



ENAR Shadow Report 2007

ENAR SHADOW REPORT 2007

Racism 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. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

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 with 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 the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

This report describes communities vulnerable to racism and the manifestations thereof in Germany as exhibited in the following areas:

Employment: Migrants and their children have fewer opportunities in the labour market than the members of the majority; despite having the same qualifications. This problem is also reflected in the higher unemployment rates for young adults with a migrant background, who were born, raised, trained and who completed their education in Germany. The same level of qualification for migrants does not ensure equality with native Germans.

Housing: Migrants are underprivileged in the housing market compared to the Germans. Frequently migrants are regarded by landlords or landladies as 'second class tenants' and are disadvantaged in their search for housing. Often they are left with poor quality housing for which they pay more than native German tenants.

Education: Studies regarding the attitudes and interactions within intercultural situations in schools have highlighted the problems and characteristics of discriminatory practices. This involves among other things a deterministic understanding of culture. Racism as such is barely discussed in German schools. Therefore, accurate figures and records about racist violence or cases of discrimination within schools are severely lacking.

Health: Migrants encounter substantial difficulties in accessing health provisions, consultations or treatment. The hurdles can be both legal as in the case of undocumented migrants as well as social. Problems often emerge out of communication difficulties which exist between the health personnel and the patients; these being centred on language and cultural differences. On the other hand, there are cases of discrimination which take the form of simply refusing treatment or the incorrect and unprofessional treatment by medical practitioners.

Policing and racial profiling: The ongoing engagement in the battle against international terrorism places Germany increasingly in the focus of Islamist terrorism. This threat, mixed with criminal statistics, increases the fear related to foreigners. The percentage of the offences by non-Germans is related to the racial profiling of 'foreign looking' persons by the police. The majority are more likely to complain about a member of an ethnic minority (stigmatisation) than about a German.

Racist violence and crime: 2007 figures indicate a decrease in right-wing extremist crime in Germany. There is a slight decline in the racially motivated acts of violence by right wing extremist groups. On the other hand there seems to be a major growth in neo-Nazi activities; particularly in East Germany where they have an extended skinhead network, which commands large groups of right wing extremists (neo-Nazis).

Access to goods and services in the public and private sector: In 2007, the practice of scoring became more insidious than the previous year. In cases

where solid information is missing, credit firms rely on the information provided by external suppliers such as marketing firms. This also includes inspection reports of staff members who regularly observe districts. In 2007 there have been several cases in which people with a migrant background have been excluded from entering a pub or a disco on the grounds of their origin or their colour.

Media, including the internet: The media representation of migrants, in 2007, was dominated by two major themes: The first set of themes was the construction of a Mosque in Cologne, forced marriages and honour killings as well as Islamic radicalism, violence and criminality among young Muslims. The second set of themes involved the case of Marco W. who was accused and detained in Turkey for sexual assault on an under aged English tourist. The applied laws had been newly introduced in Turkey as part of the EU negotiations fighting forced marriage.

The political and legal context of these manifestations are described according to four aspects:

Anti-discrimination: One year after the introduction of the General Equal Treatment Act (AGG) the government has established an anti- discrimination body and set up a web page containing information and a questionnaire that is aimed at collecting cases of discrimination. There have been no cases or proceedings brought forward to the public by the body, instead cases have been exposed by independent NGOs as the “deaconry” case shows.

Migration and integration: The second Islam conference and the summit on integration took place in 2007. Around the same time as the conference was taking place, the new residence- and asylum law according to the EU directives was implemented. The new law is considered as aggravating the residence- and citizenship rights and led many NGOs such as the German Trade Unions, Turkish community and Pro Asylum to boycott the integration summit. These groups accused the government of double dealing by pursuing and demanding integration on the one hand and implementing discriminatory legislature on the other.

Criminal justice

Racism as a crime: The ‘Framework decision on Racism and Xenophobia’ by the Council of the European Union, adopted under the German presidency in April 2007, aims to consolidate the regulations surrounding the right to legally punish racist and xenophobic utterances. Although the numbers of right-wing attacks have declined in Germany, the general discussion on racism is still very often accompanied by debates about integration, evoking assumptions that a racially motivated attack is provoked by the victims on the grounds of not being integrated enough.

Counter terrorism: The discourse on terrorism and counter terrorism is marked by ambiguous debates and policies introduced by the government. On the one hand, there is an apparent criminalization and discriminatory handling of Islam and Muslims. Simultaneously, attempts are made towards dialogue as

demonstrated by the Islam conference. This conference however took place within the framework of the very controversial integration policy exposing the paradox of the government's strategies.

Racial profiling: Since the alleged bomb attacks on the US American institutions in Germany by the so-called Sauerland-group of three Muslim men (two of them German Muslims), the discourse on Islam as a threat has become more insidious. The media played an important role shaping the discourse on terrorism and Islam. This led to a reduction in the traditional sensitivity of the German population regarding the collection of personal data records by the authorities and further legitimized racial profiling.

Social inclusion: The national plan on integration published in 2007 by the government suggests a number of measures and self-commitments for the social inclusion of minority groups. The main pillars of the integration plan is to enhance the German language skills of migrant parents as well as that of their children. Child poverty in Germany is a continuous problem and a recurring focus of political debates. According to the government despite, the high financial expenditure, children in Germany are more often affected by poverty than adults.

The report ends with the full list of national recommendations for the various fields and a concluding chapter.

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3. Introduction

'The country is bleeding because of emigration and the lack of qualified labour force¹'.

This statement was made by the well-established conservative migration researcher, Dieter Oberndörfer, who has criticized German migration policy in 2006. The core of the evolving German migration policy is not the question of allowing people into Germany and how they can be accommodated, but rather what is called „catching up on integration“ of long established migrants, often having no migration experience in second, third or fourth generation. The rationale is that because government ignored migration policy for 60 years, society was not able to evolve and to integrate. Therefore, after the realization that Germany was centered around immigration, politicians felt that they needed to halt any further immigration as they needed to address the integration issue of established migrants. This highly ideological approach is ignoring the reality of German society and its capacity to accommodate newcomers on an everyday basis, a situation that highlights increasing contradictions in a wide range of fields. Contradictions exist between integration and migration („Integration summit“), between religious freedom for Muslims and security policies („Muslim conference“), awareness about the need for educational reforms and increased social selection in the education system or the official rejection of „ethnic“ data collection and the pragmatic approaches of collecting „ethnic data“, because there is a need for them in a wider range of fields, which forms the core of the 2007 shadow report.

As reported in the previous reports, there are important changes in the system of data collection of the statistical office. They introduced in the micro census of 2005 a new set of questions that takes not only into account the nationality of the questioned person but also his/her birth place and the nationality of the parents' as well as their birthplace; distinguishing between those German nationals with a migration background, migration experience and those without. These changes have since lead to an increase in the statistics in the population with a migrant background from 10% to 20%. The statistical data which formerly reproduced the „German“ - „Foreigner“ dichotomy is slowly taking a different shape and is starting to be analysed according to the migration background and experiences of the population. But there seems to be a need to have more differentiated forms of data than that of migration experience or background. This is indicated in emerging research by different actors in this field: the largest housing company in Hamburg e.g. has clustered the tenants of its housing units according to an „Ethno-variable²“, to study the spatial distribution of different ethnic and religious groups. The Hamburg administration has started to carry out a survey of the migration background of its civil servants. This is being done to meet and

¹ BIM 100/2006 - Berliner Infodienst Migration, 01.11.2006.

² Names are used to create ethnic clusters, see: Hallenberg, Bernd (2007): Migranten und der Hamburger Wohnungsmarkt. Ein Beitrag zum vhw-Verbandstag 2007.

measure the political objective of increasing the percentage of people with a migrant background in civil service from 2% to 20%. The private enterprise, Sinus Sociovision GmbH, active in the field of market research has published in 2007 a study on migrant milieus in Germany³. They distinguish eight migrant milieus (religious entrenched milieu, traditional guest worker milieu, status oriented milieu, uprooted refugee milieu, intellectual-cosmopolitan milieu, adoptive integrative milieu, multicultural performer milieu, hedonistic-sub-cultural milieu). The milieus differ in their social position (low, medium, high) and their basic orientation (traditional, modern, new orientation).

These few examples indicate that there is a growing need and practice for in depth research about the situation of vulnerable groups in Germany. It is important to have detailed information about situations in order to bring about improvements; comparable data especially is essential in fighting discrimination.

The national recommendations at the end of the report attempts to reflect upon those contradictions within German migration and anti- discrimination policies from an NGO perspective and provides ideas on how to improve the situation of vulnerable groups.

³ Sinus Sociovision (2007): Migranten-Milieus. Qualitative Untersuchung der Lebenswelten von Menschen mit Migrationshintergrund in Deutschland. Forschungsbericht für den vhw – Bundesverband für Wohneigentum und Stadtentwicklung e.V., Heidelberg.

4. Communities vulnerable to racism

Since the introduction of the new categorization of migrant populations in 2005 by the Federal Bureau of Statistics, it has been possible to make accurate statements about vulnerable groups in Germany. The micro-census of 2006 (published in March 2008) provides precise records of the proportion of Germany's migrant and non-migrant populations and also enables a comparison of the population change to the previous years. The new classification addresses questions about 'migration', 'nationality' and naturalization. According to the Bureau, this not only provides information about a person's 'migration background' but also new insights about further categories. The previously hegemonic German-Foreigner dichotomy in the population statistics is now broken down into more detailed descriptions of the population living in Germany.

'Foreigners': This group includes 1st generation migrants as well as German born 'foreigners' of 2nd and 3rd generations. This means that not all 'foreigners' have a migration background. The second group – '**Germans with a migration background**' include immigrated Germans and non-immigrated Germans with a migration background. The third group comprises '**native Germans**'. However, the term 'generation' in the context of migration requires some clarification. For example, it is not clarified whether a child, who immigrated with her parents, is a first or a second generation migrant. Nevertheless, the census bureau distinguishes between persons with a 'migration experience' and 'migration background' and persons with a 'migration background' but 'without migration experiences'.

It is important here, to highlight a momentous development in recent times. Due to the appalling experiences of the Holocaust, Germany has been refusing to establish social or ethnic categorisations regarding migrant or minority groups. However, having encountered difficulties to find suitable concepts for measuring and establishing social policies, concerning these groups, various governmental and non-governmental institutions are searching for pragmatic solutions. Among others the above mentioned new categories of migration experience and migration background in the micro census of the Federal Bureau for Statistics (Statistisches Bundesamt).

This is important as it has consequences for vulnerable groups in Germany. It allows new sociological relevant definitions and new policy requirements for those groups of people. Yet, it also re-produces the existing two-class system concerning citizenship among Germany's populations. The division now runs not only between those who are German citizens and those who aren't but also between those whose citizenship cannot be revoked because they are native Germans and those whose citizenship can be revoked because they are naturalised.

On the other hand, there are no generally admitted categories but rather classifications. These are at times contextual and vary according to the objectives of the study and the reporting institution. As a result, some socially relevant fields such as the housing situation of minorities remain ambiguous because there is very little information available.

According to the micro census (2006), 15.1 million of the 82.4 million overall population in Germany have a migrant background. That is; in big cities every fourth child under 18 years has a migrant background⁴. Among those are 10.4 million who have migration experiences. Then again, at the end of 2007 the Central-registry for Aliens (Ausländerzentralregister) recorded 6.74 million people with a non-German passport. Among them 1.3 million foreigners who were born in Germany. Turkish nationals constitute the largest group among foreigners, comprising 34%.

Nonetheless, in 2007 the census noted a slight decrease (0,1 %) in the foreign population compared to 2006. This is partly due to emigration from Germany or deaths and partly due to naturalisation of foreigners. Additionally, some 7.8 million Germans with a migration background (**Aussiedler [ethnic Germans]**) are not included among the foreign nationals. Most of them come from countries of the former Socialist Soviet Republic⁵.

It is noteworthy to point out, that 70% of all persons who immigrated to Germany in 2007 were from European countries and 52 % of them from EU countries—particularly from Poland. These numbers indicate a shift in the perception of the migrant population. The population with a **migrant background (including migrant experience)** is now more than twice as high as the number of the foreigners with and without an immigration experience. Remarkable is that in 2007 slightly more than half of the population 7.9 million with a migrant background have a German passport and the remainder of the 7.3 million hold a foreign passport.

One of the most vulnerable groups in Germany is the **undocumented migrants**. The figures for undocumented migrants in Germany are estimated to be between 100,000 and 1,5 million⁶. These people live and work in constant fear of being detected⁷. They do not have a residence permit. They do underpaid work, cannot claim employment protection and without official social security they do not have access to health services and social benefits. They mostly live under inhumane housing conditions. Yet again, the most vulnerable in this situation are the

⁴ Welt Online, http://www.welt.de/politik/article850489/Jedes_dritte_Kleinkind_hat_Migrationshintergrund.html, accessed 27.6.2008.

⁵ Census Bureau press release from 18.2.2008. www.destatis.de, accessed 27.6.2008.

⁶ NISCHE – Netzwerk für Illegalisierte Menschen in Schleswig-Holstein. Dokumentation der Fachkonferenz; 'Hergekommen und Hiergeblieben: 6.12.2006 <http://www.nische-sh.de/pdf/dokukiel.pdf>, accessed 10.6.2008.

⁷ BIM 24/2007 - Berliner Infodienst Migration vom 10.05.2007 http://www.multikulti1.de/index.php?id=207&tx_ttnews%5Btt_news%5D=4448&tx_ttnews%5BbackPid%5D=34&cHash=a111c9ef83, accessed 27.6.2008.

children of these undocumented migrants. They can neither attend a Kindergarten nor a school⁸.

The question of **national minorities** in Germany (s. Shadow Report 2006) is frequently discussed in relation to the legal and social situation of the **Sinti and Roma**. The law differentiates Roma and Sinti according to their legal status in Germany. Similar to other German national minorities such as Friesians, Danes, Sorbs; a part of the Sinti and Roma who lived in Germany since the middle ages are recognised as national minorities. In addition to having specific rights regarding language and the setting up of their own schools, they also have the same rights as native Germans. In contrast, the group of Roma and Sinti who immigrated as **refugees**, asylum seekers or as regular migrants to Germany in the last decades are legally on equal terms with other immigrant groups. Since no records exist about the ethnic origin of the immigrants, it is not possible to provide any authentic figures regarding the numbers of Sinti and Roma.

Nevertheless, there are reports about particular problems, which the group of **Roma and Sinti** and above all the **children** experience. According to a study⁹ there are an estimated 50,000 Roma from former Yugoslavia who have refugee status in Germany. Some 20,000 of them are children. The case studies were conducted in Hamburg, Berlin, Cologne, Munster and Frankfurt/Main and comprised questions about success and failure in educational issues as well as access to housing and health services. The outcome of the research implies that due to the restricted residence and unfavourable housing conditions, the monitoring of these refugees' situation is critical. The majority of families do not have legal residence permits in Germany but they are 'tolerated'. This residence status means that they can be deported any time, are not permitted to work neither to visit a – state sponsored – language course or a course on integration. They receive only 70% of the social benefits and are excluded from claiming other benefits such as child allowance (Kindergeld) or educational allowance (Erziehungsgeld). In some German Federal states such as Saarland, Baden-Würtemberg and Hessen there is no obligation of schooling for children with a 'tolerated' residence status. The education of the children is subject to supervision from their families or support from outside supervision. The prohibition of vocational training and employment has an exclusionary effect on the Roma youth as it severely limits any career opportunities¹⁰.

Muslims have become the most debated group since the events of 9/11. However, because Germany does not collect data about religion, there are no accurate figures but only estimates about the number of Muslims. According to the annual documentation of the Central Institute Islam-Archive in Berlin, the number of Muslims increased between the years 2006 and 2007 and is

⁸ Ibid.

⁹ The study was commissioned by the UNICEF and conducted by the Centre for Research on Anti-Semitism (ZfA) in the Technical University of Berlin

¹⁰ 'Deutschland: Studie über die Lage von Roma-Kindern', Migration und Bevoelkerung, Newsletter, Ausgabe 2, März 2007

approximately over 200,000. That means, in 2007 around 3,508,000 (2006: 3,3000,000) Muslims lived in Germany. According to the senior director of the institute, M. Salim Abdullah, this increase resulted above all from the increased birth rate and immigration. Due to birth and naturalisation the number of Muslims with German citizenship increased to about 100,000 between 2006 and 2007 and now remains at 1,1 million. Among this group, Sunnis constitute 80% whilst the Shiites make up around 20%. Of this group, 57% of all Muslims use the services of Muslim associations and organisations. It was not clarified which of these figures contain the number of Alevis¹¹ as a subgroup¹².

The **Jewish** immigrants from the former Soviet Union are one of the groups whose numbers vary according to the changes in the German immigration legislation. In the last three years, fewer Jewish immigrants from the former Soviet Union came to Germany. This was due to the changes in the restrictive immigration policies, which were passed in 2005. For the first time in 18 years the number of members of the Jewish community stagnated. The average of those, who immigrated to Germany in the years between 2005 and 2007, remained at approximately 3,200. However, due to some legal clarifications regarding residence, the figures of Jewish immigration increased from 1,079 (in 2006) to 2,502 (in 2007). According to the Federal Office for Migration and Refugees [BAMF] the number of Jewish migrants from the former Soviet Republic amounts to 209,226¹³.

The **asylum seekers** constitute a particularly vulnerable group in Germany. In the first half of 2007, which is between January and July, 9,987 people applied for asylum in Germany. This figure indicates a decrease in asylum application at 2,242 (-18,3%) in comparison to the same period of the previous year. Moreover, the figures for 2007 demonstrate the restrictive asylum policy of the German government resulting in a decline in the numbers of people who seek asylum. The main groups who applied for asylum for the above-mentioned period are categorised according to their nationality: Iraqis (1,216), Serbs (1,205), Turks (848), Vietnamese (591) and a range of other nationals reaching from the Russian Federation to Iran¹⁴.

Of these numbers, a mere 134 (0,8 %) were accepted and awarded asylum status. 1,767 people received a status that protects them from deportation. The rest of the applications were either declined or dealt with in a different manner.

¹¹ Alevis are the second largest faith group in Turkey. The Alevi population in Turkey is estimated to range between 10 and 20 millions. They are also considered as a religious, sub-ethnic and cultural community (see Wikipedia). "Alevi" is generally explained as referring to Ali - cousin, son-in-law, and fostered son of the prophet Muhammad. The Alevi population in Turkey is estimated to range between 10 to 20 millions (<http://www.alevi.com>, accessed 7.8.2008).

¹² Der Tagesspiegel Deutschland, 5.4.2008, <http://www.tagesspiegel.de/politik/deutschland/Muslime;art122,2507097>, accessed 27.6.2008.

¹³ Migration und Bevölkerung, Newsletter, Ausgabe 4, Mai 2008, http://www.migration-info.de/migration_und_bevoeilkerung/artikel/080402.htm, accessed 27.6.2008.

¹⁴Bundesministerium des Innern, 14.8.2007
http://www.bmi.bund.de/nn_662942/Internet/Content/Nachrichten/Pressemitteilungen/2007/08/Asylzahlen_Juli07.html
accessed 27.6.2008.

At the end of July, about 9,451 asylum applications were still undecided¹⁵. These people remain in a difficult situation because of the uncertainty about the outcome of their applications.

¹⁵ ibid.

5. Manifestations of racism and religious discrimination

5.1 Employment

Increasing unemployment in Germany in recent years has worsened the chances of migrants to find both general work and proper employment with appropriate salaries. The discrimination in the labour market affects not only those from Third countries, refugees and tolerated migrants but also affects ethnic Germans and those migrants with a German passport. Migrants continue to be subjected to discrimination in the labour market on the grounds of a) the native privilege in the job market according to the German employment law and b) the apparent low level of education and the lack of skills of immigrants, particularly Third-country nationals.

Furthermore, migrants and their children have fewer chances in the labour market than the members of the majority, even if they demonstrate the same qualifications. This problem is also reflected in the higher unemployment rates for young people with a migrant background, who were born, raised, trained and who completed their education in Germany¹⁶. Migrants, who possess the same level of education as native Germans, are still not ensured equal treatment.

The rate of unemployment among migrants with 23, 6% was twice as high as among the Germans with 12,0 % in 2006¹⁷. Nevertheless with 650,000 there was a slight decline in the number of unemployed migrants in 2006 compared to 672,903 in the previous year¹⁸.

This is an obstacle for the integration of the migrant population particularly of Third-country nationals. Refugees and asylum seekers are particularly disadvantaged in the job market. Firstly, due to the employment ban for asylum seekers by German law and secondly, due to the non-acceptance of foreign certificates. It is quite common that a highly qualified professional, once he is recognised as a refugee has to take an unskilled job, even if there is a requirement for the specific profession- such as engineers. Indeed, in recent years there has been a controversial discussion about the lack of skilled labour particularly in areas such as technical and electro engineering¹⁹. On the other hand, there is generally no work permission given to those highly qualified international professionals who have completed their studies in Germany²⁰.

¹⁶ Wolfgang Plischke, 'OECD-Studie: "Migranten auf dem Arbeitsmarkt benachteiligt", Evangelischer Pressdienst Sozial, 13. 7. 2007, www.epd.de/sozial/sozialindex500843.html, accessed 06.05.2008.

¹⁷ Figures for 2007 were not yet available at time the present report was written.

¹⁸ BAMF, http://www.bamf.de/cin_006/nn_442496/SharedDocs/Anlagen/DE/DasBAMF/Publikationen/broschuere-integration-in-zahlen-2006.templatelid=raw.property=publicationFile.pdf/broschuere-integration-in-zahlen-2006.pdf, accessed 27.6.2008.

¹⁹ 'In Deutschland fehlen Fachkraefte', Stuttgarter Zeitung, 29.6.2007.

²⁰ 'Zuwanderer: Hamburg will Nachbesserung', Hamburger Abendblatt, 28.6.07.

Also there seems to be a general discrimination against Muslim academics, even those with high qualifications. Since the events of 9/11, people with a Muslim background are confronted with allegations of fundamentalism. This is most evident in the case of young female professionals who wear the hijab. They are denied employment on the basis of their faith and their attire. The result is that some of these young women and men, although qualified professionals, remain working for their families' small businesses²¹.

Such discrimination cases came to the public's attention after the so-called deaconry case. The case of the deaconry can be considered as exemplary for similar cases in the future. In this case, a woman of Turkish/Muslim background had applied for a post in the North Elbia Evangelical Church. Her application was declined on the grounds of her religious background. This highlighted a common practice of major religious employers, who excludes non-Christians from being employed when they refuse to join a Christian church (s. also VI.i)

Another vulnerable group who are usually denied the right to employment are Roma refugees from former Yugoslavia who came to Germany after 1990. They are particularly affected by this regulation as the majority of them have the status of being tolerated. The draft on the 'right of residence' as adopted in November 2006 by the Conference of the Interior Ministers (IMK) aims at improving the situation of these people also with respect to the labour market, granting them 'probationary' work permits. However, only a minority of all tolerated migrants will fulfil the criteria to obtain these permits.

It is assumed that a well organised network of labour-brokers supply some businesses, for example, in the field of meat and building construction industries with illegal (undocumented) migrants. Since there are no records available for illegally employed migrants, no authentic figures can be given. The majority of undocumented migrant workers come from Eastern European countries or from traditional migrant countries such as Turkey and Morocco. These people cannot produce a document of residence or work permission. The areas in which undocumented migrants work vary according to the place and time of residence. Many undocumented migrants are employed as seasonal workers in rural areas collecting vegetables or fruit. The construction and the meat industry also employ undocumented migrants. It is assumed that the construction and the cleaning industry could not viably continue without the undocumented migrants. As of its nature, undocumented migrants do not appear in official statistic. The known estimates and descriptions of their situation are mainly available through NGO's working in that field²².

The majority of the undocumented migrants, particularly women, are employed in the private service sector taking care of the elderly, children, invalids or sick people. The tourist industry also profits from the labour of undocumented

²¹ 'Spiegel Online: Bewerberinnen mit Kopftuch schlecht betucht', Newsletter 36-Maerz 2007, p. 8/12

²² <http://www.bpb.de/themen/JZF5I.1.0.Literatur.html>, accessed 7.8.2008.

migrants. In most cases, they work hidden from public places, in the confines of a house or the back rooms in restaurants. Additionally, many women without work permits take jobs in the sex industry or are forced to work as sex workers. These people play a vital role in the overall functioning of the sector. Needless to say, the work of undocumented migrants is severely underpaid although they are often subjected to great danger. They are also excluded from health, unemployment or pension benefits²³.

5.2 Housing

One of the other areas in which discrimination takes place is housing. Surveys such as those conducted by the Anti-discrimination-Bureau (ADB) in Cologne indicate denial of housing for migrants on the basis of nationality, ethnicity and colour. A foreign German accent and/or a 'foreign' name are also indicators for rejection of housing over the phone²⁴. The ADB has collected cases of general discrimination over 2007. Complaints about discrimination in public or non-public housing amount to 19% at third place²⁵. The ADB also noticed an increase in complaints about discriminatory selection practices of Landlords / Landladies who excluded people with a German passport but an apparent 'foreign' name²⁶.

Other complaints in this field, according to the ADB Cologne, are centred primarily on 'neighbourhood conflicts'. The number of people who complain about experiences of discrimination in the neighbourhood is relatively high. Most of these people live in semi-public housing areas. In these multi-ethnic neighbourhoods, the daily conflicts about noise, rubbish, or obstructing objects in the stairways are being increasingly attributed to ethnicity²⁷. According to a study conducted in Hamburg, migrants are under-privileged in the housing market compared to Germans. Frequently, migrants are regarded by landlords or landladies as 'second class tenants' and are disadvantaged in the search for housing. Often they are left with poor quality housing for which they pay more than native German tenants. While 28% of the migrants have to spend approximately 40% of their income for housing this figure remains for the Germans at around 20%²⁸.

Also cases where housing is refused by the landlords/landladies on the basis of ethnic origin or 'race' is not a rare occurrence. The Antidiskriminierungsverband Deutschland²⁹ [advd] reported about a case in which a family of Guinean background attempted to rent a flat in Aachen. The family was denied the vacant

²³ NISCHE – Netzwerk für Illegalisierte Menschen in Schleswig-Holstein. Dokumentation der Fachkonferenz; 'Hergekommen und Hiergeblieben: 6.12.2006 <http://www.nische-sh.de/pdf/dokukiel.pdf>', accessed 10.6.2008.

²⁴ 'Statistische Auswertung der bearbeiteten Diskriminierungsbeschwerden 2007' in: Diskriminierungsfälle 2007, AntiDiskriminierungsBüro (ADB) Köln/OgG., published in 2008.

²⁵ Ibid.

²⁶ ibid.

²⁷ Ibid.

²⁸ Hallenberg, Bernd, 'Migranten und der Hamburger Wohnungsmarkt'. Ein Beitrag zum vhw-Verbandstag 2007, vhw FW 5 / Okt – Nov. 2007.

²⁹ Anti-discrimination association Germany

flat by the property management who refused to rent out flats to black Africans and Turks because of alleged bad experiences with these groups. The family applied for legal support in the local 'Equality offices' (GBB) in Aachen. After having strengthened the evidence for the family, the GBB addressed a written complaint to the property management. However, no conciliation between the parts could be found, whereupon the GBB started a lawsuit against the property management based on having violated the instructions of the AGG. The action is being lead in cooperation with an appointed advocate office and the solicitors of the GBB - Aachen³⁰.

5.3 Education

In general, there seems to be a lack of opportunities in the area of vocational training for migrant youth. During this period there was an increase in the places available for vocational training, which is evident in the concluded vocational training contracts for 2007. Despite this development, youth with a migrant background seemed to be excluded from the participation in this positive development. In the last few years, the rate of young trainees with a migration background has been continuously declining. From 4,4% in 2005³¹ to 4,2% in 2006)³². Looking at the long term changes in the figures the problem becomes clearer: Between 1994 and 2002 the number of young trainees with a migration background declined from 9,8% to 5,6% respectively³³.

The report on vocational education in 2008 published by the government also refers indirectly to discrimination in the vocational training system (s. also Shadow Report 2006). The results of the transition study of the Bundesinstitut fuer Berufsbildung³⁴ BIBB in 2006³⁵ show, that "*the poor chances of migrant youth in obtaining a vocational training cannot be fully justified by their residential area, their family background or their low level of education in a whole. The reduced supply of vocational training within the last years has intensified the competition among the candidates. In this situation, discriminatory practices come to the fore and impacts strongly on the decision regarding placement*"³⁶.

Studies centred on the attitudes and interactions within intercultural situations in schools drew attention to the problems specific to discriminatory practices. These

³⁰ [advd], Stellungnahme zum einjährigen Bestehen des AGG, posted 17.8.2007,
http://www.antidiskriminierung.org/?q=wiki/Stellungnahme_zum_ein%C3%A4hrigen_Bestehen_des_Allgemeinen_Gleichbehandlungsgesetzes_%28AGG%29, accessed, 12.6.2008.

³¹ Presse- und Informationsamt der Bundesregierung, Böhmer: Ausbildungssituation ausländischer Jugendlicher muss dringend verbessert werden, 18.4.07,
http://www.bundesregierung.de/nr_774/Content/DE/Pressemitteilungen/BPA/2007/10/2007-10-11-boehmer-ausbildungssituation-auslaendischer-jugendlicher.html, accessed 09.06.2008.

³² BMBF 2008, p. 96.

³³ ENAR Shadow Report on Germany 2006, p. 17.

³⁴ Federal Institute for Vocational Training.

³⁵ As the Berufsbildungsbericht 2005 and the report 'Bildung in Deutschland 2006' did, the BIBB-transition study 2006 shows, that the disadvantage of adolescents of immigrant origin to get a traineeship/ apprenticeship increases with their better qualification. Check also ENAR Shadow Report 2006, p. 17.

³⁶ Berufsbildungsbericht 2008, p. 99, my own translation (Ü.G.), check also: Der Nationale Integrationsplan 2007, p. 70.

involve among others, a deterministic understanding of culture shown in a fixation on mentalities and habits; ignoring the difference among migrant pupils and generalized explanations for ‘ethnic -specific behaviour’; a general suspicion towards Muslim youth as being fundamentalist (in this context wearing of a hijab by Muslim girls are commonly associated with patriarchal family structures which leads to the victimisation of those girls), a paternalistic, pathologising and ‘civilising’ approach to migrant families; an unwillingness to respond to the expectations and concerns of migrant parents; a brusque demand to assimilate; no questioning of own perceptions, values and moral concepts³⁷.

Racism as such is barely discussed in German schools. Therefore, accurate figures and records about racist violence or cases of discrimination within the school are widely absent. Nevertheless, some incidents about discrimination cases were reported in 2007. The following case demonstrates the vulnerability of students with a migrant background towards racist discrimination in schools: A 14-year-old black pupil at a ‘gymnasium’ (Grammar School) in North Rhine-Westphalia had repeatedly been called „Affe, Neger, Bastard“ (monkey, Negro, bastard) by his schoolmates. The boy reported this to the school’s headmaster but was sent away being told that he was using his ‘race’ as an excuse. His schoolmates, who had insulted him, had not even been questioned about their behaviour. As the boy became aggressive in order to defend himself, he was punished with bad marks. He received another bad mark when he discussed with his German teacher the words „Neger“ and „Nigger“ which were included in a text read during the lessons. He insisted that the terms were offensive; however the teacher avoided a discussion and continued using the word to refer to migrant families, when talking about black people. After 6 months of such incidents, the boy was punished for his ‘impertinence’ and ‘disrespectful’ behaviour. He was expelled from the school for three days. Although the procedure of his expulsion had not followed the school regulations, the district government refused the mother’s appeal against the exclusion. Finally, she could do nothing but search for another school for her son³⁸.

Another group that is widely excluded or kept away from access to education are the children of asylum seekers and undocumented migrants. The schooling situation of children whose parents have an insecure immigration status varies according to the Federal state in which the family resides. In some Federal states such as Saarland, children whose families have an insecure immigration status, do not have the right to access school education. In two other Federal states, Hessen and Baden-Wuerttemberg, there is no schooling obligation. In these cases the decision about the school education of the children are left to the parents or to the supportive intervention on the part of social institutions³⁹.

³⁷ Uslucan, Haci-Halil 2008, p. 117, my own translation (Ü.G.).

³⁸ Antidiskriminierungsverband Deutschland [advd] 2007: Stellungnahme zum einjährigen Bestehen des Allgemeinen Gleichbehandlungsgesetzes (AGG), <http://www.antidiskriminierung.org/?q=Stellungnahme+1> accessed 3.6.08.

³⁹ UNICEF Deutschland 2007, <http://www.unicef.de/4298.html>, accessed 23.05.2008.

A survey conducted by the Federal Ministry of the Interior has exposed, that only five (Bavaria, North Rhine-Westphalia, Hamburg, Bremen, Schleswig-Holstein) of the sixteen Federal states enable undocumented children a legitimate, full access to school (obligation to attend school)⁴⁰. In all other Federal states, the school enrolment of undocumented children depends on the ethical concerns and engagement of school councils and headmasters.

EXAMPLES OF NGO Good PRACTICE

The Roma e.V. in Frankfurt am Main and the Rom e.V. in Cologne run projects to enable the participation of Roma children with insecure residential status in school and vocational education. The projects prepare and support the children in joining mainstream schools. Those children, who for any reason are excluded from this possibility, receive alternative education from projects such as "Schaworalle" (Hallo Kids) and Amaro Kher (Our House)⁴¹. Schaworalle exists since 1996 and is oriented towards the identity, culture, history and tradition of Roma. In cooperation with a teacher's cooperative they prepare 40 children for entering school. Amaro Kher works with newly arriving Roma-Kids in refugee homes as well as with well established Roma on housing problems. It tries to empower the Roma communities to help themselves.

5.4 Health

Migrants encounter substantial difficulties in accessing health provision, consultation or treatment. The hurdles can be both legal as in the case of undocumented migrants and social. Communication difficulties between the health personnel and the patients emerge, due to language and culture. On the other hand, there are cases of discrimination in the form of refusal of treatment or incorrect treatment by medical practitioners⁴².

It was observed that working people with a migrant background use health services less frequently than Germans, although migrants are primarily employed in jobs with a particularly high workload⁴³. On the other hand, according to the ADB Cologne, it is quite common that longstanding illness among minorities is often psychosomatic and is the result of or is related to racist, anti-Semitic, Islamophobic or homophobic insults, harassment and hostilities⁴⁴. Accordingly, many of the health complaints appear to be psychosomatic symptoms, which are caused by exclusion, racism and discrimination.

⁴⁰ BMI 2007, <http://www.fluechtlingsrat-nrw.de/2470/>, accessed 09.06.2008, p. 29.

⁴¹ Roma e.V. <http://www.schaworalle.de/>, accessed 09.06.2008 and Rom e.V.

http://www.romev.de/index.php?option=com_content&view=article&id=9:amaro-kher&catid=1:paedagogische-projekte&Itemid=7, accessed 09.6.2008.

⁴² ADB Köln/ÖgG, ibid.

⁴³ BIM 56/2007 - Berliner Infodienst Migration vom 09.11.2007.

⁴⁴ ADB Köln/ÖgG, ibid.

Complaints by migrants working in the Health sector and particularly in hospitals and nursing homes, indicate that migrants' experiences are shaped by implicit or explicit exclusion and discrimination by their superiors, colleagues as well as from patients. This is most evident, for example, in areas of recruitment, payment, career-promotion, assignment of competences and in the medical care of the patients. Further, ADB Cologne has observed that 'skin colour' has become an important indication for the legitimisation of racist discrimination. Those who attempt to confront colleagues with their racist behaviour have to deal with allegations that they would have a fundamental problem with their own skin colour. Accordingly, those who are discriminated against are also given the responsibility for having caused the "White" colleagues discomfort and pain. The result is that white colleagues represent themselves as objective and rational whereas 'Blacks' are attributed features such as incompetence, irrationality, and excessive expression of emotion⁴⁵.

Another vulnerable group that is negatively affected in accessing health care are again undocumented migrants. Although, according to the Law of Asylum, undocumented migrants also have a right to health care; only a few use health care facilities for fear of being detected by the health personnel and being reported to the immigration authorities⁴⁶. The German Institute for Human Rights⁴⁷ reports a case of a 35-year-old woman who had massive abdominal pain, when she was six months pregnant. When she was admitted to the hospital, she had a stillborn baby. The woman had missed all obligatory pregnancy examinations out of fear that her undocumented status would be reported. In fact, in Germany public authorities such as the social welfare offices, and also those who work in the transport sector like taxi drivers are obligated by law, to report undocumented migrants. According to the German Institute for Human Rights, this constitutes a violation of the UN-social-pact for the Right of Health Care that enables every human medical care regardless of their immigration status⁴⁸.

EXAMPLES OF NGO Good PRACTICE

The working group „Health“ (AG Gesundheit), which was initiated by the Catholic forum „Living in Illegality“ and the German Institute for Human Rights, have analyzed the situation of men and women, who become ill during their undocumented stay in Germany. The analysis of individual cases has shown, that protracted or delayed medical treatment has serious consequences for the

⁴⁵ Ibid.

⁴⁶ Because of the nature of undocumented migration no statistics are available. There have been studies on the qualitative side of undocumented migration like the master thesis in the public health department of the University for applied science in Hamburg, see: <http://www.nds-fluerat.org/wp-content/uploads/2007/10/ru120.pdf>, accessed 7.8.2008.

⁴⁷ Deutsches Institut für Menschenrechte, http://www.institut-fuer-menschenrechte.de/webcom/show_page.php/c-556/nr-7/i.html, accessed 26.6.2008.

⁴⁸ aus: taz vom 09.11.2007,

www.taz.de/nc/1/archiv/digitaz/artikel/?ressort=in&dig=2007%2F11%2F09%2Fa0195&src=GI&cHash=80298eddc1, accessed 27.6.2008.

affected and dramatically increases the costs for the public health system. The working group has made recommendations to the Ministry of the interior to improve the situation:

1. Changing the legal framework in a way, that the existing right for health treatment can be accessed without the danger of revealing their status.
2. Costs for medical examinations and treatment have to be financed by the public.
3. It needs to be assured that the medical and humanitarian aid is not considered as support for illegal migration or is not in any other way criminalised⁴⁹.

Diakonie Wuppertal has initiated the EU funded project „Sprakum“, which targets refugees and asylum seekers and trains them as cultural and language mediators for the German Social and health care system. The mediators accompany other refugees to the police, social services or hospitals. More than 300 organisations in 31 local communities in Northrhine Westfalia (NRW) are currently participating⁵⁰.

5.5 Policing and racial profiling

The primary focus of the report of the Federal Office for the Protection of the Constitution (Bundesamt fuer Verfassungsschutz) in 2007 was once more ‘Islamic Terrorism’. In the report it is argued that the ongoing engagement in the combat against international terrorism puts Germany increasingly in the focus of Islamist terrorism. The incidents in 2006 are seen as evidence of this: After the failed attempts at assault with luggage bombs in the main station of Cologne, in September 2007 the security officers detained three alleged terrorists in Sauerland, who are alleged to have planned to produce high amounts of highly explosive dissolution to attack US-facilities in Germany⁵¹. These events reinforced the assumption of an Islamic threat in Germany.

The report⁵² of the Federal Ministry of the Interior (BMI - Bundesministerium des Inneren) considers Islamic terrorism as the main threat to stability and security in Germany and Europe. According to the report estimates of the number of ‘people with latent Islamism’, as defined by the constitutional police is at around 32,000. In this context it is important to note that the definition of ‘people with latent Islamism’ is a problematic one as it blurs the lines between real and imagined or pretended threat by the state security officials. The number of people with the potential for right wing extremism on the other hand is estimated at 38,600 whereas 31,000 people are categorized as those with a potential for left wing extremism⁵³.

⁴⁹ http://www.institut-fuer-menschenrechte.de/webcom/show_article.php?wc_c=419&wc_id=125, accessed 7.8.2008.

⁵⁰ For more information see www.sprakum.de.

⁵¹ Bundeszentrale für Politische Bildung, http://www.bpb.de/themen/EHOB0Y_0_Islamismus.html.

⁵² Bundesministerium des Innern, www.bmi.bund.de | www.verfassungsschutz.de.

⁵³ Bundeszentrale für Politische Bildung, [ibid](#).

It is assumed that there is a strong link between Germany's training of Iraqi police and its increasing involvement, particularly within the deployment of Tornado-Jets of the German army for intelligence in Afghanistan, as having increased Germany's exposure to terrorism. Additionally, figures in the report suggest that in 2007, 13 terrorist suspects with a German passport or suspects otherwise having links to Germany were detained⁵⁴ within three months. Many of them were suspected on the grounds of their stay in countries such as Afghanistan and Pakistan, which are viewed as accommodating training camps for 'radical Islamists'⁵⁵.

According to a report by the Federal Bureau of Criminal Investigation (BKA) the ratio of alleged criminals with a non-German passport has been decreasing continually since 1993. This is partly due to the amendment of the Asylum and Refugees legislation as well as to the changes in the citizenship law. In 2006, 22% of all alleged criminals were non-German citizens. However, non-Germans' proportion in certain areas of criminal offence has been higher than that of the Germans⁵⁶. Apart from organised or other kinds of ordinary criminality the relatively high rate of criminal offences for non-German citizens is a result of the insecure immigration status (undocumented migrants) or the lack of economic or other necessary resources (lack of sufficient means of subsistence) which causes conflict with the law. As given by the report these are, for example, forging documents such as visa or passport or other small scale criminal offences (40,9%). Additionally, there are those offences committed by the Asylum seekers, which are directly related to their legal status; these are issues such as residence permit or violation of the Asylum proceedings legislation. These are offences, which a German cannot commit. Consequently, the major part of the criminal offences committed by non-Germans is related to the 'foreigner specific offences'⁵⁷.

On the other hand the relatively high percentage of the offences by non-Germans is indeed related to the racial profiling of the 'foreign looking' persons by the rest of the population. The report describes among other things, that people are more likely to complain about a member of an ethnic minority (stigmatisation) than about a German. In addition, people who are considered as non-Germans on the grounds of their visibility or their accents are likely to be victims of stop and search by the police; more so than those who 'look and speak German'. The consequence is that the former are often more documented as alleged criminals than the latter⁵⁸.

⁵⁴ ibid, <http://www.bpb.de/themen/OM40UH.html>.

⁵⁵ Verfassungsschutzbericht (Kurzzusammenfassung) 2007

⁵⁶ Bundesamt für Migration und Flüchtlinge, Kriminalität von Aussiedlern: Eine Bestandsaufnahme, Working Paper 12, 2008.

⁵⁷ Ibid.

⁵⁸ Ibid.

The Sinti and Roma groups may be a good example of this phenomenon. A survey by the Central Council of German Sinti and Roma on actual experiences of discrimination in 2007 indicate that 45,9% of the respondents were compelled to report their ethnic minority membership to the police or other public services⁵⁹.

5.6 Racist violence and crime

According to a survey conducted by the Fundamental Rights Agency (FRA)⁶⁰ there is a noticeable increase in discrimination and racism towards ethnic minorities in most of the European countries in general. A particular increase in racism was observed among others in Germany⁶¹.

However, in 2007, figures indicate a decrease in right-wing extremist crime in Germany. Also, there is a slight decline in racially motivated acts of violence by right wing extremist groups. According to the annual report (2007) of the Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz) there have been 980 acts of violence of which 414 were racially motivated and 59 motivated by anti-Semitism⁶². Moreover, some right wing extremist political parties such as the Nationaldemokratische Partei Deutschlands⁶³ (NPD) gained considerable numbers of new recruits. This is partly due to the loss of members of other extremist right parties (DVU and Republikaner). The report also indicates a major growth in Neo-Nazi people potential particularly in East Germany, where they have extended networks of Skinhead activities and command over large groups of right wing extremists (Neo-Nazis)⁶⁴.

According to the speaker of the left-wing political party 'Die Linke' the official figures by the government regarding racially motivated attacks are not consistent with the statistics given by non-governmental organisations. It is claimed that the figures given by the government are understated and need to be adjusted upwards by at least 50%⁶⁵. There is also an increasing critique towards institutions such as the State Criminal Investigation Department (LKA) for withholding information concerning racist violence and crime. Additionally, reports of cases indicate the involvement of some members of state institutions in racially motivated attacks. For example, in June 2007 the newspapers reported about a fight between a Cameroonian student and a German in the city of Cottbus. The Police denied giving any information about the incident. Later it emerged that one of the three men who had attacked and injured the student was a plain clothed police officer. Although the involvement of a police officer in a

⁵⁹ Migration, DGB Bildungswerk 2007, http://www.migration-online.de/beitrag_aWQ9NDk0OQ.html, accessed 27.6.2008.

⁶⁰ Formerly EUMC, since 1.3.2007 FRA (The European Union Agency for Fundamental Rights).

⁶¹ vi@ticus- der VIA Newsletter, nr. 01/07 vom 12.02.2007.

⁶² Bundesministerium des Innern 2007, http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Broschueren/2008/VSB_Vorabfassung.templateId=raw.property=publicationFile.pdf/VSB, accessed 27.6.2008.

⁶³ German National Democratic Party.

⁶⁴ Ibid.

⁶⁵ Newsletter von Petra Pau (DIE LINKE. im Bundestag), 22. April 2007.

racially motivated attack in public is not common, such incidents being concealed by the authorities are the rule⁶⁶. The German Institute for Human Rights reported about the dealings regarding police malpractice: ‘Frequently it is asserted to have seen or heard nothing or even exculpatory bogus testimonies are made’. Most of the actions against police officers end in dismissal of the proceedings⁶⁷.

Together with North-Rhine-Westphalia and Lower Saxony, the eastern state of Brandenburg is another Federal state where racist violence has not declined⁶⁸. According to the statistics collected by the ‘Opferperspektive’⁶⁹ in cooperation with local initiatives the figures of racially motivated attacks in Brandenburg amount to 65 cases in 2007 (59: 2006). Noticeable is the increasing threat to small businesses, owners of chip shops and restaurant owners with a migrant background. The violence includes, apart from damage to property, arson attacks as well as physical attacks. For example, the Opferperspektive reported about a racially motivated attack on a Tunisian restaurant in August 2007 in which two persons were injured, property damaged as well as large amounts of money having been stolen⁷⁰.

Another incident in 2007 which caused a controversial debate among the public and politicians was the racially motivated attack in the eastern town of Mügeln. Around 50 German youths chased eight Indian tradesmen through the streets before the victims could find a shelter in a Pizzeria. The Police, who arrived with 70 officers at the place, arrested the attackers after they had demolished the doors of the Pizzeria⁷¹.

EXAMPLES OF GOOD PRACTICE

The Anti-discrimination body of Brandenburg and the anti-discrimination office of Cologne published a guide for young people⁷², which introduces the new anti-discrimination legislation and gives examples of discrimination for each area. It highlights the intersection of sexual orientation and ethnic background as well as the intersection between anti-Semitism and Islamophobia.

5.7 Access to goods and services in the public and private sector

The search in Google for discrimination in ‘access to goods and services in the public and private sector’ rarely deliver cases of discriminatory practices but a

⁶⁶ Mut Gegen Rechte Gewalt <http://archiv.mut-gegen-rechte-gewalt.de/artikel.php?id=82&kat=82&artikelid=3356>, see also Opferperspektive e.V. <http://www.opferperspektive.de/Dokumente/Schattenberichte/659.html>, accessed 27.6.2008.

⁶⁷ Opferperspektive e.V. <http://www.opferperspektive.de/Dokumente/Schattenberichte/659.html>, accessed 27.6.2008.

⁶⁸ Verfassungsschutzbericht 2007,

http://www.bmi.bund.de/Internet/Content/Common/Anlagen/Broschueren/2008/VSB_Vorabfassung.templateId=raw.property=publicationFile.pdf/VSB_Vorabfassung.pdf, accessed 27.6.2008.

⁶⁹ Opferperspektive e.V., <http://www.opferperspektive.de/English>, accessed 27.6.2008.

⁷⁰ Opferperspektive e.V. <http://rcms.opferperspektive.org/Presse/684.html>, accessed 27.6.2008.

⁷¹ Mut gegen rechte Gewalt, <http://archiv.mut-gegen-rechte-gewalt.de/artikel.php?id=82&kat=82&artikelid=3356>, accessed 27.6.2008.

⁷² Antidiskriminierungsstelle Brandenburg, Integrationsbeauftragte des Landes Brandenburg, AntiDiskriminierungsBüro (ADB) Köln/Öffentlichkeit gegen Gewalt e. V. (editors) (2007): Blöde Anmache? Nicht mit mir! Ein Ratgeber für Jugendliche. Ausgabe für Brandenburg und Nordrhein-Westfalen.

broad discussion on the legal interpretation and how it is applicable in Germany. These search results highlight the general situation of anti-discrimination policy in Germany, where the concept of discrimination is not publicly debated. The Anti-discrimination legislation (AGG) has a bad image and is associated with harming the German economy. On the other hand issues such as 'scoring' (e.g. reviewing credit applications according to the social and ethnic background) is deemed as a legitimate practice of enterprises, which claim that their methods have been scientifically proven and verified. In 2007, the practice of scoring became worse than in the previous year. Scoring as a term recently appeared in the German language and refers to the listing of various information about a customer who applies for financial credit, credit cards or mobile phone contracts. In this context, some critics draw parallels to George Orwell's renowned novel '1984'. In cases where solid information is missing, credit firms fall back on the information provided by external suppliers such as marketing firms. This includes also inspection reports of staff members who regularly observe districts. Moreover, the customers are classified according to the overall housing condition of their neighbourhood⁷³.

Precisely with regard to this, this policy becomes an issue of particularly discriminatory practise for the migrant population. As mentioned earlier (s. part V.i.i) the majority of migrants live in so-called social problem areas. This policy maintains and reinforces the existing social order that is often linked to spatial marginalisation of migrants along the lines of ethnicity and poverty.

The German legislation regarding asylum seekers and refugees severely restrict the freedom of movement of such groups. This impacts on asylum seekers as many are forced to reside in camps which are situated on the fringes of remote villages in eastern Germany. In such areas, public transport is limited which restricts the access to any social, cultural or health services⁷⁴. These restrictions combined with modest financial support from the government (asylum seekers are not allowed to work) prevent refugees from accessing goods and services such as regular housing or medical treatment, which are parts of the precondition for participation in social life.

Another factor which prevents people from freely interacting is the discrimination of migrants as potential customers of cafes, pubs, bars and discos. In 2007 there have been several cases in which people with a migrant background have been excluded from entering a pub or a disco on the grounds of their origin or their colour. For example, the advd reported about a case where a man was denied service in a pub on the pretext that it was a private institution⁷⁵.

⁷³ 'Falsche Adresse – Kein Kredit', sueddeutsche.de, 4.7.2007, <http://www.sueddeutsche.de/computer/artikel/815/121655/>, accessed 12.6.2008.

⁷⁴ voice refugee forum, <http://no-racism.net/article/2123/>, accessed 27.6.2008.

⁷⁵ [advd], <http://www.antidiskriminierung.org/?q=Stellungnahme+1>, accessed 12.6.2208.

5.8 Media, including the internet

The negative representation of migrants in the media is an ongoing phenomenon which strongly influences the attitudes of the majority towards ethnic minorities. The media representation of migrants, in 2007, was dominated by two major themes: topics included the construction of a Mosque in Cologne, forced marriages and honour killings as well as Islamic radicalism, violence and criminality among young Muslims. Looking at the list of topics that determined the discourse on Muslims and Islam the Islamophobic features of the media coverage becomes self-evident.

According to a study⁷⁶ by the Zentrum für Türkeistudien⁷⁷ (ZfT) in Essen, which studied the perceptions towards Islam in Germany; it was found that the media coverage pertaining to Muslims often linked Islam to terrorism and fundamentalism. The themes, Muslim and Islam, are often associated with issues of domestic, national security. The study reveals that 32,3% of articles in print media are related to Islam and Muslims are discussed within the frame of terrorism and violence⁷⁸.

For the non-Muslim majority this approach of covering Islam causes fear and resentment that often promotes Islamophobic attitudes and stereotypical images of migrants with a Muslim background. Although there is a noticeable increase in calls for dialogue from the German authorities towards Muslims, they still insist on determining the topics: terrorism and violence. For the Muslim population this contributes to a scenario where they feel pressured to justify their faith. Consequently, there is rarely a real dialogue and, for Muslims, rarely a possibility to contribute to the debate about positive aspects⁷⁹.

Similarly, in the course of the controversial debates about the building of a new mosque in Cologne, Islam and Muslims were the focuses of the media. While some politicians viewed the construction of a Mosque as a sign of real integration of Muslims in Germany, others interpreted the demand for a Mosque as the manifestation of failed integration. For the latter group, the construction of a Mosque represented the endorsement of a parallel-society. In an interview that was conducted by the *Koelner Stadtanzeiger*, *Ralph Giardano* – a well known intellectual of Jewish background - protested vehemently against the Mosque project arguing it was a sign of a totally alien culture that is not compatible with the German constitution and does not belong in the streets of Cologne⁸⁰.

⁷⁶ Halm, Dirk (2008): Der Islam als Diskursfeld. Bilder des Islams in Deutschland. Wiesbaden, VS-Verlag.

⁷⁷ The Centre for Turkey Studies.

⁷⁸Susanne Steiger, Medien Monitor: Online-Magazin für den aktuellen Medienjournalismus, 2007, <http://www.medienmonitor.com/Islamberichterstattu.333.0.html>, accessed 12.6.2007.

⁷⁹ibid.

⁸⁰ 'Stoppt den Bau dieser Moschee', Koelner Stadtanzeiger <http://www.ksta.de/iks/artikel.jsp?id=1176113436263>, accessed 27.6.2008.

These discussions ought to be seen within the context of the Islam conference in May 2007⁸¹. The conference was discussed very controversially in the media. The attendance as well as the themes that were discussed were partly praised and partly criticised. For example, the attendance of some intellectuals such as the author Feridun Zaimoglu, a critic and a liberal figure was welcomed. The participation of some Muslim organisations such as the 'Milli Gorus' which is observed by the national security office (Verfassungsschutz) or some individuals who are considered as hardliners were seen by the media as an opportunity for anti-Islamic coverage. As a result, some channels represented the conference as a farce because the demands and expectations of the politicians and the public were not fulfilled by the Muslims who partly protested and boycotted the conference. Once more, the Muslims were represented as being incapable of democratic dialogue, unable to accommodate Western values and failing to adapt to the civilised western world.

In general, German television portrays migrants as either problem cases or laughing stocks. Journalists assess migrants along two criteria; either according to their usefulness for the Germans and their business location (Wirtschaftsstandort) or in relation to their ethnicity origin. Therefore, in this context migration appears either as a threat or as enrichment but rarely as normality in a globalised world⁸². The issue of inadequate representation is being discussed by both government institutions as well as by some NGOs. Recently the two largest German national TV-channels ARD and ZDF jointly published a first time representative study⁸³ in 2007, which investigated the media consume and participation of migrants in Germany. The main outcomes of the study can be summed up in two points: The proportion of media employees with a migrant background is still very small and resides between 2%-3% compared to their 20% share of the overall population⁸⁴. There is neither self-representation nor a critical approach to migrant related issues possible⁸⁵. However, increasingly the TV-broadcasting institutions demonstrate efforts to change this situation and to include more people with a migrant background in the production of programmes⁸⁶.

⁸¹ More on Islam conference in part IV of this report.

⁸² Christoph Butterwegge, 'Benehmt euch. Ihr seid hier nicht zu Hause', *Die Zeit*, 31.10.2007.

⁸³ Migranten und Medien 2007: Ergebnisse einer repräsentativen Studie der ARD/ZDF-Medienkommission.

⁸⁴ Keynote: Staatsministerin Prof. Dr. Maria Böhmer, 'Die Bedeutung der Medien für die Integration', Fachtagung Migranten und Medien 2007 ZDF 5.6.07.

⁸⁵ Ibid.

⁸⁶ Miltiadis Oulios, 'Stempel auf der Stirn', *Die Zeit*, 31.10.2007.

6. Political and legal context

In 2007, there have been several significant political and legal developments: In May the second Islam conference took place in Berlin. Initiated by the German Minister for Interior, Wolfgang Schäuble, 15 representatives from Muslim organisations and political groups as well as several intellectuals attended the conference.

Another important event in 2007 was the second summit of Integration in July. The summit was concluded with the declaration of the national plan on integration. Around 90 representatives consisting of migrant organisations, political groups, the business sector and other associations as well as religious communities and NGOs⁸⁷ attended the meeting.

August 2007 was the first anniversary of the implementation of the anti-discrimination law in Germany. Within this year, a governmental anti-discrimination body was established and an ombudsperson appointed. The self-declared task of the ombudsperson is to advise the victims of discrimination, to investigate for reasons of unequal treatment and carry out the idea of equality into society⁸⁸.

A clearly positive development was the creation of the 'Anti discrimination association Germany' (Antidiskriminierungsverband Deutschland [advd]) in May 2007. This process was supported by the EU through funds of the Year of Equal Opportunity. The association currently has 11 founding members. It is mainly concerned with establishing an anti -discriminatory culture in Germany as well as promoting the advancement of equality, diversity and the respect of human dignity. This also includes the setting up of a comprehensive law on anti discrimination as well as the effective implementation of the law and subsequent monitoring⁸⁹.

6.1 Anti -discrimination

August 2007 was the first anniversary of the General Law on Equality (Allgemeine Gleichbehandlungsgesetz [AGG]). The AGG implements four directives of the EU into the German law. The aim of the law is to prevent and eliminate discrimination based on 'race', ethnicity, gender, religion, ideology, disability, age or sexual orientation (Paragraph 1 AGG). One year on, the government undertook some measures to implement the equality law. It has established an anti- discrimination body and set up a web page containing

⁸⁷ Forum Migration, DGB Bildungswerk, 8/2007.

⁸⁸ Antidiskriminierungsstelle des Bundes, <http://www.antidiskriminierungsstelle.de>.

⁸⁹ Antidiskriminierungsverband Deutschland (advd), <http://www.antidiskriminierung.org/?q=node/108>, accessed 4.6.2008.

information and a questionnaire that is aimed at collecting cases of discrimination. However, there have been no cases or proceedings brought forward to the public, which suggests that the body lacks transparency in the manner they handle data.

In November, the ombudsperson called some 300 experts to a congress on 'Equal Opportunity as surplus Value' where the economic factors and the usability of the AGG for the economy were discussed. In this meeting, the ombudsperson of the body also declared her interest in an enduring dialogue with the economy and later on began to prepare for the conditions of a pact with the economy⁹⁰.

However, also the recently introduced anti-discrimination legislation (AGG) does not necessarily provide a legal ground in particular cases of discrimination concerning housing. The exception clause in the context of private law provides legitimate grounds for discrimination. The clause states that unequal treatment in the housing market is permitted if it aims at creating 'economically, socially and culturally balanced conditions'⁹¹ and serves the conservation of socially stable residential areas. Some organisations such as the German Institute for Human Rights or the Hamburg based association 'Tenants helping tenants' (Mhm) demanded the cancellation of the clause, arguing that it would serve as a justification for racial discrimination⁹², however as yet, no decision had been made when this report was completed.

One of the first major positive outcomes of the AGG was the winning of the so-called 'Diakonry case'. As described earlier (part V.i.) a woman of Turkish/Muslim background had applied for a post as social worker at the North-Elbian Evangelical-Lutheran Church. The prospective employee was asked to join the church, despite the fact that the job description had no religious relevance and actually centred on the occupational integration of migrants. The applicant refused the request, citing the fact that the position did not require such membership, whereupon her application was rejected. The candidate felt discriminated against based on her religion and ethnic background and claimed compensation from the employer via the court. In December 2007, the local labour court in Hamburg decided to sentence the employer to payment of compensation to the amount of three months' salary because it had disadvantaged the applicant in the hiring procedure on the grounds of her religion. The NGOs dealing with anti-discrimination law consider this outcome a success.

Nonetheless, one year on, the problems and the deficits of the AGG have become apparent. The [advd] detected inconsistencies with the practical

⁹⁰ Pressemitteilung der Antidiskriminierungsstelle des Bundes, 30.11.2007,

<http://www.antidiskriminierungsstelle.de/bmfsfj/generator/ADS/root.did=104006.html>, accessed 5.6.2008.

⁹¹ Baerbrock, Annalena, Elisabeth Schroedter, http://www.elisabethschroedter.de/meine_themen/gleichstellung/fr-06-10-18.htm, accessed 30.5.07.

⁹² According to Statistische Auswertung der bearbeiteten Diskriminierungsbeschwerden 2007 – ADB Köln/ÖgG.

implementation of the law. According to the advd the two most critical problems are firstly, the insufficiency of the shift of burden of proof, which relates to paragraph 22 of the AGG, which is concerned with the alleviation of evidence (Beweiserleichterung). The [advd] refers to the reports from the counselling practice regarding discrimination: The situation is usually characterised by a stark imbalance of power and information between those who are discriminated against and those who discriminate. This has direct consequences for the line of argument (burden of evidence). Neither the victims and the independent or communal counselling offices nor the governmental body for anti -discrimination have the right to information from the local authorities or local governments and private businesses. Therefore, it often becomes impossible to collect indices for discriminating exercises and individual decisions⁹³.

The second critique is related to the structural barriers: The [advd] laments the bad image of the AGG particularly among the magistrates caused by the polemical and impertinent discussions about the law. Additionally, many judges are not sufficiently informed about the policies and procedures of the AGG. Often the claimant carries the burden of proof. For the victims and their supporters it signifies an insecure proceeding to enforce the law and a high risk and in many cases a series of lawsuits through the instances. As a result, there are only a few test cases available after a one-year AGG implementation⁹⁴.

With the support of the European Year for Equal Opportunities 2007 an independent 'Anti discrimination association Germany' (Antidiskriminierungsverband Deutschland [advd]) was founded. The [advd] supports the victims of discrimination and is struggling for a widespread anti-discrimination infrastructure and a general anti-discrimination culture in Germany. It is struggling for a high level of protection from discrimination and the full implementation of the EU anti-racism directives⁹⁵.

6.2 Migration and integration

The second Islam conference which was attended by 15 representatives comprising Muslim organisations as well as political groups caused a controversial debate among politicians, the public and the media. The overall agenda of the conference was the integration of the Muslim population into German society. Accordingly, the main topics were State and religion, the position of women in Islam and the inclusion of Islam into the German school curriculum. The conference as a whole, its topics, and the way the subjects were discussed caused a heated debate between the participants and subsequently among the public and the media. While some groups such as the Central Council

⁹³ Position paper of Antidiskriminierungsverbandes Deutschland [advd] and his member organisations to first anniversary of the Equal Treatment Act (AGG), www.antidiskriminierung.org, accessed 27.6.2008.

⁹⁴ ibid

⁹⁵ For more information in German see www.antidiskriminierung.org, accessed 7.8.2008.

of Ex-Muslims demanded the cancellation of the conference in its entirety, the participants of the two different parties had contentious positions regarding topics such as the training of Islamic priests (imams) or the inclusion of Islamic education in schools⁹⁶.

The summit on integration in July was concluded with the declaration of a national plan on integration. The plan comprises some 400 measures and self-commitments, which are expected to contribute to a better integration of people with a migration background⁹⁷. The measures include a range of topics reaching from German language promotion in kindergarten to a ‘network of integration’ that the German football union aims to generate.

Around the same time when the conference took place, the new residence- and asylum law according to the EU guidelines was implemented. The new law is seen as restricting the residence- and citizenship rights and led many associations such as the German Trade Unions, Turkish community and Pro Asylum to boycott the integration summit⁹⁸. These groups criticised the government for playing a double game by pursuing and demanding integration on the one hand and implementing discriminatory legislation on the other⁹⁹.

In addition, the Evangelical church criticised the government for disregarding the unity of the family. The new law was particularly censured on the policy of immigration of spouses and thereby mainly on the requirement of the knowledge of German language prior to the entry into the country. This is seen as endangering the protection of the matrimony and the family, which is fixed in the German constitution¹⁰⁰. What is remarkable, is that there is no such requirement for the nationals of countries with which Germany has good economic relations such as the USA, Canada and Japan¹⁰¹. Thus, the main critique of the NGOs was that integration could not be possible when there is no legal equality¹⁰².

6.3 Criminal justice

6.3.1 Racism as a crime

Racism in Germany is usually associated to right wing extremism. As a result, racially motivated crime is considered to be a problem that essentially occurs among right wing extremist individuals or groups. Accordingly, the report ‘Racism and Xenophobia’ of the Fundamental Rights Agency (FRA) in Vienna, which is based on data of the Ministry of the Interior in the section on Germany, contained

⁹⁶ Europa News, <http://europenews.dk/de/node/2635>, accessed 4.6.2008.

⁹⁷ Forum Migration, DGB Bildungswerk, 8/2007.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Federal Office for Migration and Refugees, www.integration-in-deutschland.de, accessed 5.6.2008.

¹⁰² Forum Migration, ibid.

information on right wing extremism¹⁰³. Consequently, in governmental data racially motivated crimes are classified under the category of right wing extremist crimes, which also includes hate crimes against left-wing individuals and other marginalised groups such as the homeless and the handicapped. Moreover, it is remarkable that the discussion on xenophobia and racism is very often accompanied by debates about integration¹⁰⁴. This often evokes assumptions that a racially motivated attack is self-provoked by the victims on the grounds of not being sufficiently integrated.

The police, as a state institution, is at times accused of being involved in the manipulation of records. In November 2007, it became public, that the police in the East-German state of Saxony-Anhalt had manipulated data about right-extremist crimes. In the first half of 2007 a minimum of 200 right-wing propaganda crimes had been manipulated to fit the profile of other types of crime. For some time Saxony-Anhalt has had the highest right-wing-extremist crime rate, but suddenly it had declined to 462 cases in the first half of 2007¹⁰⁵. The Minister of the Interior for Saxony-Anhalt promised a return to the previous data recording practices¹⁰⁶.

A further development that can be considered as positive is the 'Framework decision on Racism and Xenophobia' by the Council of the European Union, in April 2007. The 'framework decision' aims to consolidate regulations regarding the punishment required for making racist and xenophobic utterances. According to the 'framework decision', intentional conduct will be punishable in all EU Member States. For example in cases such as: 'Publicly inciting violence or hatred, even by dissemination or distribution of tracts, pictures or other material, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin'¹⁰⁷.

6.3.2 Counter terrorism

In recent years, the discourse on terrorism and counter terrorism has been marked by ambiguous debates and policies introduced by the government. On the one hand, there is an apparent criminalisation and discriminatory handling of Islam and Muslims. Conversely, attempts have been made towards dialogue as demonstrated by the Islam conference. Irrespective, the conference took place within the framework of the very controversial integration policy exposing the paradox of the government's strategies. An example of this is the introductory speech made by the then Minister of the Interior, who was also the initiator of the Islam conference. Mr Wolfgang Schäuble, when speaking about the Protection of

¹⁰³ <http://www.spiegel.de/international/germany/0,1518,502471,00.html>, accessed 7.8.2008.

¹⁰⁴ Accordingly, when during a carnival procession in February 2008 an assumed arson attack of a house in Ludwigshafen caused the death of nine women and children with a migration background, the commissioning of the ministry for integration was seen as an ordinary act.

¹⁰⁵ Jungle World, Nr. 49, <http://jungle-world.com/artikel/2007/49/20828.html>, accessed 10.6.08.

¹⁰⁶ibid.

¹⁰⁷ Legislation-online, <http://www.legislationonline.org/legislation.php?tid=218&lid=7975&less=false>, accessed 13.6.2008, (see particularly articles 6,7 and 8).

Constitution in 2007, proclaimed Islam as presenting the biggest threat to Germany's security¹⁰⁸. Considering this ambiguous approach to Muslims and Islam and the following policy recommendations by Schäuble and his party (CDU), the critique and misgivings of Muslim participants at the Islam conference seem to be rather justifiable.

The lower house (Bundestag) established a committee of inquiry¹⁰⁹ to investigate the involvement and responsibilities of German government officials in the kidnapping of the German national Khalid El-Masri by the CIA and the German Guantanamo prisoner Murat Kurnaz. The latter was handed over to the US authorities, while he was travelling in Pakistan in 2001. During the governmental inquiries it became clear, that the German government – a coalition of Social Democrats and the Green Party – was informed about Kurnaz's innocence from an early stage, but had not taken any action to get him released. Although the secret service (BND) concluded that he presented no threat to German security; the co-ordinator of the secret service nevertheless reversed the decision after visiting Kurnaz at Guantanamo prison¹¹⁰.

6.3.3 Racial profiling

Since the alleged planned bomb attacks on the US American institutions in Germany by the so-called Sauerland-group of three Muslim men, the discourse on Islam as a threat has become more insidious. The fact that two of the three men were converted Germans triggered a heated debate about the introduction of a convert-record on Muslim converts initiated by a false report released by the media. Indeed the media played an important role in shaping the discourse on terrorism and Islam. This led to a loosening of the traditional sensitivity and of the German population regarding the collection of personal data records by the authorities.

In March the 'anti-terror-data set' came into practice¹¹¹. This was implemented after the 'joint data-law', which the Federal government and the Federal states passed in December 2006. Government appointed 72 experts from the Federal Criminal Police Office (BKA) to set up this national, comprehensive data collection system. The aim of the data collection is supposedly to identify possible threats from instigators and detect planned attacks by uncovering the pattern and structures of Islamic terrorists. In total, 38 public authorities (among others the BKA, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service (MAD), the Federal Intelligence Service (BND), the customs office as well as the regional authorities have the

¹⁰⁸ Bundesministerium des Innern
http://www.bmi.bund.de/cln_028/nn_122688/Internet/Content/Nachrichten/Reden/2008/05/BM__Vorstellung__VSB__2007.html.

¹⁰⁹ http://www.bundestag.de/aktuell/archiv/2006/ua_zeugen48/index.html, accessed 7.8.2008.

¹¹⁰ <http://www.zeit.de/online/2007/11/Kurnaz-U-Ausschuss>, accessed 10.6.2008.

¹¹¹ heise online, <http://www.heise.de/ct/hintergrund/meldung/85995>, released 28.02.2007, accessed 7.6.2008.

authorisation not only to access the data set but also to provide data¹¹². The anti-terror-data-base has become a major instrument for the legal institutions to sharpen their anti-terror-measures which were called for by the politicians.

The critics of the anti-terror-data-base, point to a threat emerging out of the storage techniques. In some precarious cases the storage system enables all authorised sectors to release the data set to unauthorised individuals and groups¹¹³. Considering that the anti-terror-data collection was established ad hoc to combat alleged Islamic terrorism it is evident that this practice will worsen the situation of the Muslim population in Germany regarding religious based racial profiling.

Racial profiling has been the focus of legal policies since the events of 9/11 and the aledged from Islamic terrorists¹¹⁴. However, in a report published in September 2007, the well-known Max-Planck Institute declared racial profiling not only as being unconstitutional but also practically inefficient. The institute had conducted a study about the effectiveness of racial profiling and found that such a practice was inefficient¹¹⁵.

Some time before March 2007 the County Court of Düsseldorf dismissed a claim by the Düsseldorf police headquarters that had planned to collect data of some five million men in North Rhine Westphalia. Their objective was to uncover the so-called ‘sleepers’ among alleged Al-Qaida members who were assumed to have entered Germany with two bags of luggage. The court decided that there was still no necessity for racial profiling of Islamic terrorists because there was no real threat identifiable¹¹⁶.

6.4 Social inclusion

The new national plan on integration published in 2007 by the government¹¹⁷ suggests a number of measures and self-commitments for the social inclusion of minority groups. The central theme of the plan is integration of the migrant population into the German society. Accordingly, the self-commitments of the Federal government and the state governments consist of expansion and upgrading of the so-called ‘integration courses’. This part of the integration plan is expected to receive sufficient funding by the government as indicated in the published paper. Further, the integration plan also contains a number of methods, which are thought to enforce social and above all cultural integration of the migrant population.

¹¹² ibid.

¹¹³ heise online, <http://www.heise.de/ct/hintergrund/meldung/85995>, released 28.02.2007, accessed 7.6.2008.

¹¹⁴ <http://www.jurblog.de/2006/05/23/rasterfahndung-nach-11-september-war-verfassungswidrig>, accessed 7.6.2008.

¹¹⁵ Max-Planck-Gesellschaft, Presseinformation, www.mpg.de, 18.9.2007.

¹¹⁶ Taz, Düsseldorf, <http://www.taz.de/index.php?id=archivseite&dig=2007/03/30/a0054>, accessed 27.6.2008.

¹¹⁷ Presse- und Informationsamt der Bundesregierung, ‘Der Nationale Integrationsplan; Neue Wege – Neue Chancen’

One of the main pillars of the integration plan is to enhance the German language skills of migrant parents as well as that of their children. Therefore, particular attention is paid to the language promotion in kindergarten and schools. An additional suggestion is the much-debated importance of a good education for migrant children. At this point, some particular problems that the migrant children and youth encounter in accessing higher education or vocational training seem to be acknowledged. Thus the plan on integration contains such goals as the promotion of opportunities for migrants in the labour market. The plan also has some suggestions to improve the life-situation of women and girls regarding equality. This includes integration through the advanced legal position and participation as well as health issues such as sexual advice and assistance to the elderly. Financial support to put these objectives into practice is yet to be defined and revealed.

Financial means are of grave importance; however it is not sufficient in solving all social problems. Child poverty in Germany is a continuous problem and a recurring focus of political debates. According to the government, despite the high financial expenditure, children in Germany are more often affected by poverty than adults. The number of children who grow up in relative poverty has risen in the last ten years¹¹⁸. According to a study by UNICEF¹¹⁹, every sixth child in Germany lives under the risk of poverty. The biggest group of children that is exposed to poverty are with 60 % of those whose parents are recipients of social benefits (particularly the 'Hartz IV') that linger under the poverty limit. This includes as well, large numbers of migrants. The report states further that 40 % of single parents with children are affected by relative poverty and 30 % of migrant children live in total poverty. Among others, the report criticises the insufficient provision of care for children under the age of three. Another important criticism is the marked relation between the educational opportunity and social background from which children with a migrant background are particularly affected¹²⁰.

The Minister for Family, Seniors and Youth, Von der Leyen, recommended a range of measures to reduce child and youth poverty. These seek financial support for families with low-income earning; providing child benefits that accommodates the number of children. This is thought to avoid that families with many children slide into the poverty. Child benefits are for families with many children particularly important as it delivers 15 % of the family income¹²¹.

¹¹⁸ Die Bundesregierung, http://www.bundesregierung.de/nr_209372/Content/DE/Artikel/2008/05/2008-05-26-wege-aus-der-kinder-und-jugendarmut.html accessed 9.6.2008.

¹¹⁹ Sozialhilfe 24, Verein für Soziales Leben, <http://www.sozialhilfe24.de/news/167/unicef-jedes-6-kind-arm-in-deutschland/>, accessed 9.6.2008.

¹²⁰ Sozialhilfe 24, Verein für Soziales Leben, <http://www.sozialhilfe24.de/news/167/unicef-jedes-6-kind-arm-in-deutschland>, accessed 9.6.2008.

¹²¹ Die Bundesregierung, http://www.bundesregierung.de/nr_209372/Content/DE/Artikel/2008/05/2008-05-26-wege-aus-der-kinder-und-jugendarmut.html, accessed 27.6.2008.

7. National recommendations

7.1 General

- Establishing a culture of anti- discrimination, which creates a climate to talk seriously about discrimination in German society and looks for ways to create an environment free of discrimination.

7.2 Anti -discrimination

- Real independence from party politics and cooperative interests by the German anti –discrimination body
- A positive image campaign for the anti -discrimination legislation (AGG)
- Revision of the AGG to bring it in line with EU directives and support for a new directive covering all grounds of discrimination.
- In most schools there is at least one ombudsman for pupils in case of conflicts, bullying and violence. These ombudsmen need training on how to intervene and to successfully resolve incidents of ethnic discrimination. Their mandate is to support pupils in cases of ethnic discrimination and to raise awareness of such cases among the student body
- Empowerment of pupils with a migrant background through workshops which provide an opportunity for them to speak about their experiences with discrimination. Additionally pupils should also be given the chance to reflect on their experiences and view things within the context of migration history and theories on migration and racism. The aim of these workshops should be to support and enable those pupils to express and reflect and to develop effective strategies to defend themselves against ethnic discrimination.

7.3 Migration and integration

- Establishing a credible integration policy, which closes the gap between claims articulated at conferences like the Islam conference or the integration summit. Perceptions and policies need to be based on reality, focusing on such issues which restrict family unification or the persecutory attitudes expressed towards Muslims as being a terrorist threat.
- Rejecting and moving away from using the German language question as an instrument of exclusion (like requesting German knowledge for family reunion in areas and countries where it is practically not available) and instead promoting communication skills (emphasizing the ability to communicate with people in colloquial German or English instead of only speaking “correct” German) in a multilingual European society.

- Migration history as well as theory on migration and racism should be a subject in all educational classes. This way migration and racism become visible as existing in German society. Its dynamics and effects can be understood as a structural element of modern societies.

7.4 Criminal justice

7.4.1 Racism as a crime

- Positive public representation of the framework decision on racism and xenophobia, achieved under the German EU presidency.
- Public discussion about the relationship between racism and right-wing extremism to achieve a better comparability with data gathered on racism in other EU member states. Racism is not a marginal topic; instead it plays an integral role in German society.

7.4.2 Counter- terrorism

- Official apology by the German government to Khaled El-Masri (kidnapped by CIA) and Murat Kurnaz (former prisoner of Guantanamo)
- Compensation for suffered damages.

7.4.3 Racial profiling

- Strengthening data protection and the civil right of self determination of information used under the conditions of modern information technology.
- Public debates regarding the consequences and decisions by the German foreign Ministry needs to be implemented as the „war against terror“ impacts on the security of the population in Germany.
-

7.5 Social inclusion

- Courses on integration need to be accompanied by authentic opportunities and experiences of inclusion in the labour market and in the accessing of education and training.
- Identifying those barriers in society which allows the majority groupings to maintain their privileges at the expense of minority groups.

8. Conclusion

Since the introduction of the General Equal Treatment Act in August 2006 the Berlin based anti-discrimination body was set up and has been organizing its activities. One year later the body has barely been operational and has been busy with recruiting staff. The majority of staff came from within the Federal administrations, where certain units had been dissolved. Only a minority had been recruited from outside the Federal administration. Meanwhile civil society was moving on. The association of anti- discrimination bureaus [advd] had been founded and succeeded in obtaining a seat on the advisory board of the anti - discrimination body. Its main objective was to establish an infrastructure of independent anti discrimination bureaus across all Federal states and to support the centralized body in Berlin. First successes can be seen in Hamburg, where an independent group of professionals in the field of counseling, developed a concept for an independent infrastructure of anti -discrimination bureaus for Hamburg, which was widely discussed in the administration and among political parties. It has now (2008) been implemented by the new Conservative-Green government coalition.

German civil society has also been active in litigation. The so-called „deaconry case“ drew a lot of media attention and is also an example of how the media covers the topic of „Islam“ in Germany. In this case, a single mother of two, with a Turkish background had applied for a position at the North Elbia Evangelical church. Despite being a self described non- practicing Muslim, she rejected the offer by the prospective employer to join a church, which she was told was a prerequisite for the job. Due to her refusal, her application was rejected on religious grounds. The media coverage often portrayed her as being a fundamentalist Muslim; despite the fact that she has two children from previous relationships with a German and an African partner; which reflects on her open view of the world. Letters addressed to the editors clearly showed openly islamophobic attitudes, regardless whether the paper was left or right wing. She won her case in the Hamburg labour court and is now supported by the Open Society Justice Initiative to present her case to the ECJ and to challenge the provisions made for churches in the General Equal Treatment Act.

There is a tendency to portray opposition to the dominant discourse on migration as a lack of will by the Turkish community to integrate. This can be seen in the boycott of the integration summit by several NGOs. A wide range of German and non-German organisations boycotted the summit, because they wanted to protest the ambiguity of the government. On the one hand government called on all civil organisations to participate in the improvement of migrants' integration and on the other side, they have implemented restrictive EU directives against immigrants. Laws against „forced marriages“ and advanced language skills, that are needed before coming to Germany, seriously restrict families from living together as a unit. In spite of these facts, the protest outside the summit venue

was portrayed in the media as yet another indication of stubborn „Turks“ who are not able to integrate themselves and who are used by the Turkish government to maintain a foreign agenda.

On the other hand there was an ongoing campaign supporting a young German in the tabloids. He was accused of allegedly having had sex with an underage British teen during his holiday in Turkey and was imprisoned there. He was charged according to a law, which Turkey had introduced during the process of accessing the EU to stop „forced marriages“. The interventions by the German media and the government were immense and suggested that the legal system in Turkey needed to be suspended.

These developments highlight the schizophrenic ideology, which has developed in a situation where Germany acknowledged, that it is a society of immigration. Before any immigration legislation was deployed, Germany had a high rate of immigration, e.g in the years between 1987 and 1993, but the hegemonic discours was about “bogus asylum seekers” and how the borders can be closed. Today the discours is on how to get highly qualified migrants into Germany. In practice however, German society has never been as closed and rigid as it is currently. The old construct of the ethnic German and the „foreigner“ has transformed into a construct of first class German citizens, who have the protection of the state and second class citizens, whose citizenship can be revoked, are not able to integrate and can be deported. In this situation the anti-discrimination body is crucial as a mechanism to protect the rights of victims. Unfortunately the policy applied by the anti -discrimination body is more geared towards fostering economic ties than committing themselves to helping victims of discrimination. It rather supports enterprises in their ongoing fight against any legal provision preventing discrimination, than empowering victims of discriminatory policies to take their cases to court. This shows that such a body needs to be truly independent from the government and any party politics.

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10. Annex 1: List of abbreviations and terminology

- [advd] Antidiskriminierungsverband Deutschland = Anti-discrimination Association Germany
- ADB Antidiskriminierungsbüro = Anti-discrimination Office
- ADSt Antidiskriminierungsstelle = Federal Anti-discrimination Body
- AGG Allgemeines Gleichbehandlungsgesetz = General Equal Treatment Act
- BA Bundesagentur für Arbeit = Federal Labour Office
- BAMF Bundesamt für Migration und Flüchtlinge = Federal Office for Migration and Refugees
- BIBB Bundesanstalt für Berufsbildung = Federal Institution for vocational training
- BIM Berliner Infodienst Migration = Berlin Information Service on Migration
- CDU Christlich Demokratische Union = Christian Democratic Union
- CSU Christlich Sozial Union = Christian Social Union
- DGB Deutscher Gewerkschaftsbund = German Federation of Trade Unions
- GBB Gleichbehandlungsbüro
- IMK Innenministerkonferenz = Conference of the Ministers of the Interior of all Länder.
- NPD Nationaldemokratische Partei Deutschland = National Democratic Party of Germany
- REMIC Religionswissenschaftlicher Medien- und Informationsdienst = Media and Information Service for Science on Religion
- SPD Sozialdemokratische Partei Deutschland = Social Democratic Party of Germany



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ENAR Shadow Report 2007