



European network against racism

ENAR Shadow Report 2011-2012

ENAR SHADOW REPORT

Racism and related discriminatory practices in Germany

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

After the introduction into the Shadow report 2011/12 for Germany, significant developments in Germany during the period under review are presented.

Special focus:

- Muslims and Islamophobia in Germany

Access and full participation in all collective areas of society

Employment:

- Muslim women who wear the headscarf encounter significant discrimination and prejudice when seeking employment
- Economically highly qualified human resources are welcome for backing up the German economy.
- In times of hardship or unemployment, solidarity is withdrawn and access to the national welfare system is restricted.
- Solidarity is not extended to 'newcomers on probation'.
- One possible solution is the use of anonymous job applications, which the Federal Anti-Discrimination Body (ADS) has piloted.
- The importance of managing diversity has also been stressed by labour unions.

Education:

- Muslim pupils, especially those who openly practise their religion, are exposed to multiple forms of discrimination.
- Teachers frequently assume that Muslim girls are forced to wear a headscarf.

Housing:

- The 'second Turkish generation' face lower socio-economic conditions than the same generation from former Yugoslavia in terms of housing
- NGOs report that migrants' rents have been increased significantly in comparison to their German neighbours.

Health:

- The health sector seems to have fewer barriers for migrants.
- For structural reasons, hospitals are highly diverse.
- Migrants and non-migrants are represented throughout the system.
- The health situation of older migrants and migrant boys is not as good as the health of their German peers.

Access to goods and services:

- Invisibility of discrimination is a key problem. NGOs are currently making efforts to increase the visibility of discrimination in access to leisure and recreational services.

- On one instance, an allotment club planned a 'migrant quota', but was stopped by public resistance.
- The Federal Constitutional Court ruled on an increase of social welfare benefits for asylum-seekers and used the same argument on the benefits, as in the case of German nationals who are unemployed.
- Germany refuses to grant unemployment benefits for non-German EU-citizens. This has led to great financial difficulty for many EU citizens receiving welfare benefits in Germany.

Political participation:

- Migrants who do not have a German passport are still not allowed to vote.
- A treaty between the City of Hamburg and Muslims in Hamburg has been signed.

Media:

- The social acceptability of Islamophobia has reached such a degree that many people overtly show their aversion towards Islam in public.
- The NSU (National-Socialist Underground) murders led to a critical reflection on the way in which the police, the public and the media handled and processed information.
- Journalists were often 'thoughtlessly' narrow in their interpretation of evidence indicated by the investigators rather than developing their own, critical approach.
- In the media, coverage of issues relating to the Muslim community is generally carried out by non-Muslims.
- Young Muslims often feel more discriminated against through the media than they do in their own daily lives.

Criminal justice:

Policing and ethnic profiling:

- The ruling of a court legitimised 'racial profiling' as a legal (forensic) method.
- This led to an outrage amongst human rights organisations and minority associations.
- Complaints about racial discrimination are often countered by police officers, who in turn take legal action against the victim.
- Often these proceedings end in favour of the police officers, resulting in the conviction of the victims for insulting an official.
- The logic of surveillance is transferred to other fields, like the labour market, where employers are called to observe their Muslim employees and report suspicious information to the police.

Racist violence and crime:

- For the first time statistics are available about attacks on mosques in Germany.
- Anti-Muslim criminal acts are not registered separately under the label of violence against Muslims.

- Officials do not see any connection between offences against Muslim institutions and the increase of Islamophobic trends.
- A serial murder committed by the 'National Socialist Underground' demonstrated a lack of competency in dealing with racist violence.
- Whilst the 'Muslim threat' is overemphasised, fascist terror is not taken seriously.
- Investigations reveal features of institutional racism as well as prevalence of a general association between ethnic minorities and crime within the media and police force.
- Investigation has hindered by conflicts and competition between the Federal police and the police of the Länder.
- Some leaders in the security forces stepped down
- Strong reactions of some families of the victims and NGOs.

Hate speech

- Was not focused on in this year's report.

Counter terrorism:

- Disparity between the increased focus on the radicalisation of Muslims and the neglect of right-wing extremism.
- Underestimation of the potential of right-wing extremists to spread terror in minority communities.
- Financial cuts in the work of the anti-discrimination body, which is targeting discrimination in general.

The report closes then with the civil society assessment and critique in ensuring protection of fundamental rights, some good practices and a conclusion.

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3. Introduction

The regular reader of the German shadow reports over the last ten years will find some changes in this year's report. Two years ago we started to improve the reporting by covering a specific period between the launch of the shadow report on 21 March, the international day against racism, to March of the following year. Therefore, this report covers the period of March 2011 to March 2012, although we refer to events later in the year 2012, when it is necessary to understand developments under review in this period. Last year, we focused on the situation of a specific minority group in Europe and in Germany, namely people of African descent in Germany. This year's focus is on the Muslim communities in Germany. The reader might notice that the structure of the report has changed slightly. This was done to avoid repetition in each annual report and to adjust to the changing 'reporting environment' in Europe and in Germany. We have attempted to present an NGO perspective and to avoid replicating existing reports.

This shadow report reflects a wide range of data, legal changes and specific events within the Muslim communities. Although the focus is on Muslim communities the situation of other vulnerable groups, such as Sinti and Roma, third country nationals, black Germans and the Jewish Community, are described as well. Legal and political changes, such as the campaigns for Equality of the Federal Antidiscrimination Body (ADS) or the recognition of foreign certificates, when entering the German Labour market are described. The report aims to give the reader outside of Germany some insight into the atmosphere and the discussions in the different fields and how NGOs are struggling for alternative views and are often successful in their practices after a longer period of time.

4. Significant developments in Germany during the period under review

Last year, we concluded that there is currently no public imaginary available in Germany, which includes black Germans or Muslim Germans. The perception of being “German” is still being “white” and being “Christian” or being a “non-believer”. Seeing a “black” or a “Muslim” person is not perceived as being German. Before 2005, when the Federal Statistical Office revised their method of counting the population, there was an easy binary divide: German/Foreigner; ‘Germaness’ was contrasted with the rest of the world, which was foreign. Since then the situation has become more complex¹. There is now a distinction between Germans with migration experience and foreigners without migration experience. All Germans and foreigners with migration experience are people who migrated to Germany themselves in their life-time. Germans and foreigners with a migration background were generally born in Germany (or came at an early age in the era of family reunion after the recruitment freeze in 1973), but their parents migrated to Germany after 1950. This cut was necessary because otherwise all the 12 million Germans, who were driven away from Eastern Europe after World War II would have a migration background as well and migrants would have made up 30 to 40 per cent of the population.

The ‘new’ Germany which emerged after the end of the Cold War is still struggling with its ugly fascist past, which, like a ghost, returns again and again with different faces. Twenty years ago, shortly after the unification, attacks on migrants and pogroms revealed this sinister undercurrent in German society to the rest of the world. 2012 marks 20 years since the pogrom of Rostock, the attacks in Mölln, Solingen, Hünxe and elsewhere suddenly became known to the outside world. Official commemorations took place in the second half of 2012. The return of the repressed as Freud called it, happened in November 2011, when the surprised public learnt that a terror group of three people with a supporting network, called the ‘National Socialist Underground’, was able to travel freely in Germany for nearly fifteen years and killed 9 shopkeepers from migrant backgrounds as well as a police officer and carried out several bomb attacks, including nail bombs.² All the while, the NSU-trio had appeared to live ordinary lives, taking holidays, looking after their cat and generally being nice neighbours. The scant information of the security forces has slowly revealed their lack of competence as well as institutionalised racism.

¹ Personen mit Migrationshintergrund. Methodische Erläuterungen, <https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/MigrationIntegratio n/Migrationshintergrund/Aktuell.html>, accessed 7 November 2012.

² Chronik zum NSU-Terror. Rassistische Mordserie, staatliches Versagen. <http://www.tagesschau.de/inland/rechtsextrememordserie104.html>, accessed 7 November 2012.

This shadow report is exceptional in the sense that the NSU murders have thrown a very specific light onto the way German politicians, the media and administration deal with discrimination and the role of right-wing terrorists in keeping the hierarchical ethnic order in place, by creating an atmosphere of fear. After slavery was abolished legally in the U.S., the Ku-Klux-Klan was established to create an atmosphere of fear, and show the former slaves their place in society. The transformation of the 'guestworker' of the 1950s and 1960s to the 'foreigner' in the 1960s and 1970s, to 'the Turk' in the 1980s and 1990s to the 'Muslim' after 2000 shows, that behind the religious question of being 'Muslim' stands a social question on the way in which social mobility is possible for a whole ethno-religious group in Germany³. One might think of Muslims as a group who collectively achieved a 'social upgrade' and slowly built up a Muslim middle-class, competing with the 'established' middle classes.

The transformation of social relations into ethnic relation is based on a pattern, which evolves from the economic structure. Due to the lack of qualified labour for the booming German economy, there are currently increased calls for a 'Welcome Culture' in Germany. For such 'high potential' immigrants all barriers are broken down. The competition is entering the middle classes. The current lack of qualified labour creates the need to welcome highly qualified migrants into the mainly German middle classes, but those middle classes are not prepared for this. On the other side the officially celebrated 'Welcome Culture' is a 'Culture of exclusion', in which refugees are deported, EU-citizens' access to social welfare is closed and asylum seekers receive the same amount in benefits as they did 20 years ago. The chances of a successful asylum application are still very low. Police practices of ethnic profiling do not differentiate between a black British professional and refugees from Mali. This is a rational cost-effectiveness calculation in the German migration policy. Some migrants are valued and welcomed as long as they can sustain themselves economically. If they become, for whatever reason, dependent on social welfare, they are deemed worthless. The German Left calls this 'utility racism', which can be seen as the practice of the Sarrazin debate, where he conceptualised this 'utility racism'⁴.

³ For further information see the research on Muslims in Europe, covering Hamburg and Berlin, where the author did the research for the city of Hamburg, AT HOME IN EUROPE: <http://www.opensocietyfoundations.org/reports/muslims-hamburg>, accessed 8 September 2012.

See as well: Werner Schiffauer: „Nach dem Islamismus“. Eine Ethnographie der Islamischen Gemeinschaft Milli Görüs. Suhrkamp Verlag, Berlin 2010.

⁴ The Sarrazin debate was describe in the German Shadowreport of 2011. The main thesis of his book "Germany does away with itself" is that Germany is made stupid by the biological increase of Muslim population in Germany.

5. Special focus: Islamophobia

This year's shadow report focuses on the Muslim communities. People of Turkish origin constitute the largest minority group in Germany and therefore Muslims constitute the second largest religious group in Germany after Christians, although there is a high rate of non-believers in certain areas, e.g. in the East of Germany⁵. There are no official statistics on the size of the Muslim population, but it is estimated that between 3.8 and 4.3 million Muslims with a migration background are living in Germany, among them between 1.65 and 2.03 million German Muslims.⁶ Because of the lack of official statistics a wide range of proxies, like nationality, name or place of birth are used to obtain ethnic or religious information.⁷

The largest groups within the Muslim population of Germany are migrants from Turkey, who are estimated to make up one-third of all German Muslims.⁸ The Afghan diaspora in Germany is the largest in Europe⁹, and there are also a significant number of Pakistani immigrants, as well as Indonesians and refugees from the former Yugoslavia and the Balkans. Most of the latter are Muslims, arriving from Albania and the former Yugoslav Republics. In 2002, the German-Arab population was approximately 290,000, of whom 60,000 were Palestinians. Beyond the group of labour migrants from Morocco and Tunisia, most of the Arab immigrants arrived in Germany as refugees or

⁵ Deutschland - (k)ein Land der Gottlosen? Der neue Religionsmonitor der Bertelsmann Stiftung zum Stand von Religion und Glauben in Deutschland, *Germany a country of (Non-) believers? The new monitor on religion of the Bertelsmann Foundation*, http://www.bertelsmann-stiftung.de/bst/de/media/xcms_bst_dms_25864_25865_2.pdf, accessed 7 November 2012.

⁶ Haug, Sonja; Müssig Stephanie and Anja Stichs, *Muslimisches Leben in Deutschland (Muslim Life in Germany)*, BAMF, Nuremberg, 2009, http://www.deutsche-islam-konferenz.de/cln_180/SharedDocs/Anlagen/DE/DIK/Downloads/WissenschaftPublikationen/MLD-Vollversion,templateId=raw,property=publicationFile.pdf/MLD-Vollversion.pdf accessed 7 September 2012.

⁷ A 2009 published survey on Muslim life in Germany, commissioned by the German Islam Conference and the Federal Office for Migration and Refugees (BAMF) comes to the conclusion that looking only at countries of origin of migrants to detect their religion might be misleading. It compared the numbers given by the CIA World Factbook, (Central Intelligence Agency (CIA), *The 2008 World Factbook*, CIA, Langley, VA, 2008, available at <https://www.cia.gov/library/publications/download/download-2008/index.html>) which takes the national religious composition of Muslim countries to calculate the size of the Muslim population, with the figures of its own study and concluded that the religious composition in the country of origin does not reflect the religious composition in Germany because the migration pattern of the religious groups is often very different. See: Sonja Haug, Anja Stichs and Stephanie Müssig, 'Muslimisches Leben in Deutschland', in Auftrag der Deutschen Islam Konferenz. Bundesamt für Migration und Flüchtlinge, Bundesamt für Migration und Flüchtlinge, Nürnberg, 2009, p. 85.

⁸ Jochen Blaschke, *Tolerated but Marginalised - Muslims in Germany*. in Edition Parabolis Verlagsabteilung im Europäischen Migrationszentrum (EMZ) (Hg./ed.) *State Policies Towards Muslim Minorities. Sweden, Great Britain and Germany*. Kempten, 2004, (hereafter Blaschke, *Tolerated but Marginalised*) , p.78.

⁹ *Ibid.*, p.88.

asylum seekers.¹⁰ According to various surveys¹¹ the Muslim community is divided as follows: 63 per cent are Sunni Muslims¹²; 12 per cent are Alevi¹³; two per cent are Shia Muslims. Seven per cent of migrants from the Near East are Yezidi, Assyrian or Armenian Christians, but are often perceived as Muslims by the majority population.

General migrant population: The number of people with a migrant background increased slightly in 2010, amounting to well over 15.7 million, or 19.3% of the total population of Germany. The population with a migration background consists of those who have immigrated to Germany since 1950 and their offspring. A majority of 8.6 million people held a German passport while some 7.1 million were foreign nationals.¹⁴ A large number of arrivals from abroad were not recorded until the 1960s when guest workers were recruited. In the late 1980s and early 1990s, millions of people moved to Germany as a result of the opening of Eastern European countries and due to the civil war in former Yugoslavia. In recent years there has been an increase in international migration between Germany and other European Union member states, in particular the new member countries.¹⁵

Families with a migrant background are common in Germany. In 2010, there were 2.3 million families with children under 18 where at least one parent had foreign roots. This is 29% of the total of 8.1 million families with minor children. The traditional family based on marriage is more common among migrant families (80%) than among families without a migrant background (69%). Just 14% of the families with a migrant background were lone mothers or fathers (compared to 21% among those without a migrant background).¹⁶

Naturalisations: 106 900 people were naturalised in 2011, which is an increase of approximately 10 000 in comparison with the previous year.¹⁷

10 Ekkehart Schmidt-Fink, Schwerpunkt: Araber in Deutschland (*Focal Point: Arabs in Germany*), *Ausländer in Deutschland. (Foreigners in Germany)*, Jg.17, Nr.2, 2001.

11 Ulrich von Wilamowitz-Moellendorf, *Türken in Deutschland - Einstellungen zu Staat und Gesellschaft. (Turks in Germany - Attitudes towards State and Society)*, Working Paper, Konrad Adenauer Stiftung (Hg./ed.), Sankt Augustin, 2001, p.3.

12 The study of Haug et al. for the Federal Ministry for Migration and Refugees, 'Muslimisches Leben in Deutschland', p. 97. counts 74,1 per cent Sunnis.

13 Alevis are a cultural and religious minority in Turkey who because of their heterodox tenets were severely persecuted during Ottoman rule. Therefore Alevis did not outwardly identify as such. Since the 1960s, Alevis have been coming as working migrants to Germany, like other Turks. After an era of dissimulation, Alevis started a revival of their identity in both Turkey and Germany.

14 Destatis, Statistisches Bundesamt, One out of five in Germany with migration background in 2010
https://www.destatis.de/EN/PressServices/Press/pr/2011/09/PE11_355_122.html?nn=51196, accessed 7 September 2012.

15 Destatis, Statistisches Bundesamt, Migration,
<https://www.destatis.de/EN/FactsFigures/SocietyState/Population/Migration/Current.html>, accessed 7 September 2012.

16 Destatis, Statistisches Bundesamt, Families with a migrant background,
<https://www.destatis.de/EN/FactsFigures/SocietyState/Population/MigrationIntegration/MigrationIntegration.html>, accessed 7 September 2012.

17 Destatis, Statistisches Bundesamt, Einbürgerungen 1990 bis 2011,
<https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/MigrationIntegration>

Description of the German population is complicated due to the reform of population statistics in 2005. The German population is now subdivided into German citizens with and without migrant background and foreigners. Germans with migration background and foreigners furthermore may or may not have migration experience.¹⁸

Among the population with a migration background, the majority (65.5 per cent) originated in a European country (29.9 per cent in one of the EU-27 countries and 35.6 per cent in the rest of Europe). The largest groups originated in Turkey (15.9 per cent), Poland (8.3 per cent), the Russian Federation (6.8 per cent) and Italy (4.9 per cent). Outside of Europe the largest groups originated from Asia, Australia and Oceania (13.1 per cent), the Middle East (8.1 per cent), Kazakhstan (4.2 per cent), South- and Southeast Asia (3.6 per cent) and Africa (3.0 per cent).¹⁹

Estimation of the Jewish population in Germany is more difficult. Approximately 100,000 Jewish people are living in Germany today. An additional 80,000 Jewish migrants have come from the former Soviet Union since 1989. There are approximately 100 Jewish communities, the largest being in Berlin, Frankfurt a. M. and Munich²⁰.

Sinti (living in Germany since the 14th century) and Roma (arriving in the 19th century) are like the people of African descent, a less visible minority in Germany, because firstly there are no large communities, which make them visible as a minority group, and therefore are perceived as individuals. Secondly and this is relevant for the long established Sinti community, they have assimilated and therefore are not as visible as the newly arriving Roma. It is estimated that between 80,000 and 120,000 Sinti and Roma are living in Germany. Most of the Roma who have arrived in recent years came from the former Yugoslavia and the Balkans²¹ and as well as from Romania and Bulgaria.

Migration is strictly monitored in Germany, and internal controls limit the space for the shadow economy and irregular migrant work. Regularisation programmes have never been implemented, but those irregular migrants who cannot be deported for practical or humanitarian reasons are generally tolerated²². Estimations concerning the number of undocumented migrants in Germany reach from approximately 500 000, including more than 30 000 children²³ to 140 000 to 330 000 persons²⁴.

[n/EingeburgertePersonen/Tabellen/EinbuengerungenEinbuengerungsquoteLR.html](#),

accessed 7 September 2012.

¹⁸ BAMF: Grunddaten der Zuwanderung 2009, p.16.

¹⁹ Ibidem

²⁰ Zentralrat der Juden: Gemeinden, <http://www.zentralratjuden.de/de/topic/59.html>, accessed 7 November 2012.

²¹ Sinti und Roma seit 600 Jahren in Deutschland. Eine Kurzfassung über Geschichte, Kultur und Verfolgung http://www.zigeuner.de/sinti_und_roma_seit_600_jahren.htm, accessed 7 September 2012.

²² Aufenthaltstitel: Duldung, <http://www.aufenthaltstitel.de/stichwort/duldung.html>, accessed 7 November 2012.

²³ Menschen ohne Papier in Bremen, <http://zahramohammadzadeh.wordpress.com/2011/01/14/menschen-ohne-papier-in-bremen/#more-253>, accessed 7 September 2012.

Policing: Since September 11th 2001, Muslims have come under increased police surveillance and at the same time have faced higher levels of hate crime and violence directed towards them. The issue of policing is a central concern for many Muslims. Many parents worry that their children will be victims of hate crime. Many young people feel that they are the targets of police attention and discriminatory treatment because of their ethnic and religious background.

At the federal level, policies in the area of policing can be classified as assimilationist and are characterised by area based policing in contrast to the Anglo-American concept of community based policing²⁵. This is true in Hamburg and Berlin, for example, although shifts from an assimilationist policy to a hybrid-intercultural policy can be observed. The local policies act more and more on interreligious relations, like the close co-operation between some of the local police and mosques in Hamburg and Berlin and therefore shift to community-based policing²⁶.

Consultative structures: On a national level dialogue with and inclusion of Muslim organisations is still only beginning. The German Islam Conference has not yet achieved its aim of having the religion of Islam recognised in Germany. The top-down approach of the official dialogue has been criticized by participating religious NGOs, such as the Central Committee of Muslim in Germany²⁷. Although first steps have been taken to acknowledge Islam as a religion which is part of German society, the approach can still be regarded as assimilationist, as the government determines who will be invited to the conference and which issues will be discussed.

Public attitudes: Recent studies and surveys suggest there has been deterioration in public attitudes towards Islam and Muslims in Germany. The number of people who associate Islam with discrimination against women, fanaticism and radicalism and with a disposition towards violence and revenge is increasing²⁸. The portrayal of Muslims and Islam in the German media also reveals a high prevalence of stories linking Islam and Muslims to terrorism, violence and other social problems. The role of religion in the public sphere is still an area where there is a struggle to find a common understanding, in which Muslims are not forced to choose between religious expression and integration.

Education, especially in schools, is one of the most important pillars of

²⁴ Database on irregular migration: Germany, http://irregular-migration.hwwi.de/Germany_Database.6165.0.html, accessed 7 September 2012.

²⁵ Problem Solving Policing: Views of Citizens and Citizens Expectations in Germany, <http://www.socwork.net/sws/article/view/253/428>, accessed 7 November 2012.

²⁶ Nina Mühe and Andreas Hieronymus: Has multiculturalism completely failed in Germany? In: Emerson, Michael: Interculturalism: Europe and its Muslims in Search of Sound Societal Models, 2011, Centre for European Policy Studies http://hawk.ethz.ch/serviceengine/Files/ISN/130577/ipublicationdocument_singledocument/46de59ce-331d-49ea-8295-8fec07d71f1f/en/Interculturalism+e-version.pdf, accessed 7 November 2012.

²⁷ Zentralrat der Muslime wird an der Islamkonferenz des Innenministeriums nicht teilnehmen, <http://islam.de/15832.php>, accessed 7 November 2012.

²⁸ Vodafone-Foundation: Verzerrte Bilder? Muslime in der europäischen Medienlandschaft, <http://vodafone-stiftung.de/scripts/getdata.php?DOWNLOAD=YES&id=16678>, accessed 7 November 2012.

integration. The education system provides individuals with the skills and qualifications for participation in the labour market. It also plays a formative role in the socialisation of young people by introducing them to the unspoken rules and values of society²⁹ and is the first public institution that young Muslims have contact with. The ways in which schools respond to and respect the needs of Muslim pupils is therefore likely to shape their feelings of acceptance and belonging to the wider German society. Schools also contribute to integration by providing opportunities for interaction between pupils, parents and teachers of different ethnic and religious backgrounds.

The educational policies in Germany in general can be classified as following an assimilationist approach, where 'otherness' should disappear³⁰. However, a shift to hybrid-intercultural policy approach, where otherness is not over-emphasised can be noticed on a local level e.g. in Berlin and Hamburg. There is a high degree of segregation in the school system and emphasis is on learning the national language in many schools. However, some schools have shifted to a hybrid-intercultural policy, providing national language and home language tuition³¹.

The shift of Germany's economic structure away from the industrial sector, together with the new labour immigration from Western and Eastern Europe has increased tension around issue of employment. De-industrialisation had a disproportionate impact on those communities that came as labour migrants. Developing the skills and knowledge required to securing employment in new sectors was especially difficult for immigrants recruited to Germany as unskilled workers and often came from Muslim countries, although religion did not play a role at the time.

Like in most other fields, the policy in this field can be classified in general as assimilationist, where it is targeted to the disappearance of otherness. There is a general policy which claims that there is equal access to social services. In Hamburg and Berlin, for example, in some aspects a slight shift to a more hybrid-intercultural policy, where otherness should not be over-emphasised, is noticeable. Sensitivity to the needs of migrants and Muslims is developing there.

²⁹ Werner Schiffauer, Staat-Schule-Ethnizität (State-School-Ethnicity), Frank Gesemann (Hg./ed.), Migration und Integration in Berlin. Wissenschaftliche Analysen und politische Perspektiven, (Migration and Integration in Berlin. Scientific Analyses and Political Perspectives.), Opladen: Leske + Budrich, 2001, (hereafter, Schiffauer, State-School-Ethnicity) pp. 233–250.

³⁰ Nina Mühe and Andreas Hieronymus: Has multiculturalism completely failed in Germany? In: Emerson, Michael: Interculturalism: Europe and its Muslims in Search of Sound Societal Models, 2011, Centre for European Policy Studies http://hawk.ethz.ch/serviceengine/Files/ISN/130577/ipublicationdocument_singledocument/46de59ce-331d-49ea-8295-8fec07d71f1f/en/Interculturalism+e-version.pdf, accessed 7 November 2012.

³¹ Ibidem.

6. Access and full participation in all collective areas of society

The headscarf is still one of the main barriers in accessing qualified jobs for women. Recruiters often reject women wearing a headscarf and are generally prejudiced against them. On the other hand Germany implemented the EU Blue Card. Highly qualified human resources are welcome in backing up the German economy. However, in times of individual hardship or unemployment, solidarity is withdrawn and they are kept outside the national welfare system. Solidarity is not extended to the 'newcomers on probation'. At present Germany goes to great efforts to attract talented immigrants while at the same time wasting talent within minority groups through discriminatory practices. One possible solution is the use of anonymous job application procedures.

Muslim pupils, especially those who openly practise their religion, are exposed to multiple forms of discrimination in the education sector. Teachers often assume that Muslim girls have been forced to wear a headscarf.

The second Turkish generation is in a worse situation than the equivalent generation of the former Yugoslavia in terms of housing. There are reports that in districts with a high percentage of migrants, rents have been increased significantly more than the rent of their German neighbours.

In comparison to other areas, the health sector seems to have fewer barriers for migrants. This might be due to the fact that in hospitals, diversity is systematically present. Migrants and non-migrants are represented on all sides of the health system. However, levels of health among older migrants and migrant boys are not as high as those among their German peers.

One key challenge is to make discrimination in access to goods and services visible. NGOs have begun to make efforts to increase the visibility of discrimination against ethnic minorities and the Muslim community in access to leisure and recreational facilities. On one instance, an allotment club planned a 'migrant quota', but was stopped by public resistance. The Federal Constitutional Court decided to increase social welfare benefits for asylum-seekers, based on the same reasoning as that used in a case concerning unemployed German nationals. However, Germany now refuses unemployment benefits for non-German EU-citizens. This has meant a dramatic hardening of economic circumstances for many EU citizens who had received welfare benefits

After six years of negotiations a treaty between the City of Hamburg and Muslims in Hamburg has been signed and may develop to a 'good practice' of governments. Already the new government in Schleswig-Holstein, where the Danish minority together with the Greens and the Social Democrats have formed a coalition, have indicated that they may follow suit.

Since the Sarrazin debate in 2009 the social acceptability of Islamophobia has reached such a degree that many people overtly show their aversion towards

Islam. In the context of the NSU (national-socialist underground) murders of 10 migrant shop-keepers, the media have been forced to reflect critically on the way in which the police, the public and the media themselves handled and processed information. Journalists often 'thoughtlessly' followed the narrow path of interpretation of evidence indicated by the investigators instead of developing their own, critical approach.

The ruling of a court legitimised the method of 'racial profiling' as a legal (forensic) method. This led to outrage amongst human rights organisations and minority associations. Complaints about racial discrimination are often countered by police officers by taking legal action against the victim. Most of the time the proceedings end in favour of the police officers and the victims are sentenced for insulting an official. The logic of surveillance is transferred to other fields, like the labour market, where employers are called to observe their Muslim employees and report suspicious information to the police.

For the first time, statistics on the numbers of attacks on mosques in Germany are available. Anti-Muslim criminal acts are not registered separately under the category of violence against Muslims. Officials do not see any connection between offences against Muslim institutions and the increase of Islamophobic trends. A serial murder committed by the 'National Socialist Underground' drastically revealed the consequence of this narrow way of dealing with racist violence. While the Muslim threat is exaggerated, fascist terror was not taken seriously. The consequences to date have included the resignation of leading personnel in the security forces and the strong reaction by some families of the victims and by NGOs.

There is a disparity between the increased focus on the radicalisation of Muslims, the neglect of right-wing extremism and their potential to spread terror in minority communities and the financial cuts in the work of the anti-discrimination body.

6.1 Racism and related discrimination in employment

6.1.1 Manifestations of racism and related discrimination in employment

Labour market statistics are mainly only available for the old categories of "foreigners" and "Germans": For March 2012 the unemployment statistics included 19 per cent of persons with migration background, among them 8.9 per cent foreigners. The unemployment rate among persons of migration background is said to be 12 per cent. The unemployment rate among foreigners is more than double (15 per cent) in comparison to 6.5 per cent among Germans. In East Germany 24 per cent of foreigners are unemployed compared to 11.1 per cent of East Germans³².

³² Analyse des Arbeitsmarktes für Ausländer, März 2012, <http://statistik.arbeitsagentur.de/Statischer-Content/Statistische-Analysen/Analytikreports/Zentrale-Analytikreports/Monatliche-Analytikreports/Generische->

The Headscarf – discrimination against women in the workplace:

The Muslim communities in Germany have highlighted the difficulties faced by Muslim women in seeking employment. The headscarf as a trigger for discrimination in the workplace and in recruitment has been the subject of much debate. Many Muslim women feel torn between their religious obligation to wear a headscarf and a desire to avoid leaving themselves vulnerable to discrimination by wearing a headscarf at interviews.^{33,34} This raises questions about choices of how to live a Muslim life in Germany, with the effect that women, who doubt they have a chance of finding a job, as a teacher, for example, whilst wearing a headscarf, question the usefulness of studying at all.³⁵ There is a lack of available research on this issue.

Instead of giving in to pressure not to wear a headscarf, Muslim communities have found other ways of responding to such discrimination. The Anti-Discrimination Network Berlin (ADNB) supported a young Muslim woman, whose application for a job as student research assistant was rejected with an official explanatory statement that she had been rejected because she wore a headscarf. With the help of the ADNB she took the employer to court. In a conciliatory hearing (Güteverhandlung) the woman was granted three months' salary, which is the maximum compensation one can claim according to the General Equal Treatment Act (AGG).³⁶ Online forums have been established to advertise vacancies in companies which accommodate the specific needs of the Muslim community. See section 6.1.2 for more details.

Unfortunately, not all responses to discrimination have been positive. A guidebook called '*How to successfully make an application with migration background*' advises applicants to downplay their ethnic or religious identities in order to avoid discrimination³⁷. In consideration of the position of the 'German Federal Labour Market Authority' (Bundesagentur der Arbeit) on this topic, the authors actually advise Muslim readers to take off their headscarf when applying for a job. The booklet explains that entrepreneurs usually perceive the headscarf as a symbol for the applicant's oppression by her family and allegedly fear that she could be forced to marry and thereby call off her job or apprenticeship. The booklet furthermore advises readers who don't want to take off their headscarf to look for a job within the public health sector,

[Publikationen/Analyse-Arbeitsmarkt-Auslaender/Analyse-Arbeitsmarkt-Auslaender-201203.pdf](#), accessed 10 November 2012

³³Urbia.de, *Ich finde keine Arbeit mit Kopftuch*, <http://www.urbia.de/archiv/forum/th-3463948/Ich-finde-keine-Arbeit-mit-Kopftuch.html>, accessed 23 August 2012.

³⁴Islam nach Quran und Sunnah, *Bewerbung mit Foto ohne Kopftuch – Bewerbungsgespräch?*, <http://www.ahlu-sunnah.com/threads/31263-Bewerbung-mit-Foto-ohne-Kopftuch-Vorstellungsgespr%C3%A4c>, accessed 23 August 2012.

³⁵Studis online. *Studieren mit Kopftuch?*, <http://www.studis-online.de/Fragen-Brett/read.php?3,510114,511072>, accessed 23 August 2012.

³⁶Netzwerk gegen Diskriminierung von Muslimen, *Und du?*, http://netzwerkdiskriminierung.inssan.de/Broschuere_AntiDiskriminierung.pdf, p. 16-19, accessed 23 August 2012.

³⁷Jasmin Hagman and Christoph Hagman, *Erfolgreich bewerben mit Migrationshintergrund*, (Freiburg, 2012).

since the great lack of employees there will force entrepreneurs to hire even women who wear a headscarf.³⁸

While discrimination in the labour market encountered by women who wear a headscarf is frequently discussed within the Muslim community, there has been little political debate on this issue. In the context of the German Islam Conference (Deutsche Islamkonferenz) a task group (called 'Improved integration of Muslims into the labour market') has published another booklet which discusses various aspects concerning the access of Muslims to the labour market.³⁹ Since the report pays little attention to discrimination and racism as barriers for access to the labour market, the headscarf as significant trigger for discrimination is barely mentioned. It is even suggested that problems of access to the labour market for Muslims are '*seldom based on racist resentments of the entrepreneur*' but rather caused by '*generalizing presumptions, which are rapidly applied to singular Muslim applicants, wrongly imputing to them a lesser occupational aptitude*'.⁴⁰ The task group notes the difficulties for Muslim women to access the labour market because of the prohibition to wear a headscarf (Muslim teachers and government employees) in several Federal States, but does not criticise this position or suggest any proposals to improve the situation.

Enactment of a new residence permit in Germany - the EU Blue Card:

The German government has enacted a new law to facilitate the immigration of highly qualified foreign nationals. It is based on the EU Council Directive 2009/50/EC of 25 May 2009.⁴¹ It allows entry and residence of third-country nationals who are employed in highly skilled jobs and is part of the governmental strategy to address the significant shortage of skilled labour in Germany.⁴² The new residence permit, called Blue Card EU⁴³ (Blaue Karte EU) is available for any non-EU citizen holding a university degree and a contract of employment with a gross annual salary of at least € 44.800, or € 34.944 for so-called short term occupations (scientists, mathematicians, engineers, doctors and IT professionals). This lowered the 'entrance fee' for Germany, which in the past was set at a minimum income of €66 000.⁴⁴

³⁸ Ibidem, p. 32-33.

³⁹ Broschüre "Bessere Integration von Musliminnen und Muslimen in den Arbeitsmarkt", <http://www.deutsche-islam-konferenz.de/SubSites/DIK/DE/BisherigeErgebnisse/PublikationPGAArbeitsmarkt/publikation-arbeitsmarkt-node.html>, accessed 10 November 2012.

⁴⁰ Ibidem, p. 16.

⁴¹ COUNCIL DIRECTIVE 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>, accessed 10 November 2012.

⁴² Council Directive 2009/50/EC, http://europa.eu/legislation_summaries/internal_market/living_and_working_in_the_internal_market/114573_en.htm, accessed 1 August 2012.

⁴³ § 19a new Aufenthaltsgesetz (residence act) /§§ 3a, 41a Beschäftigungsverordnung

⁴⁴ EU Blue Card/Network Living and Working in Germany, <http://www.bluecard-eu.de/eu-blue-card-germany/>, accessed 1 August 2012.

Usually any non-EU citizen planning to fill a job or applying for a work permit in Germany has to go through a procedure called 'priority examination' (Vorrangprüfung). The Employment Agency examines whether applicants who have priority (e.g. German citizens, EU citizens, citizens from EEA states, citizens of Switzerland, citizens of new EU member states with work permit, and third-state nationals with an unrestricted work permit) are available for a specific job. This 'priority examination' is not applied to holders of the Blue Card EU.

The Blue Card is not a permanent residence permit (Niederlassungserlaubnis), but provides comparable rights such as residence and work permit for partner and children. Holders of a Blue Card can apply for a residence permit (Niederlassungserlaubnis) after three years of working for the stipulated minimum salary or, if their knowledge of the German language is proven to be at a certain level, after two years. Holders of a Blue Card EU have no access to social welfare benefits, although harmonisation with respect to vocational education and social welfare benefits is a political objective.⁴⁵ Holders of a Blue Card lose their residence permit if they lose their job within the first three years and don't find a new one (of course based on the same requirement of minimum income) within three months.⁴⁶

During the political discussion on the implementation of the Blue Card in Germany the heads of the governing political parties – the Liberals (FDP) and the Conservatives (CDU/CSU) - stated: *'Those who want to achieve something here [in Germany] are welcome. Unwanted immigration into the welfare system is inhibited just by the fact that the residence permit (...) expires automatically within the first three years if the holder of the card makes use of social welfare benefits.'*⁴⁷ Such comments make it clear that successful migrants are welcome as highly qualified human resources, supporting the German economy, but in times of hardship or unemployment they must be kept away from the national welfare system. Solidarity is not extended to newcomers on probation.

The Confederation of German Trade Unions (Deutscher Gewerkschaftsbund, DGB) described the reduction of the minimum income as a 'symbolic policy', referring to the previous reduction in 2010, when a similar reform did not have the expected attracting effect on foreign experts. Furthermore, they called for a fundamental revision of the labour immigrant policy and the introduction of a points-based system of admission, which was already proposed in the

⁴⁵ Network Living and Working Germany, *Blaue Karte EU Deutschland*, <http://www.bluecard-eu.de/blaue-karte-eu-deutschland/>, accessed 13 August 2012.

⁴⁶ Bundeszentrale für politische Bildung, *Deutschland: Einführung der 'EU Blue Card' für Hochqualifizierte*, <http://www.bpb.de/gesellschaft/migration/dossier-migration/56824/eu-blue-card-fuer-hochqualifizierte>, accessed 13 August 2012.

⁴⁷ Migazin, *Schwarz-Gelb einigt sich auf Blue-Card, zeigt aber die Rote Karte*, <http://www.migazin.de/2011/11/08/auschlaendische-hochqualifizierte-schwarz-gelb-einigt-sich-auf-blue-card-zeigt-aber-die-rote-karte/>, accessed 13 August 2012. CDU/CSU. Fraktion im Deutschen Bundestag, *Deutschland heißt hochqualifizierte Arbeitskräfte willkommen*, http://www.cducusu.de/Titel_deutschland_heisst_hochqualifizierte_arbeitskraefte_willkommen/TabID_6/SubTabID_7/InhaltTypID_1/InhaltID_20234/inhalte.aspx, accessed 7 August 2012.

beginning of the most recent immigration debate. 'The intention must be to permit qualified employees with a university degree or a vocational education in and provide for easy integration a permanent residence permit for Germany.'⁴⁸

The Left Party (former communists and left social democrats) strongly criticised the concept of the Blue Card EU, calling it 'Nützlichkeitsrassismus' ('utility-racism'), since it is part of a migration policy concept that rates migrants according to their economic value. Furthermore, they highlighted drastic reductions in the average wage, since the minimum income of € 44.800/€ 34.944 determined in the directive of Blue Card EU is way below the average professional starting salaries of € 48.000 in Germany.⁴⁹

The German Institute for Economic Research (Deutsches Institut für Wirtschaftsforschung) criticised the fact that the evaluation criteria of the minimum salaries for the Blue Card is not transparent and stated that the minimum of € 44 800 or of € 34 944 respectively were too low relative to the annual average gross income in Germany.⁵⁰

6.1.2 Facilitating factors or protective measures to combat employment challenges

An online job-forum has been established advertising vacancies, where the workplace respects the requirements of Islam. The founder of the website 'www.muslimjobs.de' (the best known of such websites in Germany) has explained that many visitors on his website are looking for a working environment that permits them to wear a headscarf, pray five times per day and attend Friday-prayer etc.⁵¹ Furthermore the website aims to advertise jobs that require 'Islamic knowledge' and to facilitate access to these jobs for Muslims and Non-Muslims.⁵²

Pilot study of the Federal Anti-Discrimination Body (ADS): Anonymous job applications: In September 2010 the Federal Anti-Discrimination Body (Anti-Diskriminierungsstelle, ADS) tested a new strategy to overcome discrimination in the labour market. Eight major companies in Germany have

⁴⁸DGB, *Blue-Card: Statt Gesamtkonzept wieder nur undurchdachte Einzelmaßnahmen*, <http://www.dgb.de/presse/++co++ff4a805a-20e1-11e1-5115-00188b4dc422>, accessed 1 August 2012.

⁴⁹Migazin, *Blue-Card. Bundesregierung ändert Regelwerk, Opposition und Fachwelt sind empört*, <http://www.migazin.de/2012/03/29/bundesregierung-andert-regelwerk-opposition-und-fachwelt-sind-emport/>, accessed 1 August 2012.

⁵⁰Deutsches Institut für Wirtschaftsforschung Berlin, *DIW Berlin kritisiert Pläne der Bundesregierung zur Umsetzung der Blue-Card-Richtlinie der EU*, http://www.diw.de/de/diw_01.c.398019.de/themen_nachrichten/diw_berlin_kritisiert_plaene_der_bundesregierung_zur_umsetzung_der_blue_card_richtlinie_der_eu.html, accessed 13 August 2012.

⁵¹DIE ZEIT, *Das Gegenteil von Diskriminierung*, <http://www.zeit.de/2012/23/C-Interview-Beruf>, accessed 6 August 2012.

⁵²Muslim Jobs. Die Jobbörse für neue Perspektiven, <http://www.muslimjobs.de/>, accessed 23 August 2012.

participated in a 12 month pilot project, recruiting staff on the basis of anonymous applications.

Application forms were revised to remove criteria such as name, place of birth, nationality, age, gender, family-status, disability and picture.⁵³ Evaluation of the project revealed that a significantly higher number of women and migrants were invited to interview when the application procedure was anonymous.⁵⁴

Feedback from the Confederation of German Employers (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA) on the anonymous application procedure was negative. They used the same arguments as those aired in the debate surrounding the introduction of the Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) in 2006.⁵⁵ In spite of the results of the study they didn't see any positive impact in terms of reducing discrimination and they objected to the increased administrative and financial cost for businesses which use anonymous application procedures. They denied the need for such anti-discriminatory measures pointing to already existing diversity-strategies in businesses.⁵⁶

NGOs have welcomed the study. The Turkish Community in Germany (Türkische Gemeinde in Deutschland, TGD) strongly supported the initiative, adding that anti-discrimination measures should be added at all stages of the recruitment process. They recommend diversity awareness training for senior management and human resources personnel, exchanges with organisations which support victims of discrimination, the establishment of a body for monitoring diversity in companies and in government departments and on-going review of the fairness of application procedures.⁵⁷ The Turkish Community of Baden-Württemberg sees anonymous applications as a '*reasonable tool to promote equal treatment of migrants in working life*' and calls for its implementation especially in the public sector.⁵⁸

⁵³For detailed description of the pilot project see Shadow Report 2010: [http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/10.%20Germany%20\(2\).pdf](http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/10.%20Germany%20(2).pdf), accessed 31 July 2012.

⁵⁴Antidiskriminierungsstelle des Bundes, *Kurzfassung des Abschlussberichts*, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Kurzfassung-Abschlussbericht-anonymisierte-Bewerbungsverfahren-20120417.pdf?__blob=publicationFile (short version) accessed 31 July 2012.

Antidiskriminierungsstelle des Bundes, *Abschlussbericht des Pilotprojekts*, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Abschlussbericht-anonymisierte-bewerbungsverfahren-20120417.pdf?__blob=publicationFile (long version), accessed on 6 August 2012.

⁵⁵BDA, *Allgemeines Gleichbehandlungsgesetz verursacht hohe Kosten*, http://www.bda-online.de/www/arbeitgeber.nsf/id/DE_Antidiskriminierung, accessed 31 July 2012.

⁵⁶BDA, Arbeitgeber aktuell, [http://www.bda-online.de/www/arbeitgeber.nsf/res/C10FF60C4496503FC1257A28002FEA75/\\$file/Arbeitgeber_aktuell_3_2012.pdf](http://www.bda-online.de/www/arbeitgeber.nsf/res/C10FF60C4496503FC1257A28002FEA75/$file/Arbeitgeber_aktuell_3_2012.pdf), accessed 31 July 2012.

⁵⁷Türkische Gemeinde in Deutschland, *Ein Vorstoß, der zu unterstützen ist*, <http://www.tgd.de/2010/08/04/ein-vorstoß-der-zu-unterstützen-ist/>, accessed 31 July 2012.

⁵⁸Türkische Gemeinde in Baden-Württemberg, *TGBW fordert Einführung von anonymisierten Bewerbungen*, <http://www.tgbw.de/PM%20anonymisierten%20Bewerbungen.pdf>, accessed 13 August 2012.

The importance of diversity management has also been stressed by labour unions such as the Industrial Union for Mining, Chemistry and Energy (Industriegewerkschaft Bergbau Chemie Energie, IGBCE). They emphasised the importance of qualifications rather than appearance, religious belief, gender etc. and organised a survey of existing diversity-strategies within their sector in autumn 2012. Mr. Pollice of the IGBCE considers the labour council and the labour legislation to be one of the strongholds of practical anti-discrimination work.⁵⁹

The Federal Anti-discrimination Body (ADS) and the various government commissaries (Beauftragten der Bundesregierung und des Deutschen Bundestages) have also published a report on multiple discrimination. '*The access to the labour market for Muslim women wearing a headscarf can be made difficult because of multiple features such as migration background, gender and Islamic belief.*'⁶⁰ The report furthermore acknowledges that a majority of recruiters are prejudiced against women who wear headscarves and are reluctant to hire them.⁶¹ The report also refers to the discussion on the headscarf within the public service, which has been discussed in detail in previous Shadow Reports.⁶² The report notes two cases in which courts decided in favour of Muslim women. They have been protected from being dismissed due to their wearing of a headscarf and from being forced to remove their headscarf during working hours.⁶³

6.2 Racism and related discrimination in education

6.2.1 Manifestations of racism and related discrimination in education

Muslim pupils, especially those who openly practise their religion, are exposed to multiple forms of discrimination.

An enquiry by the '*Netzwerk gegen Diskriminierung von Muslimen*' (Network against Discrimination of Muslims) revealed that Muslim pupils encounter discrimination from teachers, classmates and by the school administration. In the course of 60 meetings with Muslim communities and associations in 2010 and 2011, the network collected and documented 257 discrimination cases⁶⁴.

⁵⁹ Interview with Giovanni Pollice, (IGBCE department head of the administrative center) on 26 April 2012.

⁶⁰ Antidiskriminierungsstelle des Bundes, *Gemeinsamer Bericht der Antidiskriminierungsstelle des Bundes und der in ihrem Zuständigkeitsbereich betroffenen Beauftragten der Bundesregierung und des Deutschen Bundestages*, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/gemeinsamer_bericht_ads_.pdf?__blob=publicationFile, p. 67, accessed 24 August 2012.

⁶¹ Ibid., p. 66.

⁶² Shadow Report 2009/2010, <http://cms.horus.be/files/99935/MediaArchive/Germany.pdf>, accessed 23 August 2012.

⁶³ Antidiskriminierungsstelle des Bundes, *Gemeinsamer Bericht der Antidiskriminierungsstelle des Bundes und der in ihrem Zuständigkeitsbereich betroffenen Beauftragten der Bundesregierung und des Deutschen Bundestages*, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/gemeinsamer_bericht_ads_.pdf?__blob=publicationFile, p. 69, accessed 24 August 2012.

⁶⁴ Netzwerk gegen Diskriminierung von Muslimen, Und Du?, http://www.inssan.de/AntiDisCMS/Broschuere_AntiDiskriminierung.pdf, accessed 24 August 2012, p. 27.

The enquiry shows that discrimination against Muslims and anti-Muslim racism are serious problems in education: One third of the documented cases deal with discrimination in this area.⁶⁵

The documented cases reveal discrimination and Islamophobia at every at many levels within the school structure including insults, defamation (e.g. depreciatory stereotypes of Muslims) and vilification, exclusion and deprivation of rights, threats of bad marks and rude and overt criticism of Muslim parents.

On one occasion a teacher reacted aggressively when some primary-school children did not want to eat from the offered gummy bears (because of the containing gelatine). This is a prime example of a perception held by many teachers that the practise of Islam disturbs the regular everyday life in school.⁶⁶ According to researcher Yasemin Karakaşoğlu, many teachers expect that Muslims should adapt to the general education – which they perceive as universal - provided by schools.⁶⁷

Two further examples show that some teachers and head teachers are willing to enforce this expectation by repression and sanctions: a group of Muslim parents asked for permission to provide their children with halal meat for a barbecue during a school outing. The head teacher of the catholic public primary-school refused this in a letter addressed to all parents of the classes concerned. She wrote: *'Non-Muslim pupils already have to show considerable tolerance by abstaining from eating pork. If Muslim children are not allowed to show some intercultural tolerance as well, they should not be enrolled in a catholic school.'*⁶⁸ A young Muslim girl reported that she was forbidden to wear her usual headscarf during a sports' lesson, but was forced to wear a headscarf that covered only her hair but not her neck. The teacher threatened her with giving her a bad mark if she ignored this instruction.⁶⁹ Karakaşoğlu states that many teachers use sanctions (like those reported above) to counter attempts by minorities pupils to question some of the values and norms which members of the majority perceive as being universal⁷⁰.

Other documented cases highlighted by the Berlin based "Network Against Discrimination of Muslims" show that girls wearing a headscarf are exposed to

⁶⁵ Ibid., p. 29.

⁶⁶ Ibid., pp. 30-31.

⁶⁷ Karakaşoğlu, Yasemin, 'Islam als Störfaktor in der Schule' in Thorsten Gerald Schneiders , ed., *Islamfeindlichkeit – Wenn die Grenzen der Kritik verschwimmen* (Wiesbaden: VS Verlag für Sozialwissenschaften, 2009), p. 295.

⁶⁸ Antidiskriminierungsverband Deutschland (advd), *Diskriminierungsfälle aus der Beratungspraxis nichtstaatlicher Antidiskriminierungsbüros des Antidiskriminierungsverband Deutschland* (advd), <http://www.antidiskriminierung.org/files/Fallsammlung%20advd%202012.pdf>, accessed 24 August 2012, p. 15.

⁶⁹ Netzwerk gegen Diskriminierung von Muslimen, *Und Du?*, http://netzwerkdiskriminierung.inssan.de/Broschuere_AntiDiskriminierung.pdf, accessed 6 November 2012, p.30.

⁷⁰ Karakaşoğlu, Yasemin, 'Islam als Störfaktor in der Schule' in Thorsten Gerald Schneiders , ed., *Islamfeindlichkeit – Wenn die Grenzen der Kritik verschwimmen* (Wiesbaden: VS Verlag für Sozialwissenschaften, 2009), p. 295.

insults and vilification. One girl reported that when asking her teacher for permission to open a window the teacher answered '*Take your headscarf off, if you feel warm.*' Another girl reported that two classmates who could not answer a teacher's question due to their inattentiveness received this sharp comment: '*For sure you cannot follow the lesson with this headscarf over your ears.*'⁷¹

Such behaviour towards girls wearing headscarves is typical of the attitude of many teachers, according to the 'Network against Discrimination of Muslims'. These teachers feel a duty to help schools to get rid of Muslim girls wearing a headscarf.⁷² In one documented case, a teacher invited the pupils in the class to decide whether a Muslim pupil should be allowed to wear her headscarf or not.⁷³

Teachers assume that Muslim girls are forced to wear a headscarf. Altogether Muslim pupils are exposed to depreciatory stereotypes like the following expressed by teachers: '*For Turks honour killing is normal*', '*It's normal for you people to beat women*', '*If you commit a suicide attack you people get 99 virgins*'.⁷⁴ The Islamic faith is perceived as an expression of irrationality, archaic patriarchy, violence and outdated attitudes. Many teachers therefore see religious Muslims as opposing their educational objectives⁷⁵.

Every two years since 2006, the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK) and the Federal Ministry of Education and Research (BMBF) produce a national education report. Amongst other things the report provides data on problems and developments concerning equality of education for minority groups and immigrants. The 2012 report reveals structural disadvantages for minority groups and immigrants such as an extended school attendance (due to the retaking of one or several grades of school) and lower academic performance. This was discussed in more detail in previous reports. The number of pupils with extended school attendance is twice as high amongst pupils with a migrant background⁷⁶. Concerning literacy, the number of pupils with a migrant background who only achieve the lowest competency level is more than twice as high as amongst pupils without a migrant background.

6.2.2 Facilitating factors or protective measures to combat education challenges

⁷¹ Netzwerk gegen Diskriminierung von Muslimen, Und Du?, http://www.inssan.de/AntiDisCMS/Broschuere_AntiDiskriminierung.pdf, accessed 24 August 2012, p. 30.

⁷² Ibid., p. 31.

⁷³ Ibid., p. 30.

⁷⁴ Ibid., pp. 30-31.

⁷⁵ Ibid., p. 32.

⁷⁶ Autorengruppe Bildungsberichterstattung, *Bildung in Deutschland 2012*, http://www.bildungsbericht.de/daten2012/bb_2012.pdf, accessed 25 August 2012, pp. 75-76.

It is clear, that not all teachers and schools engage in such discriminatory practices. While debates around promoting intercultural dialogue in schools are taking place, it is not clear to what extent pupils from ethnic and religious minorities have been involved in such dialogue. Many such discussions fail to consider intersectional forms of discrimination. Generally it is either looked at ethnic discrimination, by homogenizing the diverse group of migrants to a genderless mass or by looking at gender issues without taking into account the intersection with ethnic characteristics.

6.3 Racism and related discrimination in housing

6.3.1 Manifestations of racism and related discrimination in housing

A study on residential segregation in Berlin concluded that the 'second Turkish generation' (the children of the Gastarbeiter-generation) are in a worse socio-economic situation than the corresponding generation from the former Yugoslavia in terms of housing.⁷⁷ Compared to a control group, however, both were disadvantaged. The education and employment prospects influence an individual's social-residential circumstances to a certain degree. While, these results were established on the basis of 'subjective' perceptions of the interviewees, disparities decreased when they were compared to the 'hard facts' taken from data of council homes. However, as the German property market is dominated by private owners, data concerning council homes is not representative of the market. Interviewees who live in 'better' neighbourhoods report a higher proportion of 'their own' ethnicity living in the area, which confirms the 'subjective' perception.⁷⁸

In Berlin, an NGO recently reported that in certain districts, migrants pay significantly higher rent than their German neighbours. They also noted considerable disparity in the penalty paid by tenants who leave a property before the end of a lease. In addition, many private property managers displayed blatantly racist attitudes when advertising properties, such as this example from Berlin-Neukölln when a flat was advertised with the words: '*Salted pork leg instead of kebab.*'⁷⁹

Instead of demonstrating their racist attitude in such obvious ways, some landlords simply don't invite people whose name is 'not German' to view properties. As documented by the ADNB of the TBB (Anti-Discrimination networking of the Turkish Union Berlin-Brandenburg) a man with a Turkish name, responding via telephone to a flat offer from the Internet was told that

⁷⁷ Sürig, I./Wilmes, M: Die Integration der zweiten Generation in Deutschland. Ergebnisse der TIES-Studie zur türkischen und jugoslawischen Einwanderung, In: Vorstand des Instituts für Migrationsforschung und Interkulturelle Studien IMIS der Universität Osnabrück (ed.), IMIS-BEITRÄGE, 39/2011 (Osnabrück Nov. 2011), p. 109 – 140, Also available at <http://www.imis.uni-osnabrueck.de/pdf/files/imis39.pdf>, accessed 20 August 2012.

⁷⁸ Ibidem

⁷⁹ Nachrichten aus Nord-Neukölln, Rassismus und der Wohnungsmarkt, <http://nk44.blogspot.de/2012/03/10/rassismus-und-der-wohnungsmarkt/>, accessed 20 August 2012.

the flat had already been rented to somebody. Since the man suspected that he was told so because of his Turkish name, he asked a colleague to recall the property management using an invented German name. He was immediately invited to view the property. The man contacted ADNB, which investigated further. They arranged for two testing persons (one with a German name and one with a Turkish name) to call within a period of ten minutes expressing their interest for the flat. Again, the caller with a Turkish name was informed that the flat was no longer available while the caller with a German name got immediately offered a viewing appointment. The ADNB of the TBB thus wrote a letter to the property management, asserting the man's claim for financial compensation according to the AGG (Allgemeines Gleichbehandlungsgesetz/ General Equal Treatment Act). Since the management didn't respond they sued the landlord for discrimination. The lawyer responsible for the case was informed that the flat had subsequently been rented to people with a migration background. The complainant considered the risk of losing the case to be too high and decided not to continue the lawsuit.⁸⁰

6.3.2 Facilitating factors or protective measures to combat housing challenges

The Planerladen e.V. in cooperation with the Council for Integration in Dortmund (Integrationsrat Dortmund), with the support of a tenants' association (Mieterverein Dortmund und Umgebung e.V.) has initiated a campaign to set up a pool of landlords, property owners and letting agencies to ensure equality on the housing market. The project includes a certificate for 'origin-independent equal treatment in letting' of housing spaces.⁸¹

6.4 Racism and related discrimination in health

6.4.1 Manifestations of racism and related discrimination in health

In comparison with other areas of collective society, there appear to be few barriers for migrants in the healthcare sector, although there are no statistical indicators available. But fewer incidents are reported in this field.⁸² This may be due to the fact that in hospitals both migrants and non-migrants are fairly represented in the composition of the staff and the patients. The specific

⁸⁰ advd, Diskriminierungsfälle aus der Beratungspraxis nichtstaatlicher Antidiskriminierungsbüros des Antidiskriminierungsverband Deutschland, <http://www.antidiskriminierung.org/files/Fallsammlung%20advd%202012.pdf>, accessed 28 August 2012.

⁸¹ Siegel "Herkunftsunabhängige Gleichbehandlung bei Vermietung" von Wohnraum, http://www.integrationsprojekt.net/siegel_gleichbehandlung.html, accessed 10 November 2012.

⁸² Fallsammlung 6 Jahre AGG. Einblick in Beratungsalltag der Mitgliedsorganisationen, <http://www.antidiskriminierung.org/files/Fallsammlung%20advd%202012.pdf>, accessed 10 November 2012.

problems faced by the Muslim community depend on the area in which they live. While the healthcare sector is relatively centralised, local institutions do still have considerable influence on the ways in which migrants and Muslims are treated. Problems such as the lack of gender-sensitive health care or disregard of dietary requirements are still reported for example.

The Government Commissioner for Migration, Refugees and Integration coordinates a working group on 'Migration and Public Health'. The working group sees itself as a mediator between health oriented institutions on a community, Länder and federal level. The working group has 50 members.⁸³ The 'Second Report on Integration Indicators' of the German government provides some information about the health of migrants in Germany. Older migrants encounter slightly more health problems than non-migrants in the same age group (over 65). New born children of recently arrived immigrants have lower rates of vaccination. Children of migrants have higher rates of obesity and related diseases. Boys from migrant backgrounds have lower levels of oral hygiene than migrant girls and non-migrant children.⁸⁴ Those results indicate that certain migrant groups face higher health risks than the general population.

In 2011, more than 8 per cent of care-dependents in Germany were migrants.⁸⁵ A migrant background can be a potential factor influencing specific medical conditions and the probability of suffering from conditions such as chronic illnesses due to difficult working conditions. It might also limit access to appropriate treatment. Communication problems are a significant obstacle to good medical care. In addition, gender-specific treatment (whereby patients are treated by healthcare professionals of the same sex) is highly relevant.

Migrant workers, particularly those of Turkish origin, are more likely to have occupational accidents.⁸⁶ One reason for this seems to be that migrant workers are often employed in high risk jobs. This is often a reason for earlier retirements among migrant workers. On the other hand, the study of the ministry of health about migrant mortality argues, that there is a so-called 'Healthy-Migrant-Effect', which says that usually, young migrants are healthier than their non-migrant counterparts.⁸⁷ Since the majority of migrants arrive at a young age (20 to 35) their health risks are relatively low at the beginning of

⁸³ Der bundesweite Arbeitskreis Migration und öffentliche Gesundheit, <http://www.bundesregierung.de/Content/DE/Artikel/IB/Artikel/Themen/Gesellschaft/Gesundheit/2009-09-01-bundesweiter-arbeitskreis.html>, accessed 4 September 2012.

⁸⁴ Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration, *Zweiter Integrationsindikatorenbericht*, http://www.bundesregierung.de/Content/DE/Anlagen/2012/01/2012-01-12-integrationsbericht.pdf?__blob=publicationFile, accessed 4 September 2012.

⁸⁵ Migazin, Über 8 Prozent aller Pflegebedürftigen sind Migranten, <http://www.migazin.de/2012/03/27/uber-8-prozent-aller-pflegebeduerftigen-sind-migranten/>, accessed 20 August 2012.

⁸⁶ Bundesministerium für Migration und Flüchtlinge, Morbidität und Mortalität von Migranten in Deutschland, http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Forschungsberichte/fb09-mortalitaet.pdf;jsessionid=6E8A27948EBB10DB54A89FF1189E1835.1_cid251?__blob=publicationFile, accessed 20 August 2012.

⁸⁷ Ibidem

their stay. Healthy migrants, who retire, often return to their home countries. This then explains the low number of migrant care-dependents in the German health system.⁸⁸

The strict regulation of some German cemeteries poses a problem to Muslim funeral traditions in certain areas of Germany. Certain rituals and practices are difficult to carry out or are even prohibited. For some, the detached way the dead are treated in German hospitals stands in stark contrast with Muslim ideas of respect towards their dead. In Stuttgart for instance, there only exists one place where Muslims can be buried according to their traditions.⁸⁹ There are only a few designated Muslim cemetery in Germany, e.g. in Berlin or Hamburg. In areas where no Muslims grave fields are available, Muslims are buried as 'differently believing'.⁹⁰

At the beginning of November 2011, the main civil society organisations working in the field of migration/integration and those working in the field of disability met for the first time to hold a conference together on the subject of disabled persons with a migration background. The conference was declared to be the beginning of on-going cooperation to meet the needs of disabled persons with a migration background. Until then, this particular issue had received little attention.⁹¹ The conference ended with a declaration in which the participating organisations made commitments to ensure that their facilities and services become more intercultural. It was also agreed that disabled persons with migration background and their own organisations should be included in this process.⁹²

6.4.2 Facilitating factors or protective measures to combat health inequalities

In the period under review, no progressive developments in the German healthcare sector were reported. As far as we are aware, there are no hospitals with equality ombudsmen. NGOs which actively promote preventative health measures for vulnerable groups have been discussed in previous shadow reports.⁹³

⁸⁸ Ibidem.

⁸⁹ Hemminger, P., Die deutsche Friedhofsordnung macht es Muslimen schwer, ihre Toten zu beerdigen, http://halb10.net/wp-content/uploads/2012/03/bei_uns_daheim.pdf, accessed 20 August 2012.

⁹⁰ Islamische Gemeinde Milli Görüs, *Bestattungswesen*, <http://www.igmg.de/muslime-amp-recht/gebote-und-gebraeuche/bestattungswesen.html>, accessed 20 August 2012.

⁹¹ Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege, Migration und Behinderung - Wege der interkulturellen Öffnung, [http://www.bagfw.de/no_cache/spezielseiten/artikeldetail/article/dokumentation/?tx_ttnews\[backPid\]=1&cHash=b51b74e95d](http://www.bagfw.de/no_cache/spezielseiten/artikeldetail/article/dokumentation/?tx_ttnews[backPid]=1&cHash=b51b74e95d), accessed 26 August 2012.

⁹² Fachverbände für Menschen mit Behinderung/ Verbände der Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege, Gemeinsame Erklärung zur interkulturellen Öffnung und zur kultursensiblen Arbeit für und mit Menschen mit Behinderung und Migrationshintergrund, http://www.bagfw.de/fileadmin/media/Projekte_2012/Gemeinsame_Erkl%C3%A4rung_2012-01-23_final.pdf, accessed 26 August 2012.

⁹³ ENAR Shadowreports, http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN, accessed 10 November 2012.

There is a discussion starting on men's health complementing the discussion on women's health, but little is known about the intersection between gender health risks and treatment and ethnic health risk. The brochure "First German Men's Health Report" gives a first insight into the themes. The health of male migrants is not yet intensively discussed.⁹⁴

⁹⁴ Erste Deutsche Männergesundheitsbericht, <http://www.maennergesundheitsbericht.de/startseite.html>, accessed 10 November 2012.

6.5 Racism and related discrimination in access to goods and services

6.5.1 Manifestations of racism and related discrimination with access to goods and services in the public and private sector

A major challenge in this area is making discrimination in access to goods and services visible. Recent years have seen increased cooperation between the public and private sectors concerning discrimination. One example is the cooperation between banks and Muslim communities in providing financial credits for young Muslim to help set up small businesses.⁹⁵ At present there are no available statistics concerning discrimination against Muslims because statistics relating to religion are not collected. According to the Office for the Implementation of Equal Treatment - BUG (Büro zu Umsetzung von Gleichbehandlung e.V.), many ethnic minorities as well as young members of Muslim communities have experienced discrimination in accessing leisure and recreational facilities, particularly dancing clubs or fitness clubs.⁹⁶

Recently, several cases were reported concerning Muslim women who wanted to join fitness clubs but were told that this was only possible without a headscarf. References to the dress regulations or even security and health aspects were given as reason for this policy. However, other fitness clubs admit members who wear headscarves without any disturbance.⁹⁷

In Cologne, a woman saw an opportunity in this market niche. She opened a fitness club that is exclusively for females to allow Muslim women the opportunity to enjoy sport in a setting that accommodates their religious beliefs. Membership is open to all women.⁹⁸

In another example, a young man was denied entry to a club because of his skin colour in 2010 in Reutlingen/Baden-Württemberg. He brought the case to the Regional Court in Tübingen which on 29 July 2011 held that the rejection of the man constituted discrimination but did not sentence the owner of the club.⁹⁹ The Court justified this decision by saying: *'The complainant has undoubtedly experienced humiliation through the doorman's comment that*

⁹⁵ Antidiskriminierungsstelle des Bundes, Positive Maßnahmen zur Verhinderung oder zum Ausgleich bestehender Nachteile im Sinne des § 5 AGG, p.30, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/expertise_positive_ma%C3%9Fnahmen.pdf?__blob=publicationFile, accessed 10 November 2012.

⁹⁶ Diskriminierung bei Freizeiteinrichtungen, <http://www.bug-ev.org/aktivitaeten/aktuelle-klagen/diskriminierung-bei-freizeiteinrichtungen.html>, accessed 10 November 2012.

⁹⁷ Ruhr-Nachrichten, Muslimin darf nicht mit Kopftuch trainieren, <http://www.ruhrnachrichten.de/lokales/dortmund/Muslimin-darf-nicht-mit-Kopftuch-trainieren;art930,1495258>, accessed 21 August 2012

⁹⁸ Deutschlandfunk, Kopftuch trifft Hantelbank, <http://www.dradio.de/dlf/sendungen/firmen/1753234/>, accessed 21 August 2012.

⁹⁹ Büro zur Umsetzung von Gleichbehandlung e.V., Oberlandesgericht bestätigt Diskriminierung an der Diskotür, http://www.bug-ev.org/fileadmin/user_upload/P_R_E_S_S_E_M_E_L_D_U_N_G_OLG_final.pdf, accessed 21 August 2012.

*there are already enough black people in the club. He didn't need to accept this. However, the impact on the complainant is hardly measurable. In any case, it doesn't exceed the degree of a certain injustice or insult that is part of everybody's daily life.*¹⁰⁰ The complainant, represented by the NGO BOG appealed, demanding that the perpetrator be sentenced. They argued that discrimination would not be stopped if violations of the law were not sanctioned.¹⁰¹ On 12 December 2011 the BUG announced that the club owner was sentenced to pay compensation amounting to the sum of € 900.¹⁰² While members of the BUG consider this sum to be too low compared with the club's daily revenues, they accept that the precedent is a positive step.¹⁰³

Often, victims feel humiliated but do not feel prepared to take action. Six years since the Equal Treatment Act was passed, only four people have gone to court with such complaints.¹⁰⁴ BUG has launched a campaign to raise awareness and encourage victims to come forward with their complaints. The campaign urges both victims and anti-discrimination organisations to become active in cases concerning ethnic discrimination in access to clubs¹⁰⁵ and is supported by many anti-discrimination organisations all over Germany. Within the campaign, BUG offers support and advice to complainants with potential for strategic litigation on the issue of ethnic discrimination in the access to clubs.

The campaign has proven to be successful. Since its beginning, several court cases have been initiated – two in Hannover and four to six in Leipzig¹⁰⁶. In October 2011, the anti-discrimination office in Saxony carried out a study on this issue finding substantial evidence for a clear pattern of discrimination¹⁰⁷. Those clubs which did not take responsibility and change their door policy were taken to a court in Leipzig.¹⁰⁸ This campaign is now spreading to other

¹⁰⁰ Land Court Tübingen, Sentence 10 U 106/11 (12.12.2011), http://lrw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&GerichtAuswahl=OLG+Stuttgart&Art=en&Datum=2011-12&Seite=1&nr=15089&pos=13&anz=21, accessed 21 August 2012

¹⁰¹ Reutlinger General Anzeiger, Zwischen Diskriminierung und Demütigung, <http://www.gea.de/region+reutlingen/reutlingen/zwischen+diskriminierung+und+demuetigung.2338057.htm>, accessed 21 August 2012.

¹⁰² Büro zur Umsetzung von Gleichbehandlung e.V., Oberlandesgericht bestätigt Diskriminierung an der Diskotür, accessed 21 August 2012.

¹⁰³ Reutlinger General Anzeiger, Zwischen Diskriminierung und Demütigung, <http://www.gea.de/region+reutlingen/reutlingen/zwischen+diskriminierung+und+demuetigung.2338057.htm>, accessed 21 August 2012.

¹⁰⁴ Büro zur Umsetzung von Gleichbehandlung e.V., „Du kommst hier nicht rein!“ Kampagne gegen Diskriminierung beim Zugang zu Freizeitangeboten, http://www.bug-ev.org/fileadmin/user_upload/Kampagnen_Info_Betroffene_2.pdf, accessed 21 August 2012.

¹⁰⁵ Büro zur Umsetzung von Gleichbehandlung e.V., Diskriminierung bei Freizeiteinrichtungen, <http://www.bug-ev.org/aktivitaeten/aktuelle-klagen/diskriminierung-bei-freizeiteinrichtungen.html>, accessed 21 August 2012.

¹⁰⁶ Telephone interview with Vera Egenberger from BUG on 31 July 2012.

¹⁰⁷ Antidiskriminierungsbüro Sachsen e.V., Rassistische Einlasskontrollen, http://www.adb-sachsen.de/rassistische_einlasskontrollen.html, accessed 21 August 2012.

¹⁰⁸ Ibid. Pressespiegel Stand: 13.02.2012 vom ADB Leipzig <http://www.adb-sachsen.de/media/documents/1329148555.pdf>, accessed 21 August 2012.

German cities. In Oldenburg, the anti-discrimination-helpdesk of IBIS¹⁰⁹ carried out a workshop with young men from minority communities, who are the primary victims of ethnic discrimination at the club entrances. After going public with the above mentioned case in Reutlingen, some groups of vulnerable communities and other organisations organised a round table on anti-discrimination to campaign for the establishment of an anti-discrimination-helpdesk in Reutlingen.¹¹⁰

Allotment club planned a 'migrant quota': In Hamburg, the board of an allotment club (Kleingartenverein) planned to introduce a 'migrant quota'. The board decided not to do after protests by members of the club and the general public. The media and the President of the Federal Association of Allotment Clubs had followed the developments with high interest, contributing to the pressure on the club.¹¹¹

Federal Constitutional Court (BVerfG) on the 'Asylum seekers benefits act' (AsylbLG): The level of social welfare benefits for asylum seekers in Germany has not been increased since 1993, when the Asylum Seekers Benefit Act (AsylbLG) was enacted. For nearly two decades asylum seekers have been paid € 224 per month as benefits which left €40.90 cash per month. The situation faced by children and young people was even more difficult since they were left with € 4.40 per day.¹¹² During all those years asylum seekers have protested repeatedly against these living conditions, including by means of a hunger strike.¹¹³ Political parties like The Green and The Left, several NGOs such as the Council of Refugees Berlin, ProAsyl and churchly institutions like the Catholic Caritas and the Council of Evangelic Churches have called for the repeal of this degrading law in order to improve the situation of asylum seekers. This was discussed in the Shadow Report 2010 and other previous reports.¹¹⁴ In May 2011 the UN expressed severe criticism of Germany's asylum policies; *'The committee witnessed the asylum seekers' situation and is seriously worried. Asylum seekers don't receive appropriate social contributions, but inappropriate accommodation and limited access to the job market and medical facilities'*.¹¹⁵

¹⁰⁹ Antidiskriminierungsstelle der Interkulturellen Arbeitsstelle IBIS e.V.: <http://www.ibis-ev.de/de/antidiskriminierungsstelle-2/diskriminierende-situationen>. Accessed 10 November 2012

¹¹⁰ Telephone interview with Vera Egenberger from BUG on 31 July 2012

¹¹¹ Hamburger Abendblatt, 2011. „Kleingärtner nehmen Quote zurück“, 16 December 2011.

¹¹² ProAsyl, 2012. „Bundesverfassungsgericht verhandelt heute

Asylbewerberleistungsgesetz“, press release 20 June,

http://www.proasyl.de/de/presse/detail/news/bundesverfassungsgericht_verhandelt_heute_asylbewerberleistungsgesetz/, accessed 3 July 2012.

¹¹³ GUSTreik, Iranische Flüchtlinge im Hungerstreik, <http://gustreik.blogspot.eu/>, accessed 8 August 2012, Flüchtlingsrat Berlin, Hungerstreik im Abschiebegefängnis Köpenick wird fortgesetzt, http://www.fluechtlingsrat-berlin.de/print_pe.php?sid=191, accessed 8 August 2012

¹¹⁴ <http://www.migazin.de/2010/02/22/umgang-mit-asylbewerbern-sorgt-fur-kritik/>

¹¹⁵ ProAsyl, 2012. „Vereinte Nationen rügen Diskriminierung von Asylsuchenden“, http://www.proasyl.de/de/news/detail/news/vereinte_nationen_ruegen_diskriminierung_von_asylsuchenden/ accessed 3 July.

The Federal Constitutional Court (Bundesverfassungsgericht) decided in February 2010 to increase social welfare benefits for the unemployed. The decision had a ripple effect on legal discussions of the Asylum Seekers Benefits Act (AsylbLG). A later decision on the latter relied on similar arguments to those used in the case of German nationals who are unemployed. This has already been discussed in previous Shadow Reports, e.g. 2010.¹¹⁶ The court rulings were based on two complaints in the social court of North-Rhine Westphalia (Landessozialgericht NRW). The first one by a single male refugee from Iraq, living in Germany since 2003 with 'toleration' (Duldung)¹¹⁷ and the second complaint was by a 12 year old girl, born in Germany, whose mother had been a refugee from Liberia. The NGO ProAsyl has been funding these lawsuits.¹¹⁸ In both cases the superior state social court forwarded the complaints to the Federal Constitutional Court to determine whether the amount provided to the complainants based on the Asylum Seekers Benefits act was in conformity with the German Constitution (Grundgesetz)¹¹⁹.

The debate eventually reached a temporary conclusion with the Court ruling that the current benefits level of € 224 per month (as determined in §3 AsylbLG) was insufficient and in violation of the German Constitution.¹²⁰ The Court ordered the German government to immediately revise the Asylum Seekers Benefits Act.

The court also ruled, as an interim measure, that asylum seekers should receive an increase in benefits according to the rating scale used to determine benefits for unemployed nationals (regulated in SGB II/XII).

The Court's most significant statement was that *'(...) migration-policy considerations (...) may generally not justify any reduction of benefits below the physical and socio-cultural existential minimum [and] human dignity may not be relativised by migration-policy considerations.'*¹²¹ It furthermore clarified that a subsistence level included not only physical survival but also the possibility to participate in social, cultural and political life.¹²² The Court based its decision on article 1 of the German Constitution, which states that human dignity is inviolable as well as on article 20, which stipulates that Germany is a welfare state. Hence German legislation must guarantee subsistence level to any person residing in Germany, and ensure that the amount provided meets the person's individual needs in the light of living costs today. The Court

¹¹⁶ Shadow Report 2010,

[http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/10.%20Germany%20\(2\).pdf](http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/10.%20Germany%20(2).pdf), accessed 31 July 2012.

¹¹⁷ 'Duldung' is not a residence permit, but a so called 'suspension of deportation' meaning that a person has been refused asylum but for different reasons can't be deported (e.g. loss of documents, critical situation in the country of origin etc.)

¹¹⁸ ProAsyl, AsylbLG verfassungswidrig!,

http://www.proasyl.de/de/news/detail/news/asylblg_verfassungswidrig/, accessed 3 August 2012.

¹¹⁹ BverfG, 2012, Regelungen zu den Grundleistungen in Form der Geldleistungen nach dem Asylbewerberleistungsgesetz verfassungswidrig,

<http://www.bverfg.de/pressemitteilungen/bvg12-056.html>, accessed 27 July 2012.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid.

emphasised that these principles are not to be influenced by the residency status or the (expected) duration of stay.

PRO ASYL and Refugee Councils¹²³ in several Länder have released press statements expressing their approval of the Court's judgement and calling for a total abolition of the Asylum Seekers Benefits Act (AsylbLG) rather than a partial reform. It was stated that '*The degrading practice of polishing asylum seekers off with in-kind transfers has to be stopped. Refugees must not be forced to live in camps.*'¹²⁴ In the aftermath of the Court's ground-breaking decision they reinforced their call for a labour permit for asylum seekers, abolition of the residency obligation and better chances for participation in social, cultural and political life.¹²⁵

Since the Asylum Seekers Benefits Act affects about 40 000 children in Germany, the German Children Relief Organisation (Deutsches Kinderhilfswerk) also released a press statement on their appreciation of the Court's judgement and furthermore requested the government to seriously think about their treatment of minor refugees.¹²⁶ The German Institute for Human Rights (Deutsches Institut für Menschenrechte) has been monitoring the discussion on the asylum seekers benefits act (AsylbLG) and presented their opinion before the Court during trial.¹²⁷ The Institute particularly welcome that part of the Court's statement which referred to international law as a basic concept of economic, social and cultural rights concluding furthermore the UN-convention on the Rights of Children.¹²⁸

¹²³ Refugee Councils exist in each of the 16 states of Germany (Bundesländer). They lobby for the rights of refugees by individual support, fighting for asylum ad against deportations, information, campagnes, networking, solidarity with self-organized refugee protest amongst others. For further information see e.g. <http://www.fluechtlingsrat-berlin.de/>, accessed 27 July 2012.

¹²⁴ Pro Asyl, Urteil des Bundesverfassungsgerichts zum Asylbewerberleistungsgesetz. http://www.proasyl.de/de/presse/detail/news/urteil_des_bundesverfassungsgerichts_zum_asylbewerberleistungsgesetz/, accessed 27 July 2012.

¹²⁵ Flüchtlingsrat NRW, Karlsruhe weiter denken – AsylbLG abschaffen!, <http://www.fnrw.de/presse/item/1038-pressemittteilung-karlsruhe-weiter-denken-%E2%80%93-asyblg-abschaffen>, accessed 10 November 2012.

¹²⁶ Deutsches Kinderhilfswerk, Deutsches Kinderhilfswerk begrüßt Urteil des Bundesverfassungsgerichtes zum Asylbewerberleistungsgesetz, <http://www.presseportal.de/pm/105473/2291167/deutsches-kinderhilfswerk-begruesst-urteil-des-bundesverfassungsgerichtes-zum>, accessed 27 July 2012.

¹²⁷ Deutsches Institut für Menschenrechte e.V., Stellungnahme des Deutschen Instituts für Menschenrechte gem. §27a BVerf.GG im Verfahren 1BvL 2/11, http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Stellungnahmen/stellungnahme_des_deutschen_instituts_fuer_menschenrechte_gem_paragraf_27a_bverfgg_im_verfahren_1_bv12_11.pdf, accessed on 7 August 2012.

¹²⁸ Ibid., *Pressemitteilung: Menschenrechtsinstitut begrüßt Anhebung der Leistungen für Asylbewerber*, http://www.institut-fuer-menschenrechte.de/de/aktuell/news/meldung/archive/2012/july/article/pressemittteilung-menschenrechtsinstitut-begruesst-anhebung-der-leistungen-fuer-asylbewerber.html?tx_ttnews%5Bday%5D=18&cHash=3c85796a70c8d7276449055dc3fdcf2, accessed 20 August 2012.

The VOICE Refugee Forum Germany¹²⁹ in contrast rejected the Court's decision and any reform of the asylum seekers benefits law, arguing that it has been aimed from the beginning at *'pursuing refugees and depriving humans of their natural state.'*¹³⁰ They consider the German state responsible for the unconstitutional harm caused by the asylum seekers benefits act (AsylbLG) since its enactment, as well as for the colonial crimes committed in the past. They have dubbed the reform of the Asylum Seekers Benefits Act (AsylbLG) government propaganda against refugees and migrants under the guise of humanity.

They call for resistance to this kind of *'sugar coated repression'* and call for serious changes in refugee policies, such as an end to deportations, the provision of money instead of in-kind benefits, the closure of refugee camps ('Lager') as well as the abolition of the residence obligation (Residenzpflicht) and a repeal of the asylum seekers benefits act (AsylbLG) as a whole.¹³¹

German reservation on the ECSMA / refusal of unemployment benefits for non-German EU-citizens: With effect from December 19th, 2011, the German government has suspended parts of the European Convention on Social and Medical Assistance (ECSMA, Europäisches Fürsorgeabkommen, EFA), which was enacted in 1954. The convention regulates the access of European citizens to the welfare systems of other states. Germany has thus unilaterally revoked a core principle of European solidarity. For many EU citizens who received or receive welfare benefits (SGB II, Hartz IV) their financial circumstances have worsened dramatically. The group *'Mujeres Sin Fronteras'*¹³² in Hamburg has reported a case when a Spanish family with three children received a message on the revocation of their unemployment benefits only one week in advance of the next payment.

The campaign *'Zusammen gegen das Jobcenter'¹³³ Neukölln'* (Together against the Jobcenter Neukölln), an informal neighbourhood group in Berlin, stated that *'they [the Government] talk about 'uncontrolled immigration' in 'our' social security systems which has to be stopped. This is populist and socially racist reasoning during a huge debt and economic crisis in Europe. [...] We demand the complete equal treatment in issues of social law for all EU citizens! [...] Solidarity instead of racist and social exclusion!'*¹³⁴ Since there are many legal doubts as to the legitimacy of the German government's reservation on the EFA and since aggrieved parties as well as solidarity

¹²⁹ The VOICE Refugee Forum Germany is a self-organized group representing refugees in Germany, which primarily fights against detention and deportation. For further information see <http://thevoiceforum.org>

¹³⁰ The VOICE Refugee Forum Germany, *AsylbLG ablehnen. Angemessene Freiheit für ein Leben in selbstbestimmter Würde*, <http://thevoiceforum.org/node/2650>, accessed 7 August 2012.

¹³¹ Ibid., accessed 7 August 2012.

¹³² Mujeres Sin Fronteras is an independent organization, consulting and accompanying women and trans* in their Spanish mother tongue, For further information see <http://mujeressinfronteras.de/cms/index.php?id=7>

¹³³ 'Jobcenter' is the term for the authorities in Germany that are in charge of benefits for unemployed people according to SGB II (Social Security Code II). Their fields of responsibility are providing the unemployment benefits as well as placement.

¹³⁴ Zusammen! gegen das Jocenter Neukölln, <http://zusammendagegen.blogspot.de/>, accessed 10 August 2012.

groups and political parties in the opposition are protesting against it, the upcoming months will surely bring some clarity.

6.5.2 Facilitating factors or protective measures to promote equality in accessing goods and services

In the area of access to goods and services, measures to promote equality are not very common yet, because discrimination in this area is not perceived as unequal treatment. It is therefore difficult to judge whether diversity has been leveraged in these areas or whether anti-racism training and intercultural awareness are being transferred to new employees in bars, clubs, and the public transport system. But we presume that the social interventions mentioned above have in some case changed the situation. It is important to show how long and short term social interventions can be strategically used to enhance equality legislation.

6.6 Racism and related discrimination in political participation

6.6.1 Manifestations of racism and related discrimination in the realm of political participation

The key problem in this area in Germany is the lack of local voting rights for migrants without a German passport, as described in the previous reports. Although naturalisations have increased, the basic problems with the 'optional' citizenship for those children born in Germany remain. Dual citizenship is dealt with in a biased way. For certain countries, like the U.S. it is not a problem to have two passports, but for Germans with a Turkish passport it is unacceptable. The legal basis and the complicated way German citizenship is constructed since the citizenship reform in 2000 have been extensively describe in the previous shadow reports.¹³⁵ However, Germans of a migrant background are becoming more and more visible, for example there ministers from a Muslim background in Lower Saxony and Baden-Württemberg. A milestone in participation for the Muslim community has been achieved in Hamburg.

Treaty between City of Hamburg and Muslims in Hamburg: In Hamburg a treaty between the City and its Muslim Associations as well as the Alevite Community has been concluded. It is the first contract of this kind in Germany. Discussions on treaties were initiated in 2006 by the former mayor Ole von Beust (Christian Democratic Union, CDU). With the close of negotiations, the contract has been agreed following previous treaties concluded between the City and other religious associations such as the Protestant and the Catholic churches in 2005 and the Jewish Community in 2007.¹³⁶

Contracts have been signed by the City of Hamburg, the SCHURA Hamburg (Council of Islamic Communities in Hamburg, Rat muslimischer Gemeinschaften Hamburg), by Ditib (Turkish-Islamic Union, Türkisch-Islamische Union) and by VIKZ (Association of Islamic Cultural Centres, Verband Islamischer Kulturzentren) as well as the City of Hamburg and the Alevite Community of Germany (Alevitische Gemeinde Deutschland e.V.).¹³⁷

The contract includes agreements on different aspects regarding Islamic and Alevite/Alevi communities living in Hamburg, emphasising rights and

¹³⁵ See German shadow reports 2002-2008 <http://www.enar-eu.org/Page.asp?docid=19048&langue=EN>, accessed 10 November 2012.

¹³⁶ Senatskanzeli Hamburg, *Seit 2007 laufende Verhandlungen über Verträge mit islamischen Verbänden und Alevitischer Gemeinde erfolgreich abgeschlossen*, <http://www.hamburg.de/pressearchiv-fhh/3551764/2012-08-14-sk-vertrag.html>, accessed 16 August 2012.

¹³⁷ Treaty between City of Hamburg and Islamic associations: <http://www.hamburg.de/contentblob/3551370/data/download-muslim-verbaende.pdf>, accessed 17 August 2012, Treaty between City of Hamburg and the Alevite Community: <http://www.hamburg.de/contentblob/3551366/data/download-alevitische-gemeinde.pdf>, accessed 17 August 2012.

obligations for both the city and the communities. Amongst others they include the recognition of Muslim holidays (e.g. Muslim employees and pupils are entitled to have a holiday on Sugar Feast at the end of Ramadan), the right to teach religion in classes of mixed religions, participation in decisions on broadcasting (e.g. number of seats in media supervisory committees), the right to Islamic burials etc.¹³⁸ While most of these issues were already regulated within the existing law, the treaty nonetheless provides clarity regarding different religious aspects about the cohabitation of Muslims and Non-Muslims. It has strong symbolic value, for both, Muslims and Non-Muslims in Hamburg and was, as the DITIB stated '*stringently necessary*' given the fact that Islam is the third largest religion in Germany.¹³⁹ Olaf Scholz, current mayor of Hamburg (Social Democratic Party, SPD) called the agreement a '*signal of willingness to common cooperation*'.¹⁴⁰

The SCHURA Hamburg commented on the treaty as '*[a]n important step toward institutional acknowledgement of Islam in Germany*'.¹⁴¹ The Alevite Community and VIKZ gave a similar opinion, expressing their hope for similar regulations in other states of Germany.^{142 143}

DITIB Hamburg described the contract as a '*historically significant*' and stated that it was a '*commitment of the State to the acceptance of Muslims in Hamburg as equal before the law (...) as well as to their institutional self-determination.*' On the Muslim side he called the treaty '*a commitment to the constitution of our country, to our community of values and henceforth to a common future of Hamburg.*'¹⁴⁴

Political reactions in Hamburg were divided. The conservative wing (Christian Democratic Union, CDU) appreciated the importance of dialogue with Muslim communities and associations but expresses concern over some provisions in the treaty such as the absence of a prohibition for Muslim police, prosecutors, teachers etc. to wear a headscarf at the workplace, the regulation of religious education and the arrangements on constructions of mosques.¹⁴⁵ Criticism by the Conservatives comes as a surprise, since the negotiations were initiated

¹³⁸ Ebd., accessed 17 August 2012.

¹³⁹ DITIB, *Hamburg schließt Staatsvertrag mit Muslimen*, <http://www.ditib-nord.de/content/hamburg-schliesst-staatsvertrag-mit-muslimen>, accessed 17 August 2012.

¹⁴⁰ Migazin, *Erster Staatsvertrag mit Muslimen in Deutschland*, <http://www.migazin.de/2012/08/15/erster-staatsvertrag-mit-muslimen-in-deutschland/>, accessed 17 August 2012.

¹⁴¹ Migazin, *Erster Staatsvertrag mit Muslimen in Deutschland*, <http://www.migazin.de/2012/08/15/erster-staatsvertrag-mit-muslimen-in-deutschland/>, accessed 17 August 2012.

¹⁴² Alevitische Gemeinde Deutschland, *Staatsvertrag in Hamburg*, <http://alevi.com/de/staatsvertrag-in-hamburg/>, accessed 17 August 2012.

¹⁴³ VIKZ, *VIKZ als Religionsgemeinschaft anerkannt*, <http://www.vikz.de/index.php/pressemitteilungen/items/vikz-als-religionsgemeinschaft-erkannt.html>, accessed 17 August 2012.

¹⁴⁴ DITIB, *Hamburg schließt Staatsvertrag mit Muslimen*, <http://www.ditib-nord.de/content/hamburg-schliesst-staatsvertrag-mit-muslimen>, accessed 17 August 2012.

¹⁴⁵ CDU Bürgerschaftsfraktion Hamburg, *Zur heutigen Vorstellung der Verträge mit den muslimischen Verbänden und der alevitischen Gemeinde erklärt Dietrich Wersich, Vorsitzender der CDU-Fraktion*, <http://www.cdu-hamburg.de/themen/integration-und-vielfalt/detail/artikel/zur-heutigen-vorstellung-der-vertraege-mit-den-muslimischen-verbaenden-und-der-alevitischen-gemeinde.html>, accessed 17 August 2012.

by a Conservative mayor in 2006. The current position of the Conservatives in Hamburg reflects a shift in party policy following the end of the first conservative-green government in 2010. The efforts of the mayor Ole von Beust to modernise the Conservatives and to make the party more attractive to a larger electorate came to an end with their fall from power in 2010 and the absolute majority of the Social Democrats (SPD). The Liberals (Free Democratic Union, FDP) even declared that such an agreement was unnecessary, stating that *'Muslims, Christians and Non-denominations have no need for a treaty to live together peacefully in the liberal metropolis of Hamburg. (...) From construction of mosques to the question of wearing a headscarf (...) for decades Muslim and Non-Muslim citizens have always found reasonable solutions.'*¹⁴⁶

6.6.2 Facilitating factor or protective measures to promote equality in accessing goods and services

The participation of migrants has now been mainstreamed in most core political parties. There is no evidence available that the toolkit from MPG to leverage diversity in parliament and political bodies is being implemented. Projects, which target the self-organisation of migrants, generally receive financial support from the local governments. While this has increased involvement of these groups in the political arena, they have little opportunity to take part in major political decisions. Migrants' self-organisations are invited to governmental summits and are presented to the media to put the government in a positive light. However, their real political power is relatively limited. The question of equality and the equal treatment of men and women are used against Muslim communities by some groups. Muslim women are often presented as being oppressed by their community. The Muslim community functions for certain feminists as the 'traditional, patriarchal' counterpart to modern feminism. In addition, many concerns central to feminism, such as the campaign to increase the number of women on boards of large companies, focus in effect on white, German women and neglect the role of race and ethnicity within the women's movement.

¹⁴⁶ FDP-Fraktion in der Hamburgischen Bürgerschaft, *Das gute Zusammenleben von Muslimen, Christen und Konfessionslosen in der liberalen Metropole Hamburg braucht keinen Staatsvertrag*, <http://www.fdp-fraktion-hh.de/das-gute-zusammenleben-von-muslimen-christen-und-konfessionslosen-in-der-liberalen-metropole-hamburg-braucht-keinen-staatsvertrag/>, accessed 17 August 2012.

6.7 Racism and related discrimination in media

6.7.1 Manifestations of racism and related discrimination in the media, including the internet

In the media the Arab world is strongly linked to religious contexts (for example, reports on the Arab spring consult Muslim leaders rather than other experts such as economists).¹⁴⁷ In 20% of the contributions, their Muslim religion is highlighted whereas Jewish or Christian religions are seldom mentioned (6%). On public and private television channels, Muslims are regularly mentioned in the context of terrorism.¹⁴⁸

The key problem areas in Germany: Studies show an increasing anti-Muslim resentment. Since the Sarrazin debate in 2009 and the publication of his book in 2010 the social acceptability of Islamophobia has reached a degree in which many people overtly show their aversion to Islam in public.¹⁴⁹ Hate speech is an increasing phenomenon which requires more attention. Concepts such as freedom of speech or feminism are often used to degrade minorities.¹⁵⁰ The line between the freedom of speech and hate speech is often very thin and depends on the national context. While many people emphasise that they dislike only 'radical Islam', reports and comments on the Quran, the Sharia, Muslim countries and Muslims themselves are often presented in contrast with 'western values'. The media plays a vital role in fostering this phenomenon.¹⁵¹ The influence of coverage of Muslims in other countries on the portrayal of this community in Germany must be recognised.¹⁵²

The German media struggles with self-criticism. There is a general reluctance to use the term 'Islamophobia' in the context of anti-Muslim discourse in the press.¹⁵³ At the internationally renowned Cologne Carnival, racist comments and jokes were part of the programme, which the Hessian Radio defended as

147 Schiffer, C., 2011. „Die Ökonomie entscheidet“, *taz*, 31 July.

148 Frindete, W., Boehnke, K., Kreikenbom, H. And Wagner, W., 2011. 'Lebenswelt Junger Muslime in Deutschland', Federal Home Office.

149 Schiffer, C., 2011. 'Islamophobie - Plädoyer für eine internationale Bezeichnung', *Schattenblicke* <http://www.schattenblick.de/infopool/sozial/sozio/ssges241.html> , accessed on 3 July 2012.

150 Schiffer, C., 2011. 'Oslos Massaker und die Krise der Islamhasser in Europa', Institut für Medienverantwortung, <http://www.medienverantwortung.de/publikationen/>, accessed on 3 July 2012.

151 Schiffer, C., 2011. 'Islamophobie - Plädoyer für eine internationale Bezeichnung', *Schattenblicke* <http://www.schattenblick.de/infopool/sozial/sozio/ssges241.html> , accessed on 3 July 2012.

152 Schiffer, C., 2011. 'Oslos Massaker und die Krise der Islamhasser in Europa', Institut für Medienverantwortung, <http://www.medienverantwortung.de/publikationen/>, accessed on 3 July 2012.

153 Schiffer, C., 2011. 'Islamophobie - Plädoyer für eine internationale Bezeichnung', *Schattenblicke* <http://www.schattenblick.de/infopool/sozial/sozio/ssges241.html> , accessed on 3 July 2012.

being part of the carnival humour.¹⁵⁴ Although, people have been praising German tolerance and freedom of speech for a few decades, clear Islamophobic tendencies can be observed. Further, the denial of racism is often justified by reference to the right to articulate criticism.¹⁵⁵

In the context of the NSU (national-socialist underground) murders (See: 6.8.2 Racist violence and crime the journal, p. 43) the weekly paper 'Der Spiegel' critically reflected on the way the police, the public and the media, including themselves, handled and processed information hinting at the racist nature of the serial murder. It revealed that journalists had 'thoughtlessly' followed the narrow path of interpretation of evidence indicated by the investigators instead of developing their own, critical approaches. Rather than engaging in an explorative dialogue with the victims' communities in order to facilitate investigation, insulting accusations were directed at the victims.

Inappropriate work of this nature on the part of the police and the media has worrying consequences for the Roma and Sinti community. After the murder of a police woman in 2007 by the NSU, inadequate investigations led the police to the Roma and Sinti communities. In the media, public authorities talked about '*investigations in the gypsy-scene*' and the reported that the police were following an unambiguous track leading to 'Sinti-Clans' and members of '*mobile social groups as Sinti and Roma that are difficult to track*'. These accusations gave rise to massive stigmatisation of the Roma and Sinti communities as well as police checks without any concrete suspicions. The reaction of the Ministry of Justice in support of the prosecution's approach - in combination with the NSU murders – has triggered worries amongst many minority communities.¹⁵⁶

The German government ordered a study of the lives of young Muslims in Germany which was supposed to be published in March 2012. A team of sociologists, psychologists and communication scientists have been working on this study. However, before the results of the study were officially published they found their way to the Boulevard press. Statistics were cherry-picked to create headlines such as '*young Muslims unwilling to integrate*'.¹⁵⁷ Politicians then used these pieces of information to fan the flames of questionable debates on integration.¹⁵⁸ This distorted the conclusions of the study, portraying Muslims as refusing to integrate. On the contrary, the study showed that the majority of young Muslims are indeed prepared to integrate

154 Paul, J., 2011. 'Für den Hessischen Rundfunk fällt Rassismus unter Narrenfreiheit', *disskursiv* Blog: *Notizen, Links, Meinungen*, <http://www.disskursiv.de/2012/02/22/narrenfreiheit/>, accessed on 3 July 2012.

155 Schiffer, C., 2011. 'Islamophobie - Plädoyer für eine internationale Bezeichnung', *Schattenblicke* <http://www.schattenblick.de/infopool/sozial/sozio/ssges241.html>, accessed on 3 July 2012.

156 Central Committee of Roma and Sinti, 2011. 'Rechtsextreme Gewalt stellt Sicherheit von Minderheiten in Deutschland in Frage – Kritik an früheren Verdächtigungen', *Official statement*, 15 November.

¹⁵⁷ Özoğuz, A., 2012. 'Gnadenlos ahnungslos oder Lug und Trug? – Zum Umgang des Innenministers mit der Islam-Studie', *Migazin*, 11 June 2012.

¹⁵⁸ Stein, T., 2012. 'Integrationsverweigerung à la Friedrich', *Cicero*, 2 March.

and are very willing to do so. When the Federal Minister of the Interior, whose ministry had commissioned the study, was confronted with these results he denied having ordered the study.¹⁵⁹ The study, however, received strong criticism from elsewhere. Sociologists of the Humboldt University in Berlin criticised the statistical method applied as it tended to produce right-wing populist headlines instead of highlighting the positive conclusions of the study.¹⁶⁰ Furthermore, the indicators used to measure integration have been criticised due to the sole inclusion of non-experts on the culture of Islam in the research team. In addition, causality and generalizability would be rather weak. A paper demanding the precise reasons and motivations to order such a study was published by members of the opposition.¹⁶¹

According to a recent media study, reporting about Muslim is usually carried out by non-Muslims.¹⁶² It is estimated that just 2-5% of journalists have a different cultural background from the majority population.¹⁶³ It is believed that this is due to a lack of powerful role models. However, it appears that change is in process. Journalist schools place emphasis on bi-cultural journalism, make efforts to diversify their recruitment and highlight their own interest to benefit from diverse experiences and backgrounds of journalist or other professionals in the media sector. The inter-cultural network of the Association of Journalist in Berlin-Brandenburg (Interkulturelles Netzwerk des Journalistenverbandes Berlin-Brandenburg), for instance, organises events which target journalists with different cultural backgrounds in order to give them a platform to talk about their experiences and ideas.¹⁶⁴

The German-Muslim stance on German Media: A study has shown that young Muslims feel more discriminated against through the media than in their everyday lives. The issue around integration is seen as a problem of German society in dealing with migrants rather than a problem of migrants. In the Muslim blogger scene it has been concluded that the only way to integrate successfully is assimilation. Also, Germans are seen as victims of the media and politicians, by those Muslim bloggers. In Muslim communities the media is seen as being responsible for a large proportion of tensions between Muslims and non-Muslims. Young Muslims use the media, especially television, the internet and newspapers to acquire political and religious information. Since German television is more frequently used than Turkish channels by young Muslims the German media is very influential for this group.¹⁶⁵

¹⁵⁹ Özoğuz, A., 2012, ibidem

¹⁶⁰ Foroutan, N., Müller, T., Canan, C. And Sollorz, R., 2012. 1Stellungnahme zur Studie „Lebenswelten junger Muslime in Deutschland“, Humboldt University of Berlin, 1 March 2012.

¹⁶¹ Gysi, G. And Party, 2012. „Veröffentlichung und Bewertung der Studie: Lebenswelt junger Muslime in Deutschland“, German Bundestag, 14 March. Drucksache 17/9038.

¹⁶² Frindete, W., Boehnke, K., Kreikenbom, H. And Wagner, W., 2011. „Lebenswelt Junger Muslime in Deutschland“, Federal Home Office.

¹⁶³ Hindrich, K., 2012. „Die riesengroße Migrantenlücke in deutschen Redaktionen“, *Abendblatt*, 29 Februar 2012.

¹⁶⁴ Intercultural Network of the Association of Journalists, 2012. „Interkulturelles Netzwerk“, http://jvbb-online.de/Interkulturelles_Netzwerk.1258.0.html, accessed on 3 July 2012.

¹⁶⁵ Frindete, W., Boehnke, K., Kreikenbom, H. And Wagner, W., 2011. „Lebenswelt Junger Muslime in Deutschland“, Federal Home Office.

6.8 Racism and related discrimination in criminal justice

6.8.1 Policing and ethnic profiling¹⁶⁶

The 'Initiative Schwarzer Menschen in Deutschland' (ISD) (Initiative of Black People in Germany) voiced complaints put forward by individuals of the Black community that have been accumulating for a considerable time now. People reported being specifically targeted by police checks at various public places (airports, train stations etc.).¹⁶⁷ This can be classified as ethnic profiling (for more information see the special edition of the German Shadow Report 2009/2010.¹⁶⁸) A ruling of a court in Koblenz in February 2012¹⁶⁹, which legitimised the method of 'racial profiling' as a legal (forensic) method, led to outrage amongst Human Rights associations and other organisations representing the interests of minority groups in Germany.¹⁷⁰ The case concerned an incident where a man was checked on a train without any concrete reason for suspicion.¹⁷¹ Critics see this decision as a significant step towards right-wing extremism and violation of anti-discrimination legislation.¹⁷² It legitimises police checks based on appearance, which backs up the practice of racial profiling on judicial grounds, and is in tension with the Equal Treatment Act and international anti-racism conventions.¹⁷³ Until now, it was denied that racial profiling is practised at all in Germany.

Reach out/Ariba e.V. and KOP (campaign for victims of police violence) report that complaints about racial discrimination are dealt with by police officers, who often in turn take legal action against the victim.¹⁷⁴ Often these proceedings end in favour of the police officers, sentencing the victims for

¹⁶⁶ The Open Society Institute defines 'ethnic profiling' as the 'use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity'.

¹⁶⁷ Anwaltskanzlei Sven Adam, Reaktionen, <http://www.anwaltskanzlei-adam.de/index.php?sonderseite-vg-koblenz-reaktionen-auf-das-urteil>, accessed 12 June 2012.

¹⁶⁸ Shadow Report 2009/2010, *Supplemental report: Ethnic profiling in Germany*, <http://cms.horus.be/files/99935/MediaArchive/ENAR%20Ethnic%20Profiling%20Supplement%20Germany.pdf>, accessed 28 August 2012.

¹⁶⁹ Bundespolizei darf zur Identitätsfeststellung Zugreisende verdachtsunabhängig kontrollieren, http://www.kostenlose-urteile.de/VG-Koblenz_5-K-102611KO_Bundespolizei-darf-zur-Identitaetsfeststellung-Zugreisende-verdachtsunabhaengig-kontrollieren.news13246.htm, accessed 28 August 2012.

¹⁷⁰ Anwaltskanzlei Sven Adam, Reaktionen, <http://www.anwaltskanzlei-adam.de/index.php?sonderseite-vg-koblenz-reaktionen-auf-das-urteil>, accessed 12 June 2012.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Pan-Africanism Working Group Munich, 2012. „Offener Brief des AK Panafrikanismus München e.V.: Zum „Racial Profiling“ der Koblenzer Verwaltungsgericht“, <http://kop-berlin.de/beitrag/offener-brief-des-ak-panafrikanismus-muenchen-e-v-zum-racial-profiling-der-koblenzer-verwaltungsgericht>, accessed 4 July 2012.

¹⁷⁴ Kampagne für Opfer rassistischer Polizeigewalt, <http://kop-berlin.de>, accessed 12 June 2012.

insulting an official. The best outcome of such a proceeding in favour of the victim is an abatement of action. The case of Talha B. illustrates how these incidents usually proceed.¹⁷⁵ In 2010, Talha B. and her brother were stopped by the police for a questionable reason and were insulted with racist comments. Talha B. took legal action against the officers for these insults. The proceedings were closed and in turn she and her brother had to defend themselves for insulting the officers as racists. In August 2011, the proceedings were opened and shortly after they were closed because of a 'successful' campaign. In June 2012, KOP supported Talha B. in a further court case to continue to fight the racism which is a reality for many people in Germany. Many people followed KOP's call for the observation of the trial.

In the light of present day developments in Lower Saxony such court cases gain even more importance. As part of his new prevention concept, the Minister of the Interior of Lower Saxony, Mr. Schünemann called on employers to critically observe their Muslim employees and report suspicious information.¹⁷⁶ This concept is based on the racist and discriminating presumption that every Muslim is suspicious – a form of 'informal ethnic profiling'. Schünemann is directly responsible for unconstitutional checks of mosques that had been carried out over the last years as reported in previous shadow reports.¹⁷⁷

The Koblenz ruling on ethnic profiling of February 2011 shows that there is an urgent need for revision and amendment of the anti-discrimination law, and highlights the lack of sensitivity towards diversity in the police force. As the Pan-Africanism working group in Munich demands, the Federal Republic of Germany - as a member state of the UN - has to meet its responsibilities with regard to the agreed anti-discrimination conventions.¹⁷⁸ Furthermore, a discrimination-free environment in all social sectors and especially within the police is essential, as well as training, sensitivity towards diversity, preventive measures against marginalisation and disadvantages and the reduction of conflict potentials.

6.8.2 Racist violence and crime

At least 219 attacks on mosques in Germany within 10 years: Mosques in Germany frequently come under anti-Muslim attack. For example, the mosque of DITIB¹⁷⁹ in Recklinghausen was defiled with Nazi-symbols by unidentified

¹⁷⁵ KOP, 2012. „Sie kontrollieren uns, weil wir Schwarz sind II“, statement for the press, 15 May, <https://www.kop-berlin.de/veranstaltung/sie-kontrollieren-uns-weil-wir-schwarz-sind>, accessed on 12 June 2012.

¹⁷⁶ Migazin, „Arbeitgeber sollen auffällige muslimische Mitarbeiter melden“, accessed 12 June 2012

¹⁷⁷ Islamische Zeitung, Statement for the press, 5 June, <http://www.islamische-zeitung.de/?id=15822>, accessed on 12 June 2012.

¹⁷⁸ Pan-Africanism Working Group Munich, „Stellungnahme zur Zulassung des Berufungsverfahrens vom 08.05.2012: „Racial Profiling““, <http://www.panafricanismusforum.net/racial-profiling-in-brd.html>, accessed 12 June 2012.

¹⁷⁹ DITIB: Turkish-Islamic Union for Religious Affairs (Türkisch-Islamische Union der Anstalt für Religion e.V.

people in May 2012.¹⁸⁰ A parliamentary inquiry by the party Die Linke (The Left) has highlighted some aspects of such criminal acts targeting mosques or other Muslim institutions in Germany since 2001. It highlighted concerns about the way in which such attacks are recorded by the police and and revealed an atmosphere of increasing Islamophobia in Germany.¹⁸¹

According to that inquiry, 219 attacks on mosques have been reported and registered between 2001 and 2011. On average an offence against a Muslim institution took place every third week.¹⁸² The Party 'Die Linke' (The Left) criticised the listing as incomplete. Suspects were identified in only 17% of the registered case. Taking into account the fact that the motivation to report an attack is low, the number of unreported cases is presumably much higher.¹⁸³

The Government's response to the parliamentary inquiry revealed that anti-Muslim criminal acts are not registered separately under the label of violence against Muslims, but are listed as 'politically motivated crime' (Politisch motivierte Kriminalität, PMK) and classified as 'hate crimes' (Hasskriminalität).¹⁸⁴ This makes it impossible to monitor anti-Muslim crimes.¹⁸⁵ The Party 'Die Linke' (The Left) and the Coordination Council of Muslims (Koordinationsrat der Muslime, KRM) called for a separate listing of anti-Muslim criminal acts within the category of 'hate crime'.¹⁸⁶

The Government doesn't see any connection between the offences against Muslim institutions and an increase of Islamophobia. The Coordination Council of Muslims (KRM) is, in contrast, seriously worried. They '*observe that the attacks have increased simultaneously with populist statements and the change of mind towards the Muslim minority on the political side.*'¹⁸⁷ They

¹⁸⁰ Migazin, 219 Angriffe auf Moscheen in zehn Jahren, <http://www.migazin.de/2012/05/16/219-angriffe-auf-moscheen-in-zehn-jahren/>, accessed 14 August 2012.

¹⁸¹ Kleine Anfrage der Abgeordneten Ulla Jelpke, Nicole Gohlke, Halina Wawzyniak und der Fraktion DIE LINKE, *Angriffe auf Moscheen in Deutschland*, http://dokumente.linksfraktion.net/drucksachen/26586_1709350.pdf, accessed 14 August 2012.

¹⁸² Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Nicole Gohlke, Halina Wawzyniak und der Fraktion DIE LINKE. – Drucksache 17/9350 – *Angriffe auf Moscheen in Deutschland*, http://dokumente.linksfraktion.net/drucksachen/26586_1709523.pdf, accessed 14 August 2012.

¹⁸³ Migazin, 219 Angriffe auf Moscheen in zehn Jahren, <http://www.migazin.de/2012/05/16/219-angriffe-auf-moscheen-in-zehn-jahren/>, accessed 14 August 2012.

¹⁸⁴ Ebd., accessed 14 August 2012. See as well: Hieronymus, Andreas, Racist Violence in Germany, <http://cms.horus.be/files/99935/MediaArchive/Racist%20Violence%20Report%20Germany%20-%20online.pdf>, accessed 6 September 2012.

¹⁸⁵ Migazin, '*Muslimfeindlich oder islamfeindlich gibt es nicht*', <http://www.migazin.de/2011/01/07/muslimfeindlich-oder-islamfeindlich-gibt-es-nicht/>, accessed 15 August 2012.

¹⁸⁶ Migazin, 219 Angriffe auf Moscheen in zehn Jahren, <http://www.migazin.de/2012/05/16/219-angriffe-auf-moscheen-in-zehn-jahren/>, accessed 15 August 2012.

¹⁸⁷ Ibid., accessed 14 August 2012.

pointed out the political and social responsibility, by stating that '*[s]uch criminal acts can be the result of a tense climate within society. We hence call on politics and society to be more alert and objective.*'¹⁸⁸ This needs to be seen in the context of the different debates in recent years (as reported in previous shadow report) namely the Sarrazin-Debate and more currently the statement of the new German president revoking the statement of the former president, that Islam is part of Germany.

The serial murders of the NSU (National Socialist Underground-Nationalsozialistischer Untergrund): The names of Uwe Böhnhardt, Uwe Mundlos and Beate Zschäpe from the East German city of Jena became synonyms for an unimaginable serial killing with a racist motivation in Germany¹⁸⁹. After a bank robbery in November 2011 in Eisenach and the alleged suicide of Mundlos and Böhnhardt in their caravan, the police found fire arms, the weapon¹⁹⁰ which killed 10 people over the last decade and a propaganda video about the murders in the house where the trio was living and which exploded.¹⁹¹ Zschäpe, the only survivor, surrendered a couple of days later to the police.¹⁹² With the help of their supporting network, the trio was able to disappear from the radar of the police in 1998, in the short space of time after the discovery of a workshop hired by Zschäpe where bombs have been prepared for several attacks but before a warrant was issued.¹⁹³

Between 2000 and 2006 nine shop-keepers, eight of Turkish origin and one of Greek origin were executed by the trio¹⁹⁴. The victims were killed with the same weapon and they all had a minority ethnic background. The 10th victim was the German female police officer Michèle Kiesewetter, who was shot by the trio in 2007.¹⁹⁵

¹⁸⁸ Anschlagsserien auf Moscheen Akt gegen die Religionsfreiheit?, <http://islam.de/17239>, accessed 15 August 2012.

¹⁸⁹ Al-Jazeera, The return of the neo-Nazis, <http://platform.imir.de/?q=content/return-neo-nazis-0>, accessed 6 September 2012.

¹⁹⁰ WELT Online, Mundlos tötete sich und Böhnhardt in 15 Sekunden, <http://www.welt.de/politik/deutschland/article106298639/Mundlos-toetete-sich-und-Boehnhardt-in-15-Sekunden.html>, accessed 28 August 2012.

¹⁹¹ Polizeidirektion Südwestsachsen, Zwickau: Explodiertes Wohnhaus - Polizei sucht 36-jährige Bewohnerin, http://www.polizei.sachsen.de/pd_sws/7076.htm, accessed 28 August 2012.

¹⁹² Der Generalbundesanwalt beim Bundesgerichtshof, Haftbefehl gegen die Brandstifterin von Zwickau wegen mutmaßlicher Mitgliedschaft in der terroristischen Vereinigung 'Nationalsozialistischer Untergrund (NSU)', <http://www.generalbundesanwalt.de/de/showpress.php?themenid=13&newsid=419>, accessed 28 August 2012.

¹⁹³ Gutachten zum Verhalten der Thüringer Behörden und Staatsanwaltschaften bei der Verfolgung des „Zwickauer Trios“, http://www.thueringen.de/imperia/md/content/tim/veranstaltungen/120515_schaefer_gutachten.pdf, accessed 28 August 2012.

¹⁹⁴ Der Tagesspiegel, Ermordet aus reinem Hass – Die Opfer der NSU, <http://www.tagesspiegel.de/mediacenter/fotostrecken/politik/bildergalerie-ermordet-aus-reinem-hass-die-opfer-der-nsu/6833664.html?p6833664=2#image>, accessed 28 August 2012.

¹⁹⁵ ZEIT Online, Polizistenmord-Verdächtige waren Rechtsextreme, <http://www.zeit.de/news/2011-11/09/kriminaltaet-polizistenmord-verdaechtige-waren-rechtsextreme-09134402>, accessed 28 August 2012.

During this period, the trio was responsible for a bomb attack in 2001, where a German-Iranian daughter of a shopkeeper was severely injured¹⁹⁶ and a nail bomb attack in a street in Cologne, which is mainly populated by migrants. 22 people were injured, four of them very severely.¹⁹⁷

On 26 January 2012 the parliamentary inquiry commission 'National Socialist Underground' of the German Parliament was established. Eleven Parliamentarians under the Chair of Sebastian Edathy (Social Democrats, SPD) and the Vice-Chair Stephan Stracke (Conservatives, CDU/CSU) are now investigating the serial murder and have the objective of providing a recommendation for the structure, competency and the qualification of the security forces to better fight right-wing extremism.¹⁹⁸

The following problems have been identified up to August 2012:

Investigations in the wrong direction reveal institutional racism. The vast majority of those who investigated the murders were convinced that the killings were related to organised crime; drug trafficking, debt collection or due to clan rivalries among the Turkish communities. Everyone involved saw what they wanted to see.¹⁹⁹ This kind of reversal from victim to perpetrator through such pre-conceived assumptions was a clear feature of several of the murders. At Nuremberg, (2000) the victim was a regular customer in the Dutch flower market, therefore the victim was suspected to be involved in drug dealing. In Hamburg, (2001) it was assumed that the victim was affiliated with the criminal neighborhood of St. Pauli and in Munich (2001) the assumption was also about drug trafficking and an alleged 'code of honor' within the Turkish minority.

A generalised view on ethnic minorities and crime: Since 2005, the investigating police unit has been collaborating with other units in Munich, Hamburg and Rostock and was collectively known as 'Bosporus'. After the murder of Theodoros Boulgarides on 15 June 2005 in Munich the headline in the local tabloid was: 'Cold execution - the seventh victim. Turkish mafia strikes again'.²⁰⁰ Such reports show how the media supported this view by creating new names always pointing to the victims as perpetrators. Names like 'Turkish Mafia', 'Half-moon Mafia', 'Döner-Mafia' or 'Betting Mafia' encouraged the generally accepted perception of the murders.²⁰¹ In 2006, the

¹⁹⁶ Kölner Stadt-Anzeiger, Weiterer Anschlag in Köln neu untersucht, <http://www.ksta.de/politik/terrorgruppe-nsu-weiterer-anschlag-in-koeln-neu-untersucht,15187246,12033136.html>, accessed 28 August 2012.

¹⁹⁷ Spiegel Online, Neonazi-Terroristen hinterließen Geständnis auf DVD, <http://www.spiegel.de/panorama/justiz/braune-zelle-zwickau-neonazi-terroristen-hinterliessen-gestaendnis-auf-dvd-a-797400.html>, accessed 28 August 2012.

¹⁹⁸ Deutscher Bundestag, Mitglieder des 2. Untersuchungsausschusses, <http://www.bundestag.de/bundestag/ausschuesse17/ua/2untersuchungsausschuss/mitglieder.html>, accessed 28 August 2012.

¹⁹⁹ Süddeutsche Online, Türkenhasser, die den Thrill lieben, <http://www.sueddeutsche.de/politik/untersuchungsausschuss-zum-nsu-die-nsu-morde-sind-unser-september-1.1343041-2>, accessed 28 August 2012.

²⁰⁰ Abendzeitung, Munich 17 June 2005.

²⁰¹ Der Freitag Online, Ermittlung gegen rechte Gewalttaten: Unfähig oder unwillig?, <http://www.freitag.de/autoren/aredlin/ermittlung-gegen-rechte-gewalttaten-unfaehig-oder->

conference of the Ministers of the Interior increased the reward from € 30 000 to € 300 000 with the rationale that the killers were affiliated with organised crime and therefore an increased reward was needed to encourage informants to come forward from within the supposed organised and provide information about the murder.²⁰²

Abstruse clichéd discovery methods: for half a year an undercover agent ran a Kebab Shop in Nuremberg and the invoices from suppliers were deliberately not paid to provoke the 'Döner Mafia' and to attract them.²⁰³

When the search for connections between the victims and organised crime proved to be unsuccessful, the profiler Alexander Horn of the police of Munich was involved in 2006. He developed an alternative hypothesis and came close to the profile of the trio. He said that the perpetrator must have good informants who know the environment and the infrastructure. Therefore, the search was unsuccessfully narrowed down to Nuremberg, where three of the murders occurred.²⁰⁴

Conflicts and competition between the Federal police and the police of the Länder: In 1998/99 a special unit of the police in Thuringia almost got hold of the trio in Chemnitz, but the mission was then stopped. Why is unclear, but there were reports in the media of three undercover agents being linked to the trio.²⁰⁵ There have been a series of strange incidents with right-wing extremist working for the secret police and using the money to build up a fascist infrastructure in Eastern Germany. Even a civil servant working for the secret police has been to one of the crime scenes during the time of the killing, but he never reported himself as an eyewitness.²⁰⁶ Different units of local, federal and secret police have been working on the case, but communication between them was poor. Evidence about the case has even been lost.²⁰⁷ Directly after the discovery of the trio, evidence was destroyed by

unwillig, accessed 28 August 2012 and ZEIT Online, Sprache, die Taten verharmlost, <http://www.zeit.de/gesellschaft/zeitgeschehen/2011-11/sprache-mordserie-naziterror>, accessed 28 August 2012.

²⁰² Süddeutsche Zeitung: Beckstein verzehnfacht Belohnung für Hinweise auf Serienmörder, Artikel vom 26. April 2006, <http://www.sueddeutsche.de/panorama/mysterioese-mordserie-beckstein-verzehnfacht-belohnung-fuer-hinweise-auf-serienmoerder-1.855669>, accessed 6 September 2012.

²⁰³ Tageszeitung Online, Ermittlungen im 'Staatsdöner', <http://www.taz.de/NSU-Ausschuss-des-Bundestages/!93144/>, accessed 28 August 2012.

²⁰⁴ Tageszeitung Online, Deutsch, rechts, Serientäter, <http://www.taz.de/!91926/>, accessed 28 August 2012.

²⁰⁵ MDR, Thüringer SEK kurz vor Zugriff 'zurückgepiffen', http://www.mdr.de/nachrichten/zwickauer-trio146_zc-e9a9d57e_zs-6c4417e7.html, accessed 28 August 2012.

²⁰⁶ Süddeutsche Online, Niedersachsen räumt Panne bei Terrorfahndung ein, <http://www.sueddeutsche.de/politik/neonazi-mordserie-niedersachsen-raeumt-panne-bei-terrorfahndung-ein-1.1190464>, accessed 28 August 2012.

²⁰⁷ Frankfurter Rundschau Online, Beweismittel gegen Zwickauer Zelle vernichtet, <http://www.fr-online.de/neonazi-terror/neonazi-terror-beweismittel-gegen-zwickauer-zelle-vernichtet,1477338,11347090.html>, accessed 28 August 2012.

the secret police.²⁰⁸ In March 2003, the Italian secret service had already warned the Federal secret service in Germany about a 'militant European network', but this was not taken seriously by the German Service.²⁰⁹

The consequences so far have been that the president of the Federal Secret Service (Bundesamtes für den Verfassungsschutz), Heinz Fromm, stepped down on 2 July 2012 because of the evidence that was covered up.²¹⁰ The president of the secret service in Thuringia was given a new position whilst still in office in July²¹¹ and the president of the secret service in Saxony, Reinhardt Boos also stepped down.²¹²

Reactions of victims and NGOs: Two families of the victims launched a complaint against the Federal secret police and the secret police in Thuringia in July 2012, based on obstruction of justice in office.²¹³

The Association of bi-national families and partners (Verband binationaler Familien und Partnerschaften e.V.) expressed shock at the humiliation of the victims and their families and the attitudes of the media. The media had referred to the crimes as 'Dönermorde' (Döner killings), which the victims see as downplaying right-wing crimes as if they are something happening at the fringes of German society. 'We call politicians and the administration to open up their eyes to the truth and to act decisively against right-wing terror'.²¹⁴

Migazin, an online magazine for migrants and non-migrants asked the question in November 2011, why it is expected that a system, which has, up to now, has been based on prejudice and therefore was unable to properly investigate racial issues, act differently after 4 November 2011, without any recognisable change, when the serial killings became public. '*Nothing has*

²⁰⁸ Deutscher Bundestag, Schnelle Aufklärung der Aktenvernichtung gefordert, http://www.bundestag.de/dokumente/textarchiv/2012/39720930_kw27_nsu_di/index.html, accessed 28 August 2012.

²⁰⁹ ZEIT Online, Italien warnte bereits 2003 vor Neonazi-Netzwerk, <http://www.zeit.de/gesellschaft/zeitgeschehen/2012-07/nsu-mordserie-verfassungsschutz-hinweise>, accessed 28 August 2012.

²¹⁰ RP Online, Bundesinnenminister entlässt Fromm, <http://www.rp-online.de/politik/deutschland/bundesinnenminister-entlaesst-fromm-1.2894303>, accessed 28 August 2012.

²¹¹ Thüringer Innenministerium, Thüringer Verfassungsschutzpräsident wird in den einstweiligen Ruhestand versetzt, <http://www.thueringen.de/th3/tim/aktuell/presse/65473/index.aspx>, accessed 28 August 2012.

²¹² Spiegel Online, Sachsens Verfassungsschutzchef tritt zurück, <http://www.spiegel.de/panorama/nsu-ermittlungspannen-sachsens-verfassungsschutzchef-tritt-zurueck-a-843817.html>, accessed 28 August 2012.

²¹³ Spiegel Online, Familien von NSU-Opfern erstatten Anzeige, <http://www.spiegel.de/politik/deutschland/anzeige-gegen-aktenvernichter-vom-verfassungsschutz-a-843092.html>, accessed 28 August 2012.

²¹⁴ Verband binationaler Familien und Partnerschaften, Terror vom rechts muss endlich ernst genommen werden!, http://www.verband-binationaler.de/fileadmin/user_upload/Bundesverband/presse/PM_-_Terror_von_rechts.pdf, accessed 28 August 2012.

changed! Are the investigators now extremely sensible to racism? No, they only act to contain the fiasco for the state'.²¹⁵

The Chairman of the Turkish Community in Germany, Kenan Kolat, considers that the main failure of the security system was not their negligence but their suggestion that the victims may, themselves, have been part of criminal gangs, showing the integral racist and discriminatory attitude of the system.

'First, there are structural problems with the security agencies, which have apparently prevented a cooperative collaboration of ministries. On the other hand, it is a clear case of institutional and structural racism, which is deeply rooted in the minds of the employees - I do not say in all cases- of the intelligence service. If victims are seen as perpetrators and criminals, it shows the attitude of the staff. This negative image of immigrants is also due to the discriminatory and negative past political debates. Here, too, change must come at the political level, something to counteract further discrimination against immigrants and Muslims in particular.'²¹⁶

Like others, he is calling for an open debate about institutional racism. NGOs have suggested using the Stephen Lawrence case and the McPherson inquiry in the U.K. as an example. There, every attack on migrants is initially seen as a racist attack and is investigated with this in mind. In addition, NGOs call for an independent monitoring centre to monitor racism in Germany, which is different to the monitoring of right-wing extremism. Immigration policy must also be reconsidered. Politicians should stop to push immigrants to the edge of society. There is a need for anti-racist equality and participation policies to restore the Turks' and other migrant groups' confidence in the German state.

6.8.3 Hate speech

Because of the severity of the NSU murders, we focused on these developments and refer in this chapter to the special analysis on racist violence²¹⁷ in 2009/10, where you can find detailed information on hate speech and how it is dealt with in Germany. No specific new developments for the period under review can be reported on this topic.

6.8.4 Counter terrorism

Looking at the money going into the secret services and prevention budgets, we can observe a tendency to increase the focus on the Radicalisation of Muslims, and to decrease the focus on right-wing extremism and cut the,

²¹⁵ Migazin, Verantwortliche gefährden Aufklärung des Neonazi-Terrors, <http://www.migazin.de/2011/11/24/zweifelhafte-ermittlungsmethoden-bei-der-aufklarung-des-neonazi-terrors/>, accessed 28 August 2012.

²¹⁶ Migazin, Kenan Kolat: 'Ich habe Angst vor dem Verfassungsschutz', <http://www.migazin.de/2012/07/10/nsu-kenan-kolat-ich-habe-angst-vor-dem-verfassungsschutz/>, accessed 28 August 2012.

²¹⁷ Hieronymus, Andreas, Racist Violence in Germany, <http://cms.horus.be/files/99935/MediaArchive/Racist%20Violence%20Report%20Germany%20-%20online.pdf>, accessed 7 September 2012.

already low, budget of the anti-discrimination body.²¹⁸ Thus, the impact on ethnic and religious minority communities is two-fold. The NSU-murders have reactivated a trauma among many of the older members of the Turkish community. During the 1980s and 1990s they experienced a 'dirty' war, when a fascist counter guerrilla executed opponents under the consenting eye of the Turkish state. This is known as 'deep state' in the Turkish community. The German state is now under the suspicion of such behaviour.²¹⁹

6.8.5 Facilitating factor or protective measures in criminal justice

The developments and political discussions on the NSU-murders have led to increased sensitivity to hate crime, hate speech and ethnic profiling among the wider public. The above described activities of minority NGOs show that the European anti-discrimination agenda is slowly gaining ground in Germany, which hopefully will lead to more positive measures to monitor and sanction hate crime and hate speech. The European agenda also encourages discussions on the acceptability of ethnic profiling or specific methods for ethnic profiling. In previous shadow reports, we have described good examples of NGOs supporting the victims of hate crime, e.g. Opferperspektive (Victim's Perspective²²⁰). Problems identified in the past concerning data collection and the availability of statistics on hate speech and hate crime have not yet been resolved. For example, there remains a significant difference between the official numbers of people killed by right-wing extremists since Unification and the total recorded by NGOs.²²¹ Strategic litigation, such as the Koblenz court case, helps bring about changes in the understanding of ethnic profiling for a wider audience. The Muslim communities are primarily protected through self-organisation by taking legal action to challenge the ever-changing ways the governments tries to control them. With the end of mass controls outside of Mosques after Friday prayers²²² the focus seems to have shifted from the police to financial control, by drying out Muslim organisations financially. One positive development is that the obligation to sign a paper that you are acting under the German constitution, if you receive state money, was challenged by a court ruling.²²³ But this seems to have been replaced by a regulation that if your organisation is listed in any of the reports of the federal or Länder secret police, you are not allowed to apply for state funding, without any legal means to open a court case against this practices. In effect, this targets Muslim communities.

²¹⁸ Bevölkerung und Migration: Deutschland: Bundeshaushalt 2012 beschlossen http://www.migration-info.de/mub_artikel.php?id=111002, accessed 10 November 2012.

²¹⁹ SPD-MINISTERIN ÖNEY ÄUSSERT SICH ZUR NSU. Die Ländle-Union assoziiert <http://www.taz.de/!95111/>, accessed 10 November 2012.

²²⁰ <http://www.opferperspektive.de>, accessed 7 September 2012.

²²¹ Ibd.

²²² see Shadow Report 2009/10 and 2010/11.

²²³ Urteil in Dresden. Verwaltungsgericht kippt Extremismusklausel <http://www.spiegel.de/politik/deutschland/verwaltungsgericht-dresden-erklaert-extremismusklausel-fuer-rechtswidrig-a-829798.html>, access 10 November 2012.

7. Civil society assessment and critique in ensuring protection of fundamental rights

The shock of the NSU murders came as a surprise to the NGO sector as well as to the general public, even though they warned about the danger of underestimating right-wing extremist terror for years. What becomes obvious is that in the last twenty years, after the cold war ended, 'the Muslim' slowly emerged as the new enemy and replaced 'the Communist' as a threat. This seemed to have had a mobilising effect on the right and enabled them to modernise their narrative by making the fascist and national socialist past forgotten and rearticulating their rhetoric in the area of anti-Semitism, gender equality, multi-culturalism and violence. Islamophobia has become a widely socially acceptable attitude of the mainstream society, which makes it possible to articulate prejudices, which, if targeted at Jews, would immediately be recognised as anti-Semitic. Some populist movements now transgress the 'old' left and right division, based on the nation state, to a European identity politics based on the exclusion of Islam as common denominator. The far right uses an 'ordinary citizen approach', whereby they, on the one hand, disassociate themselves from any anti-Semitism and homophobia but on the other hand provide a milieu in which the NSU trio can act undiscovered, because of the mainstream belief that right-wing extremism is not able to build up terrorist structures. Whilst in Norway an individual declared himself to be the executor of the general xenophobic will, the way the NSU trio acted differs greatly. They never used public propaganda, when they declared a political agenda behind a murder. But in the fascist subculture, heroic songs have been circulated, praising the murders. This sent a sign to the fascist subculture, that action under the auspices of the secret police is possible and they even finance some of the structure.²²⁴ For the victims, it increased desperation and fear, because they were perceived as perpetrators and their point of view was not taken seriously, even when they claimed that they have nothing to do with the Mafia, gambling or honour killings.

This is exactly the same pattern they experience in daily life when it comes to discrimination. The mainstream shares the point of view that when it comes to discrimination, victims are over-sensitive and behave in a way that brings about their own exclusion. This argument, however, has nothing to do with the discrimination experienced by victims, but with the stereotypes of those who legitimise discrimination as a social practice, but who do not wish to recognise it as such.

This has practical implications for the NGO sector. The headscarf is still one of the main markers of difference and thus much prejudice is projected onto Muslim women. In the arena of the labour market, NGOs have opportunities

²²⁴ For further information on the interaction of secret police and the terrorists see: TERRORISM. Questions of trust: informants who help terrorists, <http://www.dw.de/questions-of-trust-informants-who-help-terrorists/a-16270648>, accessed 10 November 2012. V-Männer im NSU-Umfeld. "Corelli" - eine Quelle für den Verfassungsschutz, <http://www.tagesschau.de/inland/nsu284.html>, accessed 10 November 2012.

to win new allies, namely enterprises. Discrimination is counterproductive since the German economy requires highly qualified workers. But NGOs should be careful not to get trapped by 'utility racism'. In times of hardship or unemployment, solidarity is not extended to those 'newcomers on probation' and those who 'failed' probation. Anti-discrimination NGOs therefore welcomed the initiative of anonymous job applications, which the Federal Anti-Discrimination Body (ADS) has piloted. Other allies are the labour unions, who stress the necessity of managing the existing diversity.

NGOs have also become more active in the field of education. Some have joined together in networks against discrimination in schools together with parents and mosques. They try to discuss discrimination in schools and in particular they wish to challenge the view of those teachers who presume that Muslim girls are forced to wear a headscarf by their fathers.

It appears that inequality in housing is no longer a question of being German or a foreigner but of belonging to the second Turkish generation, whose socio-economic status is lower than their peer generation from former Yugoslavia in terms of housing. Some NGOs are closely monitoring inequalities in rent and try to find ways of making discrimination more visible.

Invisibility of discrimination is also a key problem in the access to goods and services. NGOs have had some success in their campaigns to make discrimination in access to leisure and recreational facilities more visible. The testing of bars and clubs is spreading from city to city and cases are appearing before the courts. On one instance, a 'migrant quota' was stopped by public resistance. After years of litigation, the anti-racist NGOs have finally achieved the increase of social welfare benefits for asylum-seekers in front of the highest German courts. Interestingly, the judge used the same argumentation as that used in the case of German nationals who are unemployed.

A milestone in political participation is the treaty between the City of Hamburg and Muslims in Hamburg, for which Muslim NGOs have struggled for a year. It is a step forward in achieving equality in all areas.

Socially accepted Islamophobia has reached such a degree that many people overtly show their aversion towards Islam in the public media. The NSU murders led to a critical reflection on the question of the way in which the police, the public and the media processed information. The media has a serious diversity problem; most issues concerning Muslims are reported by non-Muslims. Many young Muslims feel more discriminated against through the media than in real life. Some NGOs are trying to influence not only the content of the media, but also representation within the media.

A campaign on policing and ethnic profiling has begun very successfully to challenge the ruling of the court legitimising 'racial profiling'. The underlying logic of surveillance has had an impact on other fields such as employment where employers have been encouraged to survey their Muslim employees.

More and more human Rights' activist and minority NGOs are taking a clear stand against all forms of ethnic profiling.

The mainstream public does not see any connection between offences against Muslim institutions and the increase of Islamophobic trends in the media. Such refusal to see the obvious has now been challenged by the NSU murders. Investigations show features of an institutional racism. There are strong reactions of some families of the victims and NGOs. They highlight the mismatch between the increased focus on the radicalisation of Muslims and the underestimation of their potential to spread terror in minority communities. NGOs now fear that the whole question of institutional racism will be forgotten and with the reshuffling of the leadership and some minor changes, the problem is seen as solved. Therefore NGOs should join up to commemorate those important dates and ask continuous questions about the failure of the security forces.

8. Good practices

Example of NGO Good Practice in Access to Goods and Services

Leipziger Anti-Diskriminierungsbüro (ADB)

The Anti-discrimination Office in Leipzig (ADB) was founded in 2004. It is one of the main contact points in Saxony for victims of discrimination. They help people to assert their interests and protect them from direct/concrete disadvantages in their everyday life, based on attributed characteristics such as ethnicity, gender, sexual identity, disabilities, age and religion or world-view. The ADB follows a horizontal approach which means that different forms of discrimination are dealt with within one single law. In order to strengthen the position of victims and to improve implementation of anti-discrimination laws, it is vital to establish contact points responsible for different kinds of discrimination. This would increase transparency of the way in which minorities are treated by society.

Example of NGO Good Practice in Promoting Political Participation

Netzwerk gegen Diskriminierung von Muslimen

The Network against Discrimination of Muslims in Berlin was founded in August 2012 by Inssan e.V. (Association for Cultural Interaction, Verein für kulturelle Interaktion) and the Network for Antidiscrimination (ADNB) of the Turkish Union Berlin-Brandenburg (TBB). It is financially supported by the Open Society Institute and the Integration Commissioner of the Senate of Berlin.²²⁵

Noting that most anti-racist initiatives focused primarily on perpetrators, the Network decided to concentrate on the empowerment of people affected by anti-Muslim racism. Since many Muslims perceive discrimination against them to be a 'normal experience' in their daily life, one important objective of the Network is to enhance recognition and understanding of the forms of discrimination they encounter. The Network considers that sharing knowledge about discrimination is one step towards increasing the range of actions available actions for Muslims affected by racism.²²⁶

The Network offers consulting service and works together with mosques and other Muslim institutions to provide easy access to

²²⁵ Netzwerk gegen die Diskriminierung von Muslimen, <http://www.netzwerkdiskriminierung.de/>, accessed 20 August 2012

²²⁶ Netzwerk gegen Diskriminierung von Muslimen, *Und du?*, http://netzwerkdiskriminierung.inssan.de/Broschuere_AntiDiskriminierung.pdf, accessed 20 August 2012

consulting services. Thereby they offer educational advertising, providing information on local support structures and propose action on tackling discrimination. They furthermore train anti-discrimination delegates within Muslim communities as first persons to contact in cases of anti-Islamic racist incidents. The delegates are also meant to document cases and forward them to the Network for further support if needed.²²⁷

Example of NGO Good Practice in Media

Neue Deutsche Medienmacher

The New German Media Makers are an affiliation of German journalists with and without a migration background. These journalists promote diversity in the media and oppose discriminating coverage. In 2011, the organisation promoted new or more appropriate language in the coverage of the NSU murders. Additionally, they purposely encourage and recruit colleagues with different cultural backgrounds to become involved in discussion panels, leading positions and directing boards and in other positions throughout journalism. In addition, the affiliation provides workshops and training on diversity.²²⁸

Example of NGO Good Practice in Criminal Justice

Kampagne für Opfer rassistisch motivierter Polizeigewalt - KOP

In 2002, the campaign for victims of racially motivated police violence (KOP) was founded by several projects that are experienced in engaging with anti-racist and anti-fascist activities. Their main concern is the victim's lack of financial means to go to court and fight for their rights. Therefore, KOP organised a foundation for legal assistance. Their aim is to break through the present situation which has been normalised. For many victims racist and violent treatment by the police has become normal and many don't defend themselves. KOP takes a clear stance against these methods and wants to put forward the victims' interests to the political arena. Institutional racism is at its strongest every day police life.

KOP provides consulting services free-of-charge and supports victims by providing legal aid and accompanying them through the proceedings.

Furthermore, they try to raise public awareness and increase sensitivity of issues such as the position of victims, the importance of demanding responsibility amongst the police and of disclosing the procedures and methods used by the police.

²²⁷ Netzwerk gegen die Diskriminierung von Muslimen, <http://www.netzwerkdiskriminierung.de/>, accessed 20 August 2012

²²⁸ Neue deutsche Medienmacher, <http://www.neuemedienmacher.de>, accessed 3 July 2012.

9. National recommendations

Special Focus: Muslim Communities

Employment

- Raise awareness among work councils and their migrant members about intersections in discrimination, with a special focus on religious or ethnic grounds.
- Support professional networks of Muslims to develop strategies to counter discrimination in the recruitment process.
- Engage in a dialogue with local small and medium size enterprises to help develop a discrimination-free work environment, to overcome labour shortage and to counter the arguments of the employers' lobby, that anti-discrimination measures are bad for the economy.

Education

- Schools, who have not yet do so, should make efforts to confront their own discriminatory practices and structures, with a special focus on Muslims and Islamophobia.
- Ministries of Education in the German states (Länder) should establish and ensure a comprehensive anti-discrimination culture in schools and within the ministries.
- Establish independent complaint bodies for those who encounter discrimination in schools.
- Establish guidelines for schools on how best to inform students, parents and teachers about their rights and anti-discrimination measures;
- Provide certified courses for teachers, head teachers and counseling bodies in schools on the topics of ethnic and religious discrimination.

Housing

- Municipalities should form local networks with NGOs, landlords and local politicians to develop anti-discrimination policies in the local housing market.
- Landlords should establish an anti-discrimination policy as part of their company guidelines, commit themselves publicly to non-discriminatory application procedures and evaluate these through internal testing.

Health

- Local monitoring of the qualifications of doctors by ensuring that the needs of the local population are reflected in the composition of the local doctors, e.g. knowledge of local migrant languages as an extra point for receiving a licence to practice.
- End the detention of asylum seekers and facilitate their integration into normal local life in order to minimise their health risks.

Access to goods and services

- Make discrimination more visible through testing.

- Develop testing strategies, which can be used in court.
- Increase compensation for victims of discrimination.
- Extend the research on discrimination in the access to goods and services in order to provide judges with expert opinions on the topic.

Criminal justice

- Raise awareness within the Ministries of the Interior and police departments about the negative effects of ethnic profiling on policing.
- Develop a culture of self-correction and self-critical professional ethics within law enforcement agencies.
- Establish obligatory human rights training in the further education of police officers.

Media

- Strengthen critical voices in the integration discourse, which bring a European and international perspective on discrimination into the existing media discourse.

10. Conclusion

To conclude with a positive outlook, the situation is not as bad as it appears. The NSU murders provide an opportunity to transform the security forces in a way that provides security for all citizens and non-citizens. Continuous pressure from NGOs and the general public is required to bring about this change. Several examples of successful litigation in this report give hope. After years the legal fight for the basic human rights of asylum-seekers has made headway and proves that NGOs need a long term perspective to bring about change.

I want to end this report with the names of those who have been killed by the NSU.

1. Enver Şimşek, 9 September 2000, in Nurremberg,
2. Abdurrahim Özüdoğru, 13 June 2001 in Nurremberg,
3. Süleyman Taşköprü, 27 June 2001 in Hamburg,
4. Habil Kılıç, 29 August 2001 in Munich,
5. Mehmet Turgut, 25 February 2004 in Rostock,
6. İsmail Yaşar, 9 Juni 2005 in Nurremberg,
7. Theodoros Boulgarides, 15 June 2005 in Munich,
8. Mehmet Kubaşık, 4 April 2006 in Dortmund,
9. Halit Yozgat, 6 April 2006 in Kassel.
10. Michèle Kiesewetter 2007 in Heilbronn

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Annex 1: List of abbreviations and terminology

ADB/ÖGG = Antidiskriminierungsbüro Köln/Öffentlichkeit gegen Gewalt (Anti-Diskrimination bureau of Cologne/Public against violence)

ADNB = Antidiskriminierungsnetzwerk Berlin (Anti-discrimination network Berlin)

ADS = Antidiskriminierungsstelle des Bundes (Federal Anti-discrimination body)

advd = Antidiskriminierungsverband Deutschland (Anti-discrimination association of Germany)

AGG = Allgemeines Gleichbehandlungsgesetz (General Equal Treatment Act)

BAMF = Bundesamt für Migration und Flüchtlinge (Federal Ministry for Migration and Refugees).

BUG = Büro zur Umsetzung von Gleichbehandlung (Bureau for the Implementation of Equal Treatment).

CDU = Christlich Demokratische Union (Christian Democratic Union)

DIE LINKE = THE LEFT

FDP = Freie Demokratische Partei (Liberal Democratic Party)

FRA = Grundrechteagentur (Fundamental Rights Agency)

GfM = Gesundheitszentrum für Migranten (Health Centre for Migrants)

IATA = International Aviation and Transport Association

MhM = Mieter helfen Mieter (Tenants helping Tenants)

NeRaS = Netzwerk Rassismus in Schule (Network Racism in School)

NGO = Nichtregierungsorganisation (non-governmental organisation)

NIP = Nationaler Integrationsplan (National Integration Plan)

StGB = Strafgesetzbuch (Penal Law)

TAZ = Tageszeitung (Daily newspaper)

TBB = Türkischer Bund Berlin-Brandenburg (Turkish Union of Berlin-Brandenburg)

TGD = Türkische Gemeinde Deutschland (Turkish Community of Germany)

VZBV = Verbraucherzentrale Bundesverband (Federal Association of Consumers organisations)

