard to their reading competences after the 4th grade: 18,3% of them did not reach the minimum standards compared to 7,9% among other children. ECRI is even more worried that this difference increases until the 9th grade with 32.8% of children with migration backgrounds not reaching minimum standards, compared to 15.2% of other children. ECRI strongly encourages the *Länder* to learn from those that have better than average results in this respect¹¹⁶ and to further intensify their action to reduce this gap, in particular during secondary schooling.
84. ECRI was informed that the *Länder* have developed different programmes for children that have very recently arrived in Germany. While some *Länder* have set up specific "Welcome classes" in which newcomers are educated separately, others have developed programmes where newcomers are included in mainstream classes at an early stage: after a focus on language learning, they participate in subjects like music and sports and are then fully integrated in a mainstream class with additional support. In this regard, ECRI refers to a study from 2016, which concluded that welcome classes can be easily transformed into a segregation practice, while immigrant students adapt and socialise more easily in schools with an integrative programme.¹¹⁷ This corresponds to ECRI's recommendation in § I.3c and d of its GPR No. 10 to avoid and strictly limit in time separate classes.
85. With regard to the transition to secondary schooling, ECRI is pleased to note that further *Länder* decided that the recommendation that primary schools give for the choice among the three streams of secondary education (Gymnasium, Realschule and Hauptschule) is not any more binding. In most of the *Länder* the lowest stream, the Hauptschule, has been abolished and replaced by other types of schools including comprehensive schools, and children can more easily switch from one stream to another. These changes have contributed to an increase of the share of foreign children that attend a Gymnasium.¹¹⁸ When socio-economic backgrounds are taken into account, the proportion of children with and without migration backgrounds who attend the different types of schools is almost equal. ECRI is also pleased to note that the proportions of children with the necessary

¹¹⁵ OECD 2018a: 271; in German: „Alltagsintegrierte sprachliche Bildung“, „Frühe Chancen: Schwerpunkt-Kitas Sprache und Integration“ und „Sprach-Kitas: Weil Sprache der Schlüssel zur Welt ist“.

¹¹⁶ IntMK 2019: 62 et seq.; see the corrected figures in the table http://www.integrationsmonitoring-laender.de/sites/default/files/d2b_2017.xls, accessed on 9.10.19. Among the *Länder* with better than average results are Saxony, Saxony-Anhalt and Mecklenburg-Western Pomerania.

¹¹⁷ Karakayalı J. et al. 2016.

¹¹⁸ According to Statistisches Bundesamt 2019d: 49, 272 475 foreign pupils were enrolled in the three school streams Hauptschule, Realschule and Gymnasium; 109 311 (40%) of them attended the Gymnasium (compared to 67% among the rest of the population). This is an increase compared with the share given in § 87 of ECRI's 5th report on Germany. Other school streams including the comprehensive schools are not taken into account for this consideration.

qualifications who enrol in higher education are roughly the same for those with or without migration backgrounds.¹¹⁹

86. However, foreign children are still more than twice as likely to leave school without a lower secondary school certificate (7.3% compared to 3.6%) and three times less likely to achieve a higher education entrance qualification.¹²⁰ ECRI encourages the use of these core integration indicators when updating the NAP-I and to introduce into it an objective and measures to improve the results in this field.
87. With regard to integration in the labour market, ECRI is pleased to note that a good number of people with migration backgrounds managed to find a job over the recent years.¹²¹ While their unemployment rate dropped more than that of the rest of the population, it was still more than twice as high in 2017 (6.6% versus 3.1%). The employment rate (65.1%) also lags behind the rest of the population (78.4%), and women with migration backgrounds lagged 12.5 percentage points behind men of this group.¹²² As people with migration backgrounds often have lower education levels, do not have their foreign diploma recognised, more often only have a “mini-job” and do not earn more than 450 Euros per month (11.4% versus 8%) and more often are labourers (30.1% versus 15.7%)¹²³, they are at a higher risk of poverty than the rest of the population.¹²⁴
88. With regard to the employment of asylum seekers and refugees, ECRI takes positive note of the measures that employment agencies and jobcentres have recently taken for their early integration into the labour market.¹²⁵ The number of vocational training courses continues to grow and training is offered in particular in health care, trade, craft and technical professions. In this context, ECRI considers the “welcome guides” programme of the Ministry of Economics and Energy as **good practice**. Within this programme about 130 “welcome guides” support enterprises in filling job and training vacancies with refugees and with assisting them during the integration process. The measures taken have resulted in encouraging results: whereas studies suggest that in the past it took on average ten years to integrate 60% of refugees in the labour market,¹²⁶ already about one third of the migrants originating from the eight most common countries of origin of asylum seekers had found employment in April 2019.¹²⁷ Refugees and asylum seekers, together with migrants from many EU countries, thus help to remedy the workforce shortage in Germany, in particular in the health and care sectors.
89. Recent figures concerning language tests for migrants show however that the pass-rates at B1 level continue to regress. While in 2015, 69.9% of all participants passed with B1 level, this fell to 52.3% in the first nine months of 2018.¹²⁸ Lack of qualification of newly hired teachers and higher linguistic distance of newly arriving refugees are given as reasons. As language acquisition is crucial for integration in general, ECRI considers that the responsible authorities should carefully analyse the reasons for this decline and develop additional measures for improving the quality and success rates of their language acquisition programmes.

¹¹⁹ Authoring Group Educational Reporting 2016: 17.

¹²⁰ Authoring Group Educational Reporting 2016: 19; OECD 2018a: 13; Statistisches Bundesamt 2018: 88; Zeit Online, 4 July 2017.

¹²¹ Statistisches Bundesamt 2019e: Table 4.2.

¹²² IntMK 2019: 76 et seq.

¹²³ Bundeszentrale für Politische Bildung 2018.

¹²⁴ Statistisches Bundesamt 2018b: 322 et seq.; Hanewinkel, V. & Oltmer, J. 2018.

¹²⁵ See for example the programmes “Perspectives for Refugees” and KompAS (competence assessment, early activation and language acquisition).

¹²⁶ Bertelsmann-Stiftung 2016: 16.

¹²⁷ BAMF, Migration, Integration and Asylum, Research Centre 2019:1; Tagesschau 2018b.

¹²⁸ Bundesamt für Migration und Flüchtlinge 2019: 12; IntMK 2019: 4.

90. Studies point to the fact that discrimination is one of the factors for continued disadvantage of people with migration backgrounds in the labour market. Muslim and Black persons experience stronger discrimination than others and the degree of discrimination varies between different professions.¹²⁹ Other factors that trigger the gaps in question are the social situation and the educational levels of people with migration backgrounds and their parents, the level of language proficiency and the quality of social networks that help when looking for work.¹³⁰ To remedy this bundle of causes, ECRI encourages the authorities to pursue the positive approach of motivating employers to embrace diversity¹³¹ and at the same time a repressive approach where stronger action is taken against discrimination.
91. With regard to the positive approach, ECRI is pleased to note that the percentage of people with migration backgrounds working in the public administration continues to increase and reached 14.8% in the Federal administration and 10.7% in the public administration in general.¹³² In this respect, ECRI highlights the **good practice** example of the Berlin police, where this percentage was of 32.4 in 2018 and encourages the authorities to further increase the overall number of people with migration backgrounds among their staff. ECRI also welcomes the activities of the Diversity Charter¹³³, which was signed by 3 000 companies and institutions with over 11 million employees in the private and public area, including by 15 *Länder*. When asked about the impact of the Diversity Charter, ECRI was informed that the charter builds on self-engagement. While some members have just signed and are not very active, others have developed and implement extensive action plans. ECRI considers that the impact of this excellent initiative, which builds on the intrinsic motivation of organisations to promote diversity, could and should be further increased.
92. ECRI recommends that the authorities encourage the Diversity Charter and its members to develop an index or set of indicators to evaluate the impact of the activities deployed by each member organisation. Based on this index, a system for regular evaluation should be established to identify good practices and pave the ground for peer learning among the Charter's member organisations.
93. As discrimination is one of the main barriers to inclusive integration, ECRI takes positive note of the plan to introduce in the revised NAP-I a section on anti-discrimination. At the same time, it encourages the authorities to include indicators on discrimination in their system of integration indicators and refers back to its recommendation in § 11 to establish a coherent system for providing victims of discrimination with effective support. Family reunification, access to residence permits, the right to vote at local and regional level and naturalisation are additional milestones on the way to inclusive integration. ECRI encourages the authorities to cover these topics in their revised NAP-I.
94. ECRI understands that so-called “neutrality laws” provide in eight *Länder* that teachers in state schools and judges are not allowed to wear religious symbols. De facto, this excludes Muslim women who wear headscarves from working in these professions, and some private schools also refuse to hire teachers with headscarves. While civil society organisations consider this a form of indirect discrimination against Muslim women, the European Court of Human Rights (ECtHR) grants states a significant discretion in the field of religious dress and held that comparable restrictions were justified while acknowledging the significant

¹²⁹ Bertelsmann Stiftung 2018: 58 et seq.; Wissenschaftszentrum Berlin für Sozialforschung 2018: 4 et seq.; Sachverständigenrat deutscher Stiftungen für Integration und Migration 2014: 4 et seq.

¹³⁰ IntMK 2019: 12 et seq.

¹³¹ See in this respect <https://www.netzwerk-ig.de/network-ig-start-page/developing-diversity.html>, accessed on 9.10.19.

¹³² First figure provided by the authorities. For the second figure see IntMK 2019: 6.

¹³³ <https://www.charta-der-vielfalt.de/>, accessed on 20 May 2019.

negative impact of such bans.¹³⁴ The FCC decided in 2015, that a blanket statutory ban on religious expression in the form of an educator's external appearance – purely based on an abstract risk to the school peace or state neutrality – was anti-constitutional.¹³⁵ ECRI encourages the German authorities to take inspiration from the *Länder* that have not enacted such neutrality laws and examine whether strict bans of religious symbols and clothing can be abolished or be made more flexible so as to strike a balance with the freedom of religion of the persons affected by such bans.

B. Sinti and Roma

95. There are no official statistics in Germany on the number of Sinti and Roma whose number is estimated at 70 000 to 105 000 persons.¹³⁶ ECRI notes with concern that the latest qualitative study about the situation of Sinti and Roma in Germany dates back to 2011. According to this study, 81.2% of the Sinti and Roma respondents had suffered from open or hidden discrimination, while 54% felt intimidated, badly treated or discriminated by the authorities.¹³⁷ Other studies show that the level of prejudice and stereotypes about Sinti and Roma is high, and that 40% of the population have unfavourable views of them.¹³⁸
96. Within the EU framework for Roma, the German authorities have not developed a strategy or action plan for Sinti and Roma, but opted for presenting an integrated set of policy measures, which is built on the country's general social inclusion policies.¹³⁹ Only the *Land* of Berlin has elaborated a strategy for Roma, which aims to combat anti-Gypsyism¹⁴⁰ in general and to promote the inclusion of Roma who have recently arrived from other European countries; it does not deal with the improvement of the conditions of the German Sinti and Roma who have been living for centuries in Germany and speak German.¹⁴¹ Representatives of German Sinti and Roma place great importance on ensuring that their communities are not presented as being in need of social inclusion policies, as this could trigger further anti-Gypsyism. The authorities and civil society have instead focused on combating anti-Gypsyism. In March 2019, an "Expert Commission on Anti-Tsiganism" was established, which will analyse the existing prejudice and stereotypes and develop recommendations on how to remedy these.¹⁴² ECRI also welcomes the fact that Germany hosts since 2017 the European Roma Institute for Arts and Culture, which aims to promote the recognition of Roma arts and culture, increase the self-esteem of Roma and decrease negative prejudice of the majority population towards Roma.¹⁴³
97. As regards the educational situation of German Sinti and Roma, ECRI notes with concern that, according to the above-mentioned qualitative study, 44% of the Sinti

¹³⁴ Harris D.J., O'Boyle M. et al. 2018: 586-589; See for instance, Leyla Şahin v. Turkey [GC], no. 44774/98, 10 November 2005; Dahlab v. Switzerland, no. 42393/98, 15 February 2001; Kurtuluş v. Turkey, no. 65500/01, 24 January 2006; Ebrahimian v. France, no. 64846/11, 26 November 2015; SAS v. France, no. 43835/11, 1 July 2014. The first case is also relevant with regard to the German debate about prohibiting the wearing of headscarves in schools for girls under the age of 14.

¹³⁵ FCC, no. 1 BvR 471/10, 1 BvR 1181/10, decision of 27 January 2015.

¹³⁶ Due to the persecution and holocaust of Sinti and Roma during the period of Nazi rule, many Sinti and Roma oppose strongly against the collection of any data about them. Sinti and Roma did not agree to participate in the EU Minorities and Discrimination Surveys of the FRA.

¹³⁷ Strauss 2011: 99 et seq.; the study relies on a relatively small sample of 261 interviews.

¹³⁸ ADS 2014: 9 et seq.; PEW 2016. Friedrich Ebert Stiftung 2019: 80; Spiegel online 2019; The Local 2018.

¹³⁹ EU, EC, Roma integration in Germany; EU, EC 2018: 10-15.

¹⁴⁰ ECRI uses, as many other international organisations, this English term, in particular in its GPR 13. In Germany, the term "Antiziganismus" is used.

¹⁴¹ Abgeordnetenhaus Berlin 2013; Senat von Berlin 2017.

¹⁴² BMI 2019.

¹⁴³ ERIAC 2019. Under the programme "Live Democracy" (see above §§ 16 and 45) a good number of activities are related to combating anti-Gypsyism.

and Roma surveyed did not have any school diploma (compared to 7.5% for the general population); 13% had not attended any school at all (compared to 1%); only 19% had finalised vocational training (compared to 83%); and 10.7% had attended a special needs school (compared to 4.9%). Only 11.5% attended the middle stream of secondary schools (compared to more than 30%) and only 2.3% the higher stream. 46% said they could not obtain help with homework within their family, the primary reason being the low education of their parents.¹⁴⁴

98. ECRI is pleased to note that four *Länder* (Berlin, Bremen, Hamburg and Schleswig-Holstein) have put in place Sinti and Roma mediators to improve interaction and cooperation between Sinti and Roma pupils, their parents and schools. During the meeting with ECRI's delegation, representatives of the mediators confirmed the strong need for such assistance. They also outlined the design and implementation of the training and certification of Sinti and Roma mediators, as well as the effective protocols in case of absenteeism, and how these help improve the school results of Sinti and Roma children. ECRI encourages the authorities to bring this **good practice** to other *Länder* and hire mediators also at the pre-school level.
99. With regard to recently-arrived Roma, ECRI notes with concern reports from civil society that indicate high levels of discrimination and segregation of their children in schools.¹⁴⁵ ECRI was also informed of the existence of individuals and networks that encourage Roma to move to Germany, employ them without respecting labour regulations on minimum wages or working hours and accommodate them in rundown, overcrowded housing, while asking for excessive rental payments. The authorities often do not know how to approach such groups and their precarious living conditions lead to rejection by neighbours and the general public, and to hate crimes such as described in § 67.¹⁴⁶
100. In this context ECRI welcomes a project run by the Federation of German Trade Unions in Hesse, which provides advice and assistance to Roma in cases of labour exploitation. Another **good practice** was reported from Dortmund, where the municipality, together with a Roma association, bought rundown houses and is renovating them for use by Roma families.¹⁴⁷ A third, holistic approach and **good practice** consists of asking experienced Roma mediators to establish contacts with secluded groups of recently-arrived Roma in order to secure the schooling of their children together with access to decent housing and services, including health care. At the same time, it has proven successful that the initial mediator identifies among the members of such groups persons who can themselves be hired and trained as Roma mediators and contribute to building sustainable bridges that are necessary for inclusive integration. As a first step, such new mediators should be hired even without any diploma, and then receive training to acquire relevant qualifications and a diploma.
101. ECRI recommends that the authorities roll out and finance Roma mediators in all places where German Sinti and Roma or recently-arrived Roma live.

IV. TOPICS SPECIFIC TO GERMANY

A. Interim follow-up recommendations

102. In its fifth report, ECRI recommended ratifying Protocol No. 12 to the European Convention on Human Rights as soon as possible. The authorities informed ECRI that Germany stands by its position not to ratify this Protocol at the present time, as the Court has not yet issued any concrete interpretative guidelines, especially with regard to the broad term "other status". In this connection, ECRI draws the

¹⁴⁴ Strauss 2011: 99 et seq.

¹⁴⁵ EU, EC 2018b: 7, 20-22.

¹⁴⁶ EU, EC 2018b: 8, 19-22.

¹⁴⁷ http://www.integrationsprojekt.net/uploads/media/flyer_web_deutsch.pdf, accessed on 22.05.2019.

attention of the German authorities to § 20 of the explanatory memorandum to the Protocol, which underlines that the list of non-discrimination grounds in the Protocol is identical to that in Article 14 of the Convention, which also covers “any other status” and for which well-established case law exists.¹⁴⁸ ECRI again encourages the German authorities to take leadership in the field of equality and maintains its recommendation.

103. The second interim follow-up recommendation on the recording of racist, homophobic and transphobic incidents has been dealt with in §§ 58 et seq. above.

B. Racial profiling

104. In his 2015 report on Germany, the Council of Europe Commissioner for Human Rights expressed concerns about racially-motivated conduct by law enforcement services and numerous reports of racial profiling practised by the police. In 2017, the UN Working group of Experts on People of African Descent concluded that racial profiling is endemic among German police officials. According to a study published in 2017, 34% of the respondents with Sub-Saharan African background said that they were stopped by the police in the five years before the survey and 14% believed that this was because of their immigrant or ethnic minority background.¹⁴⁹
105. ECRI recalls that it defines racial profiling as the use by the police, with no objective and reasonable justification, of grounds such as “race”, colour, language, religion, citizenship or national or ethnic origin in control, surveillance or investigation activities. In § 3 of its GPR No. 11 on Combating racism and racial discrimination in policing, ECRI recommends introducing a “reasonable suspicion standard” for any such activity, because laws that provide the police with the power to carry out identity checks without a suspicion based on objective criteria open the door to racial profiling. As ECRI already expressed in § 15 of its fifth report on Germany, it is concerned about the fact that § 23 of the Federal Police Act (FPA) gives police services the power to stop people without any suspicion of having committed a criminal offence or misdemeanour, or presenting a danger to public security. The Police Acts of several *Länder* provide that their authorities can designate areas as “criminal hotspots” and entitle the police to carry out identity checks in such areas without any degree of suspicion against the persons controlled.¹⁵⁰
106. The recommendation in § 3 of ECRI’s GPR No. 11 reflects the case law of the Court that found that the stopping and searching of a person in a public place without reasonable suspicion of wrongdoing is a violation of Article 8 ECHR. It further decided that powers of stop and search are not “in accordance with the law” (Article 8.2 ECHR), if they are neither sufficiently circumscribed nor subject to adequate legal safeguards against abuse.¹⁵¹ ECRI furthermore underlines that the Court of Justice of the European Union found that EU law on the Schengen area precludes national legislation, such as § 23 FPA, that allows for controls irrespective of the behaviour of the person concerned and of the existence of specific circumstances, unless such legislation lays down the necessary framework for that power.¹⁵² Based on this decision, the Baden-Württemberg Higher Administrative Court held in 2018 that Article 23 FPA did not provide for a sufficient legal basis for identity checks.¹⁵³ Another German court also found that the police had misused their margin of appreciation when carrying out such identity

¹⁴⁸ Harris D.J., O’Boyle M., et al. 2018 : 771.

¹⁴⁹ EU FRA 2017: 69 et seq. These figures are of 27% and 5% for people with Turkish background.

¹⁵⁰ See e.g. §§ 34.2.2, 21.2.1 of the General Act on Security and Order (Allgemeines Sicherheits- und Ordnungsgesetz) of Berlin, § 13.1.2 of the Bavarian Police Tasks Act (Poizeiaufgabengesetz) and § 19.1.2 of the Police Act (Polizeigesetz) of Saxony.

¹⁵¹ ECtHR, Gillan and Quinton v. The United Kingdom, no. 4158/05, 12 January 2010: 61 et seq.; ECtHR 2018: § 180.

¹⁵² EU Court of Justice, C-9/16, 21 June 2017, ECLI:EU:C:2017:483.

¹⁵³ Higher Administrative Court Baden-Württemberg, 1 S 1469/17, 13.2.2018.

checks.¹⁵⁴ Given these recent developments, ECRI considers that the authorities of the Federation and the *Länder* should commission a legal opinion on the need for aligning their provisions on control and other investigation activities with this case-law.

107. Civil society informed ECRI that numerous police services and representatives are unaware of or do not admit the existence of racial profiling. Two police services acknowledged that police controls had been illegal before a second instance decision was taken that would probably have held that the police controls constituted racial profiling.¹⁵⁵ Even though a Higher Administrative Court considered the practical guidelines of the police as too vague to protect individuals against their abusive use,¹⁵⁶ ECRI did not receive any information about any attempt to render them more precise. Furthermore, most of the bodies entrusted with the investigation of alleged cases of racial discrimination including racial profiling and racially-motivated misconduct by the police are not independent, contrary to the recommendation in § 10 of ECRI's GPR No. 11.¹⁵⁷
108. ECRI considers that the authorities of the Federation and the *Länder* should examine and tackle the issue of racial profiling in a systematic way. It encourages them to carry out a study that analyses the current control practices and leads to recommendations that sustainably prevent racial profiling and curtail the number of unjustified police controls (see § 2 of ECRI's GPR No. 11). The research for this study should include the gathering of statistics and data about representative sets of police stops; an in-depth and ex-post analysis of such representative sets of police controls under the different police acts together with controlled persons and civil society organisations; an ex-post analysis of the results of these controls in terms of prosecutions and convictions; and an assessment of the ratio between checks and convictions, as well as whether this is different for minority groups compared to the rest of the population. The study and its recommendations should be used to verify the effectiveness of carrying out large numbers of controls with poor "hit rates" and results, to raise the awareness of the police about racial profiling and its harmful effects on the trust of the affected groups in the police, and to prevent and eliminate any pattern of this form of institutional racism.¹⁵⁸
109. ECRI recommends that the police authorities of the Federation and the *Länder* commission and participate in a study on racial profiling with the aim of developing and implementing measures that eliminate existing and prevent future racial profiling.

¹⁵⁴ Higher Administrative Court Münster, 5 A 294/16, 7 August 2018.

¹⁵⁵ See the cases of the Higher Administrative Courts of Koblenz and Munich, Büro zur Umsetzung von Gleichbehandlung 2019 a and b.

¹⁵⁶ Higher Administrative Court Baden-Württemberg, 1 S 1469/17, 13.2.2018.

¹⁵⁷ A positive example in this respect is Schleswig-Holstein, where the Ombudsman for Social Affairs is also competent for receiving and dealing with complaints against the police (§ 13 of the Citizens' and Police Commissioner Act).

¹⁵⁸ Studies indicate that racial profiling leads de facto to a waste of public money, cf. EU FRA 2018: 49 et seq. and the research cited in ECtHR, Gillan and Quinton v. The United Kingdom, no. 4158/05, 12 January 2010: 84.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Germany are the following:

- (§ 11) ECRI recommends that the authorities establish a coherent system of organisations that provide victims of discrimination throughout the whole country with effective support including legal assistance to enforce their rights. To this end, the German *Länder* should start setting up independent equality bodies in line with ECRI's General Policy Recommendation No. 2.
- (§ 109) ECRI recommends that the police authorities of the Federation and the *Länder* commission and participate in a study on racial profiling with the aim of developing and implementing measures that eliminate existing and prevent future racial profiling.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 10) ECRI recommends that the German authorities bring the provisions on the Federal Anti-Discrimination Agency's competences, powers, independence and effectiveness in line with ECRI's General Policy Recommendation No. 2 on Equality Bodies. In particular, they should (i) extend its mandate to cover hate speech, the grounds of skin colour, language, citizenship and gender identity and intersectional discrimination; (ii) make sure that its mandate covers all areas of the public and private sector that are under the competence of the Federation; (iii) provide it with the competences to intervene in the legislative procedure, provide people exposed to racism and discrimination with legal assistance, represent them before institutions, adjudicatory bodies and the courts, bring cases in its own name and intervene in legal proceedings as *amicus curiae*, third party or expert; (iv) provide it with the power to hear witnesses; (v) reform the appointment procedure for its head; (vi) stipulate that it drafts annual reports for discussion by parliament and government; and (vii) provide it with sufficient human and financial resources.
2. (§ 11) ECRI recommends that the authorities establish a coherent system of organisations that provide victims of discrimination with effective support including legal assistance throughout the whole country. To this end, the German *Länder* should engage in setting up independent equality bodies in line with ECRI's General Policy Recommendation No. 2.
3. (§ 18) ECRI recommends that the authorities of all German *Länder* introduce human rights and equal treatment in their education acts and the teaching of these topics in the obligatory parts of their curricula. They should furthermore mainstream good practices from projects on schools and reinforce initial and continuous teacher training on inclusive teaching in diverse classrooms and on intervening in cases of bullying and discrimination.
4. (§ 24) ECRI recommends that the authorities (i) extend the existing firewall against the reporting of irregularly present migrants asking for emergency health care and other forms of necessary health care to the services responsible for the reimbursement of such treatment; (ii) fund low-threshold counselling and assistance services throughout the country where migrants without residence permits can explore options to regularise their situation and obtain assistance to assert their residence rights; and (iii) take measures to raise awareness about the legal framework available for irregularly present migrants, such as firewalls in the fields of health care and education.
5. (§ 34) ECRI recommends that Germany swiftly enacts legislation that prohibits unnecessary surgery and therapies on intersex children. It further recommends that all *Länder* establish services with low-threshold access that provide counselling and assistance to intersex children and their parents.
6. (§ 54) ECRI recommends that the German authorities standardise access to, and rules for, reporting hate speech on social media, ensure that evidence of online hate speech is preserved and transmitted to the law enforcement authorities and develop ways for the police and prosecution to close new channels for the dissemination of hate speech online.
7. (§ 62) ECRI recommends that the police services in the Federation and all 16 *Länder* systematically analyse, together with civil society organisations and academic institutions, evidence for past and present hate crimes including

punishable hate speech in order to identify and record hate crime cases as completely as possible. To this end, they should in all *Länder* establish specialised police and prosecution units that investigate hate crime and develop regular dialogue with civil society organisations on hate crime cases.

8. (§ 63) ECRI furthermore recommends that the police services in the Federation and all 16 *Länder* initiate studies about the investigation of hate crime including punishable hate speech, link their statistics with those of the judiciary and publish detailed reports analysing their hate crime statistics and their activities regarding the prevention and investigation of hate crime. These reports should cover the most serious hate crime cases, contain more disaggregated data (e.g. concerning the different hate-crime related articles of the Criminal Code, disaggregated data for all 16 *Länder*, categories of perpetrators and victims) and outline measures for improving the recognition, recording and investigation of hate crime cases.
9. (§ 68) ECRI recommends that the police and intelligence services of the Federation and the 16 *Länder* develop and implement strategies and measures to prevent radicalisation and approach and persuade members of racist, homophobic, transphobic and neo-Nazi groups to definitively exit from the relevant organisations.
10. (§ 71) ECRI recommends that the Federation and the *Länder* intensify the initial and continuous training of police, prosecutors and judges on recognising, investigating and sentencing hate crime including punishable hate speech and that they introduce binding rules to ensure that victims of hate crime whose applications for asylum were rejected are not deported before the final decision in any criminal proceedings.
11. (§ 77) ECRI recommends that the authorities speed up the process of updating the National Action Plan on Integration and define and insert core integration indicators for its objectives and measures. They should furthermore insert for all objectives and measures baselines and measurable targets to reach, timelines and budgets, designate persons and/or authorities that are responsible for achieving each objective and implementing each measure, and establish a mechanism for regular evaluation.
12. (§ 81) ECRI strongly recommends that the authorities of the Federation, the *Länder* and the municipalities introduce into the National Action Plan on Integration the objective and measures of increasing significantly the share of children with migration backgrounds that attend pre-school education.
13. (§ 92) ECRI recommends that the authorities encourage the Diversity Charter and its members to develop an index or set of indicators to evaluate the impact of the activities deployed by each member organisation. Based on this index, a system for regular evaluation should be established to identify good practices and pave the ground for peer learning among the Charter's member organisations.
14. (§ 101) ECRI recommends that the authorities roll out and finance Roma mediators in all places where German Sinti and Roma or recently-arrived Roma live.
15. (§ 109) ECRI recommends that the police authorities of the Federation and the *Länder* commission and participate in a study on racial profiling with the aim of developing and implementing measures that eliminate existing and prevent future racial profiling.

BIBLIOGRAPHY

This bibliography lists the main published sources used during the examination of the situation in Germany. It should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.

European Commission against Racism and Intolerance (ECRI)

1. ECRI (2017), Conclusions on the implementation of the recommendations in respect of Germany subject to interim follow-up, CRI(2017)6.
2. ECRI (2014), Fifth report on Germany, CRI(2014)2.
3. ECRI (2012), Conclusions on the implementation of the recommendations in respect of Germany subject to interim follow-up, CRI(2012)28.
4. ECRI (2009), Fourth report on Germany, CRI(2009)19.
5. ECRI (2004), Third report on Germany, CRI(2004)23.
6. ECRI (2001), Second report on Germany, CRI(2001)36.
7. ECRI (1998), Report on Germany, CRI(98)22.
8. ECRI (1996), [General Policy Recommendation No. 1](#): Combating racism, xenophobia, antisemitism and intolerance, CRI(96)43.
9. ECRI (2018), [General Policy Recommendation No. 2 \(revised\)](#): Equality bodies to combat racism and intolerance at national level, CRI(2018)06.
10. ECRI (1998a), [General Policy Recommendation No. 3](#): Combating racism and intolerance against Roma/Gypsies, CRI(98)29.
11. ECRI (1998b), [General Policy Recommendation No. 4](#): National surveys on the experience and perception of discrimination and racism from the point of view of potential victims, CRI(98)30.
12. ECRI (2000b), [General Policy Recommendation No. 5](#): Combating intolerance and discrimination against Muslims, CRI(2000)21.
13. ECRI (2001), [General Policy Recommendation No. 6](#): Combating the dissemination of racist, xenophobic and antisemitic material via the Internet, CRI(2001)1.
14. ECRI (2003), [General Policy Recommendation No. 7 \(revised\)](#): National legislation to combat racism and racial discrimination, CRI(2003)8rev.
15. ECRI (2004b), [General Policy Recommendation No.8](#): Combating racism while fighting terrorism, CRI(2004)26.
16. ECRI (2004c), [General Policy Recommendation No.9](#): The fight against antisemitism, CRI(2004)37.
17. ECRI (2007a), [General Policy Recommendation No.10](#): Combating racism and racial discrimination in and through school education, CRI(2007)6.
18. ECRI (2007b), [General Policy Recommendation No.11](#): Combating racism and racial discrimination in policing, CRI(2007)39.
19. ECRI (2009b), [General Policy Recommendation No. 12](#): Combating racism and racial discrimination in the field of sport, CRI(2009)5.
20. ECRI (2011), [General Policy Recommendation No.13](#): Combating anti-Gypsyism and discrimination against Roma, CRI(2011)37.
21. ECRI (2012b), [General Policy Recommendation No.14](#): Combating racism and racial discrimination in employment, 2012, CRI(2012)48.
22. ECRI (2016a), [General Policy Recommendation No. 15](#): Combating Hate Speech, CRI(2016)15.
23. ECRI (2016b), [General Policy Recommendation No. 16](#): Safeguarding irregularly present migrants from discrimination, CRI(2016)16.
24. ECRI (2019), ECRI Glossary, CRI(2019)14rev1.

Other sources

25. Abgeordnetenhaus Berlin (2013) Aktionsplan zur Einbeziehung ausländischer Roma.
26. Amadeu Antonio Stiftung (2019), Todesopfer rechter Gewalt, <https://www.amadeu-antonio-stiftung.de/todesopfer-rechter-gewalt/>, accessed on 17.04.2019.

27. Amoro Foro (2018), Dokumentation antiziganistischer und diskriminierender Vorfälle in Berlin 2017.
28. Antidiskriminierungsstelle des Bundes (ADS) (2017), Einstellungen gegenüber Lesben, Schwulen und Bisexuellen in Deutschland, Ergebnisse einer bevölkerungsrepräsentativen Umfrage.
29. ADS (2015), Möglichkeiten effektiver Strafverfolgung bei Hasskriminalität – Rechtsgutachten.
30. ADS (2014), Zwischen Gleichgültigkeit und Ablehnung, Bevölkerungseinstellungen gegenüber Sinti und Roma.
31. Authoring Group Educational Reporting (2016), Education in Germany 2016: https://www.bmbf.de/files/6001820e_kf-englisch_barrierefrei.pdf, accessed on 26.04.2019.
32. Authoring Group Educational Reporting (2018), Bildung in Deutschland 2018: <https://www.bildungsbericht.de/de/bildungsberichte-seit-2006/bildungsbericht-2018/pdf-bildungsbericht-2018/bildungsbericht-2018.pdf>, accessed on 26.04.2019.
33. BBC (2016, December 2016), Germany attacks: What is going on?
34. Berliner Zeitung (2018, February 27), Gesetz gegen Diskriminierung Dirk Behrendts Entwurf trifft im Senat auf Widerspruch.
35. Bertelsmann Stiftung (2018), Faktensammlung Diskriminierung - Kontext Einwanderungsgesellschaft 2018.
36. Bertelsmann Stiftung (2016), Arbeitsmarktintegration von Flüchtlingen: bestehende Praxisansätze und weiterführende Empfehlungen.
37. Bild (2018, March, 16), Heimat-Minister Horst Seehofer „Der Islam gehört nicht zu Deutschland!“ - Der CSU-Politiker über: Abschiebungen, Parallelgesellschaften, Integration und Heimat.
38. Büro zur Umsetzung von Gleichbehandlung e.V. (BUG) (2019a), Pressemeldung - Bundespolizeidirektion München erkennt ‚Racial-Profiling‘-Kontrolle als rechtswidrig an.
39. BUG (2019b), Racial Profiling in Koblenz, <http://www.bug-ev.org/aktivitaeten/klagen/staatliches-handeln/diskriminierende-polizeikontrollen/racial-profiling-in-koblenz.html>, accessed on 10.10.19.
40. Bundeszentrale für Politische Bildung (2018), Bevölkerung mit Migrationshintergrund II, <http://www.bpb.de/nachschlagen/zahlen-und-fakten/soziale-situation-in-deutschland/61649/migrationshintergrund-ii>, accessed on 02.05.2019.
41. Bundesagentur für Arbeit (October 2018), Fluchtmigration: <https://statistik.arbeitsagentur.de/Statistischer-Content/Statistische-Analysen/Statistische-Sonderberichte/Generische-Publikationen/Fluchtmigration.pdf>
42. Bundesamt für Migration und Flüchtlinge (BAMF) (2019a), Bericht zur Integrationskursgeschäftsstatistik für den Zeitraum vom 01.01. bis 30.09.2018.
43. BAMF, Migration, Integration and Asylum, Research Centre (2019b), BAMF Brief Analysis - Language skills and employment rate of refugees improving with time.
44. BAMF (2016), Migrationsbericht des Bundesamtes für Migration und Flüchtlinge im Auftrag der Bundesregierung.
45. Bundesamt für Justiz (Federal Office of Justice) (2019), Federal Office of Justice Issues Fine against Facebook.
46. Bundesamt für Verfassungsschutz (2019), Gutachten zu tatsächlichen Anhaltspunkten für Bestrebungen gegen die freiheitliche demokratische Grundordnung in der „Alternative für Deutschland“ (AfD) und ihren Teilorganisationen.
47. Bundesinstitut für Bevölkerungsforschung (2019), Demografie-Portal des Bundes und der Länder, Zahlen und Fakten - Fast jeder Vierte hat einen Migrationshintergrund, https://www.demografie-portal.de/SharedDocs/Informieren/DE/ZahlenFakten/Bevoelkerung_Migrationshintergrund.html, accessed on 28.04.2019.
48. Bundesministerium des Inneren, für Bau und Heimat (BMI) (2019, March 27), Expertenkommission Antiziganismus nimmt Arbeit auf, press release, <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2019/03/expertenkommission-antiziganismus.html>, accessed on 03.05.2019.
49. BMI (2019b), Straf- und Gewaltdaten im Bereich Hasskriminalität 2017 und 2018.
50. BMI (2018a), Politisch Motivierte Kriminalität im Jahr 2017 - Bundesweite Fallzahlen.
51. BMI (2018b), Verfassungsschutzbericht 2017.
52. BMI (2018c), Straf- und Gewaltdaten im Bereich Hasskriminalität 2016 und 2017, https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/2018/pmk-2017-hasskriminalitaet.pdf?__blob=publicationFile&v=3, accessed on 18.04.2019.
53. BMI (2017), Verfassungsschutzbericht 2016.

54. BMI (2011), Integrated packages of measures to promote the integration and participation of Sinti and Roma in Germany: https://ec.europa.eu/info/sites/info/files/roma_germany_strategy_en.pdf, accessed on 14.05.2019.
55. Bundesministerium der Justiz und für Verbraucherschutz (2018), Fachtag im BMJV - Schutz von intersexuellen Kindern vor geschlechtsangleichenden medizinischen Maßnahmen, https://www.bmjv.de/SharedDocs/Artikel/DE/2018/101618_Fachtag_intersexuelle_kinder.html, accessed on 14.05.2019.
56. Bundestag (2019), Mehrheit im Bundestag für die „Ehe für alle“, <https://www.bundestag.de/dokumente/textarchiv/2017/kw26-de-ehe-fuer-alle-513682>, accessed on 15.05.2019.
57. Bundestag (2013), Beschlussempfehlung und Bericht des 2. Untersuchungsausschusses nach Artikel 44 des Grundgesetzes, Bundestagsdrucksache 17/14600.
58. Bundestag Drucksache: 18/11101: <http://dipbt.bundestag.de/doc/btd/18/111/1811101.pdf>.
59. Bundestag, Drucksache 18/13498: <http://dipbt.bundestag.de/doc/btd/18/134/1813498.pdf>.
60. Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA) (2018), Antidiskriminierung, [https://www.arbeitgeber.de/www/arbeitgeber.nsf/res/kompakt-Antidiskriminierung.pdf/\\$file/kompakt-Antidiskriminierung.pdf](https://www.arbeitgeber.de/www/arbeitgeber.nsf/res/kompakt-Antidiskriminierung.pdf/$file/kompakt-Antidiskriminierung.pdf), accessed on 14.03.2019.
61. BDA (2016), Welcoming Culture, Guidelines for companies on how to deal with foreign workers.
62. Bundeszentrale für Politische Bildung (2018), Bevölkerung mit Migrationshintergrund II, <http://www.bpb.de/nachschlagen/zahlen-und-fakten/soziale-situation-in-deutschland/61649/migrationshintergrund-ii>, accessed on 02.05.2019.
63. CoE, Commissioner for Human Rights (2011), Discrimination on grounds of sexual orientation and gender identity in Europe, 2nd edition.
64. CoE, Parliamentary Assembly (2015), Resolution 2048 (2015) - Discrimination against transgender people in Europe.
65. Der Tagesspiegel (2019a, April 2), Rassistische Taten nehmen zu - In Ostdeutschland täglich fünf Opfer rechter Gewalt.
66. Der Tagesspiegel (2019b, January 25), Zahlen der Bundesregierung - Mindestens 85 Tote durch rechte Gewalt seit 1990.
67. Der Tagesspiegel (2018a, September 27), Rassistische Taten nehmen zu In Ostdeutschland täglich fünf Opfer rechter Gewalt.
68. Der Tagesspiegel (2018b, September 6), Seehofer nennt Migration „Mutter aller politischen Probleme“.
69. Der Tagesspiegel (2018c, June 18), Bundesregierung korrigiert Zahlen - Mehr Tote durch rechte Gewalt seit 1990 als bekannt.
70. Diversity Charter: <https://www.charta-der-vielfalt.de/>, accessed on 15.05.2019.
71. DW (2017, July 21), German president signs gay marriage bill into law.
72. European Agency for Special Needs and Inclusive Education (2019), The Education System in the Federal Republic of Germany 2014/2015 – Teachers and Education Staff: Country information for Germany - Teacher education for inclusive education: <https://www.european-agency.org/country-information/germany/teacher-education-for-inclusive-education>, accessed on 16.05.2019.
73. European Roma Institute for Arts and Culture (2019), <https://eriac.org/about-eriac/>, accessed on 03.05.2019.
74. Eurostat, (2019, March 5), Migration and migrant population statistics: <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/1275.pdf>, accessed on 24.04.2019.
75. European Union (EU), Destatis (2019), Third country nationals found to be illegally present - annual data (rounded), http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eipre&lang=en, accessed on 18.06.2019.
76. EU, European Commission (EC) (2019), Roma integration in Germany: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-germany_en.
77. EU EC (2018), Code of Conduct on countering illegal hate speech online - Results of the 3rd monitoring exercise, http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=612086, accessed on 22.05.2019.
78. EU EC (2018b), Civil society monitoring report on implementation of the national Roma integration strategies in Germany.
79. European Court of Human Rights (ECTHR) (2019), Factsheet – Hate speech, https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf, accessed on 29.03.2019.

80. ECtHR (2018), Guide on Article 8 of the European Convention on Human Rights, https://www.echr.coe.int/Documents/Guide_Art_8_ENG.pdf, accessed on 24.04.2019.
81. EU European Parliament (EP) (2019), Resolution on the rights of intersex people, 2018/2878(RSP).
82. EU EP (2018), Integration of Refugees in Austria, Germany and Sweden: Comparative Analysis: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU\(2018\)614200_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/614200/IPOL_STU(2018)614200_EN.pdf), accessed on 29.03.2019.
83. European Union (EU), Fundamental Rights Agency (FRA) (2019), Survey on Minorities and Discrimination in EU (2016), Data explorer, <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-second-eu-minorities-discrimination-survey?mdq1=dataset>, accessed on 06.05.2019.
84. EU FRA (2018), Preventing unlawful profiling today and in the future: a guide.
85. EU FRA (2017a), MIDIS II: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-eu-midis-ii-main-results_en.pdf.
86. EU FRA (2017b), Second European Union Minorities and Discrimination Survey Muslims – Selected findings.
87. EU FRA (2011), Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States: http://fra.europa.eu/sites/default/files/fra_uploads/1668-FRA-report-domestic-workers-2011_EN.pdf.
88. EU FRA (no date), MIDIS II, data explorer: <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-second-eu-minorities-discrimination-survey>.
89. Facebook (2019a), NetzDG – July 2019, https://fbnewsroomus.files.wordpress.com/2019/07/facebook_netzdg_july_2019_english.pdf, accessed on 07.10.2019.
90. Facebook (2019b), NetzDG-Transparenzbericht, https://fbnewsroomde.files.wordpress.com/2019/01/facebook_netzdg_januar_2019_deutsch52.pdf, accessed on 20.03.2019.
91. Federal Government (2019), Bericht der Bundesregierung über Maßnahmen des Bundes zur Unterstützung von Ländern und Kommunen im Bereich der Flüchtlings- und Integrationskosten und die Mittelverwendung durch die Länder im Jahr 2018, https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Schlaglichter/Fluechtlingshilfe/2019-05-23-fluechtlingskosten-bericht2018.pdf;jsessionid=44DC5417EF70D55BA647AF349734CCE2?__blob=publicationFile&v=6, accessed on 24.05.2019.
92. Federal Government (2017), National Action Plan against Racism (updated in 2017): https://www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2018/nap-en.pdf?__blob=publicationFile&v=4, accessed on 24.05.2019.
93. Frankfurter Rundschau (2017, June 26), Hälfte der Frankfurter hat Migrationshintergrund.
94. Friedrich-Ebert-Stiftung (2019), Verlorene Mitte – Feindselige Zustände, Rechtsextreme Einstellungen in Deutschland 2018/19.
95. German Institute for Human Rights (GIHR) (2019), Projekt "Rassismus und Menschenrechte – Stärkung der Strafjustiz", <https://www.institut-fuer-menschenrechte.de/themen/schutz-vor-rassismus/projekt-rassismus-und-menschenrechte-staerkung-der-strafjustiz/>, accessed on 24.04.2019.
96. GIHR (December 2018), Entwicklung der Menschenrechtssituation in Deutschland Juli 2017 – Juni 2018.
97. German Institute for Human Rights (August 2017), Submission to UN CESCR.
98. GIHR (2017a), Stellungnahme - Rassistische Wahlplakate müssen abgehängt werden.
99. GIHR (2017b), Werden die Empfehlungen des NSU-Untersuchungsausschusses des Bundestags tatsächlich umgesetzt?
100. Göttinger Tageblatt (2019, January 21), Nach Polizei-Einsatz im Landtag – AfD-Politiker scheitern mit Klage.
101. Golem (2019), Bundestagsanhörung: Beim NetzDG drohen erste Bußgelder, <https://www.golem.de/news/bundestagsanhoerung-beim-netzdg-drohen-erste-bussgelder-1905-141281.html>, accessed on 18.06.2019.
102. Google (2019), Transparency Report, Removals under the Network Enforcement Law, <https://transparencyreport.google.com/netzdg/youtube?hl=en>, accessed on 18.06.2019.
103. Hanewinkel, V. & Oltmer, J. (2018), Integration and Integration Policies in Germany: <http://www.bpb.de/gesellschaft/migration/laenderprofile/262812/integration-and-integration-policies-in-germany>, accessed on 15.05.2019.

104. Harris D.J., O'Boyle M. et al. (2018), Law of the European Convention on Human Rights.
105. Hastie, B. (2015), The Case for 'Firewall' Protections for Irregular Migrants: Safeguarding Fundamental Rights.
106. Haversath, J. et al. (2017), Sexual Behavior in Germany, Deutsches Ärzteblatt International. 114 (33-34): 545–50, doi:10.3238/arztebl.2017.0545, <https://www.aerzteblatt.de/int/archive/article?id=193180>, accessed on 15.05.2019.
107. ILGA Europe, (2018, August 31), A missed opportunity to recognise self-determination in Germany.
108. Institut d'études opinion et marketing en France et à l'international (IFOP) (2017), To bi or not to bi ? Enquête sur l'attirance sexuelle entre femmes, <https://www.ifop.com/publication/to-bi-or-not-to-bi-enquete-sur-lattirance-sexuelle-entre-femmes/>, accessed on 15.05.2019.
109. Institute for Strategic Dialogue (ISD) (2019), The Battle for Bavaria.
110. Internationale Gesellschaft für Menschenrechte (IGFM) (2019), Illegal in Deutschland - Hilfestellungen und Antworten: <https://www.igfm.de/menschenrechte/hilfe-fuer-den-notfall/illegal-in-deutschland/>, accessed on 15.05.2019.
111. IPSOS (2017), Attitudes towards National Identity, Immigration, and Refugees in Germany.
112. ISD (2017), "MAKE GERMANY GREAT AGAIN" - Kremlin, Alt-Right and International Influence in the 2017 German Elections.
113. Karakayali J. et al. (2016), "Willkommensklassen" in Berlin - Mit Segregation zur Inklusion.
114. Konferenz der für Integration zuständigen Ministerinnen und Minister/Senatorinnen und Senatoren der Länder (IntMK) (2019), Fünfter Bericht zum Integrationsmonitoring der Länder, Bericht 2019, Berichtsjahre 2015–2017.
115. Kultusministerkonferenz (KMK) (2018), Menschenrechtsbildung in der Schule, (Beschluss der Kultusministerkonferenz vom 04.12.1980 i.d.F. vom 11.10.2018), https://www.kmk.org/fileadmin/Dateien/pdf/PresseUndAktuelles/2018/Beschluss_Menschenrechtserziehung.pdf, accessed on 18.06.2019.
116. KMK (2017), The Education System in the Federal Republic of Germany 2015/206, https://www.kmk.org/fileadmin/Dateien/pdf/Eurydice/Bildungswesen-engl-pdfs/dossier_en_ebook.pdf, accessed on 15.05.2019.
117. Legal Tribune Online (2018, September 26), Volksverhetzung aus dem Ausland soll strafbar werden.
118. Leibniz-Zentrum für Europäische Wirtschaftsforschung (ZEW) (2019), Refugees Welcome? Understanding the Regional Heterogeneity of Anti-Foreigner Hate Crimes in Germany.
119. Lesben und Schwulenverband (LSVD) (2019), Wie viele Menschen sind lesbisch oder schwul?, <https://www.lsvd.de/nc/homosexualitaet/fragen-und-antworten.html#c11970> accessed on 07.10.2019.
120. Library of Congress, (2018, November 9), Germany: Federal Court of Justice Rules Same-Sex Marriage Does Not Make Wife of Child's Mother Co-parent by Law: <http://www.loc.gov/law/foreign-news/article/germany-federal-court-of-justice-rules-same-sex-marriage-does-not-make-wife-of-childs-mother-co-parent-by-law/>, accessed 24.05.2019.
121. Library of Congress (2017), Laws Concerning Children of Undocumented Migrants: Germany: <https://www.loc.gov/law/help/undocumented-migrants/germany.php>, accessed 24.05.2019.
122. Live Democracy: <https://www.bmfsfj.de/blob/93488/e2475074ed5761fddd1bfa619e68d123/demokratie-leben-aktiv-gegen-rechtsextremismus-gewalt-und-menschenfeindlichkeit-englische-version-data.pdf>, accessed 24.05.2019.
123. Morgenpost (2018, November 16), Die meisten Diskriminierungen in Schulen sind rassistisch.
124. NTV (2018, November 2018), „Muslime gehören zu Deutschland“ - Plötzlich will Seehofer Brücken bauen.
125. NTV (2017, July 28), „Ehe für alle gilt ab 1. Oktober“.
126. Oberlandesgericht München (2018), Pressemitteilung 78 vom 11.07.2018 - Urteil im Strafverfahren gegen Beate Z. u. a. wegen Verdachts der Mitgliedschaft in einer terroristischen Vereinigung u.a. (NSU).
127. OECD (2018a), The Resilience of Students with an immigrant background.
128. OECD (2018b), Working Together for Local Integration of Migrants and Refugees in Berlin.
129. OECD (2017, April 19), PISA 2015 Results (Volume III) -Students' Well-Being.
130. Parliament of North Rhine-Westphalia (2017), Schlussbericht des Parlamentarischen Untersuchungsausschusses IV, Drucksache 16/14450.
131. PEW Research Center (2018), Global Uptick in Government Restrictions on Religion in 2016 – Nationalist parties and organizations played an increasing role in harassment of religious minorities, especially in Europe.

132. PEW Research Center (2016), Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs.
133. Pink News (2017, July 21), Germany to begin gay weddings in October.
134. Police North Rhine-Westphalia Cologne (2017), Abschlussbericht AG Silvester 2016.
135. Presserat (2017a), Publizistische Grundsätze (Pressekodex).
136. Presserat (2017b), Praxis-Leitsätze - Richtlinie 12.1 des Pressekodex.
137. Rebehn, S. (2019), Stumpfes Schwert, Deutsche Richterzeitung DRiZ 2019, 208 et seq.
138. Respect Berlin: <http://www.respectberlin.org/wordpress/>, accessed on 27.05.2019.
139. Reuters (2015, January 12), Merkel says Islam 'belongs to Germany' ahead of Dresden rally.
140. RFJ (2018, December 14), Naissances : l'Allemagne se dote d'un « troisième genre ».
141. Sachverständigenrat deutscher Stiftungen für Integration und Migration (2014), Diskriminierung am Ausbildungsmarkt Ausmaß, Ursachen und Handlungsperspektiven.
142. Schmahl, S. (2015), Rechtsgutachten über den Umgang mit rassistischen Wahlkampfplakaten der NPD.
143. School without racism – School with courage: <https://www.raa-mv.de/en/content/school-without-racism-%E2%80%93-school-courage>, accessed 15.05.2019.
144. Senat von Berlin (2017), Zweiter Bericht zur Umsetzung des Berliner Aktionsplans zur Einbeziehung ausländischer Roma.
145. Spiegel online (2019, April 25), Jeder zweite Deutsche hat Ressentiments gegen Asylsuchende.
146. Spiegel online (2018a, September 7), Reaktionen deutscher Manager zu Chemnitz - "Jeder ist aufgerufen, der Radikalisierung entgegenzutreten".
147. Spiegel online (2018b, July 10), Seehofer über Flüchtlinge - 69 Abschiebungen zum 69. Geburtstag.
148. Spiegel online (2018c, January 23), Anschlag in Plauen - Das Brandmal.
149. Statistisches Bundesamt (2019a), Gleichgeschlechtlichen Paare (darunter: gleichgeschlechtliche Ehepaare und eingetragene Lebenspartnerschaften), <https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Haushalte-Familien/Tabellen/3-4-gleichgeschlechtliche-lebengemeinschaften.html>, accessed on 07.10.2019.
150. Statistisches Bundesamt (2019b), Population: <https://www.destatis.de/EN/FactsFigures/SocietyState/Population/Population.html>; accessed on 22.03.2019.
151. Statistisches Bundesamt (2019c), Fachserie 1, Reihe 2.4, Bevölkerung und Erwerbstätigkeit, Schutzsuchende - Ergebnisse des Ausländerzentralregisters.
152. Statistisches Bundesamt (2019d), Fachserie 11, Reihe 1, Bildung und Kultur, Allgemeinbildende Schulen, Schuljahr 2018/2019.
153. Statistisches Bundesamt (2019e), Migration und Integration – Integrationsindikatoren, https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Migration-Integration/Publikationen/Downloads-Migration/integrationsindikatoren-5122122177004.pdf?__blob=publicationFile, accessed on 16.12.2019.
154. Statistisches Bundesamt (2018), Statistisches Jahrbuch 2018: https://www.destatis.de/DE/Publikationen/StatistischesJahrbuch/Bildung.pdf?__blob=publicationFile, not accessible on 15.05.2019.
155. Statistisches Bundesamt (2018b), Fachserie 1, Reihe 2.2, Bevölkerung und Erwerbstätigkeit, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2017.
156. Strauss (2011), Studie zur aktuellen Bildungssituation deutscher Roma und Sinti.
157. Süddeutsche Zeitung (2019, January 21), Rassismus Dieses Gutachten zeigt, wie der Verfassungsschutz die AfD einschätzt).
158. Süddeutsche Zeitung (2018a, September 5), Manager, mischt euch ein!
159. Süddeutsche Zeitung (2018b, March 7), Freital-Prozess - Lange Haftstrafen gegen Terror-Gruppe Freital.
160. Süddeutsche Zeitung (2018c, January 6), Three months in hell - What I learned from three months of Content Moderation for Facebook in Berlin.
161. Tagesschau, (2018a, June 28), Wer nach Europa kommt – und wie, <https://www.tagesschau.de/ausland/fluechtlinge-un-105.html>, accessed on 29.04.2018.
162. Tagesschau, (2018b, May 31), Jeder vierte Flüchtling hat einen Job: <https://www.tagesschau.de/inland/fluechtling-arbeitsmarkt-103.html>, accessed on 29.04.2018.

163. Taz.de (2018, September 11), Roma in Sachsen - Es brennt in Plauen.
164. Telegraph (2018, July 5), Germans send anti-bullying experts into schools to stop anti-Semitism: <https://www.telegraph.co.uk/news/2018/07/05/germans-send-anti-bullying-experts-schools-stop-anti-semitism/>, accessed on 29.04.2018.
165. The Commissioner for Migration, Refugees and Integration (2018), Startschuss für den Nationalen Aktionsplan Integration: <https://www.integrationsbeauftragte.de/ib-de/amt-und-person/aktionsplan-integration>, accessed on 15.05.2018.
166. The Local (2019, January 16), Boris Becker's son wins damages over AfD member's tweet: report.
167. The Local (2018, February 28), Roma and Sinti: Germans for centuries, but still considered outsiders.
168. The Local (2017, April 18), One in six German school kids regularly bullied.
169. The Washington Post (2018, August 8), Bullying, death threats and violence: German schools grapple with a string of anti-Semitic incidents: <https://www.washingtonpost.com/world/2018/08/08/bullying-death-threats-violence-german-schools-grapple-with-string-anti-semitic-incident/>, accessed on 29.04.2018.
170. UN Committee on the Rights of Persons with Disabilities 2015, CRPD/C/DEU/CO/1.
171. UN Committee on the Elimination of Racial Discrimination 2015, CERD/C/DEU/CO/19-22.
172. UN Committee on the Rights of the Child recommendations 2014, CRC/C/DEU/CO/3-4.
173. UNESCO (2019), Global Education Monitoring Report 2019.
174. Vogel, D. (2015): Update report Germany: Estimated number of irregular foreign residents in Germany (2014), Clandestino Database on Irregular Migration.
175. Welt (2018, January 2), Muslim-Tweet: Strafanzeigen gegen AfD-Politikerin von Storch.
176. Wissenschaftszentrum Berlin für Sozialforschung (2018), Ethnische Hierarchien in der Bewerberauswahl: Ein Feldexperiment zu den Ursachen von Arbeitsmarktdiskriminierung.
177. Www.Yogyakartaprinciples.org (2017), The Yogyakarta Principles plus 10, <http://yogyakartaprinciples.org/principles-en/yp10/>, accessed on 18.06.2019.
178. Zeit (2018, March 21), AfD-Abgeordnete beschäftigen Rechtsextreme und Verfassungsfeinde.
179. Zeit (2015, March 12), "Der Islam gehört zu Deutschland".
180. Zeit online (2018, September 27), Todesopfer rechter Gewalt – 169 Schicksale.
181. Zeit online (2017a, December 31), Kölner Silvesternacht - Zwei Jahre und 36 Verurteilungen später.
182. Zeit online (2017b, July 4), Jeder Siebzehnte ohne Schulabschluss.
183. Zeit online (2015a, September 10), Hasskommentare - Merkel fordert Facebook zum Löschen auf.
184. Zeit online (2015b, August 28), Facebook -Melden, anzeigen, anprangern.
185. Zentralrat Deutscher Sinti und Roma: <http://zentralrat.sintiundroma.de/zentralrat/wer-wir-sind/>, accessed on 29.04.2018.
186. Zick, A., et Preuß M. (2016), Einstellungen zur Integration in der Bevölkerung – Kurzbericht zum Projekt Zulegen – Zugehörigkeit und Gleichwertigkeit.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.

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