



European network against racism

ENAR Shadow Report 2010-2011

ENAR SHADOW REPORT

Racism and related discriminatory practices in Germany

**Dr. Andreas Hieronymus, Ines Fögen, Yücel
Meheroglu**

Assisted by Franz Mock

Proof read by Kaisarina Pettit

**Supported by
Anti-discrimination association of Germany (advd), Bureau for
the Implementation of Equal Treatment (BUG), Anti-
discrimination office Cologne (ADB Köln/ÖGG), Anti-
discrimination office Leipzig (ADB Leipzig), Anti-discrimination
network Berlin (ADNB), Anti-discrimination Body of the City of
Hannover, Victims Perspective (Opferperspektive), Anti-
discrimination office Frankfurt/Oder**

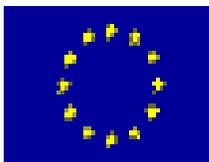
Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism 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.

Published by the European Network against Racism (ENAR) in Brussels, March 2012, with the support of the Community Programme for Employment and Social Solidarity - PROGRESS (2007-2013), the ENAR Foundation, and the Joseph Rowntree Charitable Trust.

PROGRESS (2007- 2013) is managed by the Directorate-General for Employment, social affairs and equal opportunities of the European Commission. It was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields. For more information see: <http://ec.europa.eu/progress>. The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

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I. Executive summary

Vulnerable groups: This year the focus is on the situation of people of African descent in Germany, without neglecting other groups, and yet highlighting the specifics of this barely visible group. The data situation in regard to vulnerable groups is reflected in light of the census 2011.

Employment: The barriers for people of African descent in access to the labour market, their alleged disadvantages in comparison to “native” Germans and how this approach restricts the opportunities of Afro-Germans in further application procedures are described, as well as individual strategies to overcome those barriers. This is embedded in a description of a general picture of inconsistency, where there is an increasing number of qualified migrants who cannot gain access to the labour market because of discrimination, as well as a serious lack of a qualified labour force. Activities to overcome this, such as anonymous applications or the recognition of foreign qualifications in vocational training, certificates, diplomas and degrees are being evaluated.

Key recommendation: The government should engage in a dialogue with local small and medium size enterprises to develop a discrimination-free work environment to overcome labour shortage and to counter act the arguments of the employers lobby, who state that anti-discrimination measures are negative for the economy.

Housing: Forms of direct discrimination and racist prejudice from landlords are described as well as the structural background of the difficulties for people of African descent due to socio-economic disadvantages, discriminatory practices and involuntary segregation due to the withdrawal of “native” Germans from areas. The importance of a change in discourse from the considering the segregation issue in housing to be voluntary self-isolation of migrants in so called “ghettos” to the recognition of the failure of the policy for “balanced ethnic mixture” is stressed.

Key recommendation: Municipalities should initiate local networks with NGOs, landlords and local politicians to develop anti-discrimination policies in the local housing market.

Education: This section describes general discriminatory patterns that students of African descent face in school classes. Studies and surveys about the minority perspective on education and schooling are presented, uncovering reasons why migrant children do not have the same chances as children of native/ethnic German descent. Measures intended to advance German language skills are critically evaluated.

Key recommendation: Ministries of Education in the länder (states) should establish and ensure a comprehensive anti-discrimination culture in the schools and within the ministries.

Health: Language, cultural and religious differences are described as some of

the main barriers to equal access to the health system and to equal medical treatment. This situation is highly reflected in the field of specialised medical care like rehabilitation, prevention services and psycho-medical care. Studies are presented which show that persons who experienced discrimination reported a significantly worse mental and physical state of health. This is also the situation for asylum-seekers and refugees, several being of African descent, which leads to the decision that detention centres should be closed down.

Key recommendation: End the detention of asylum seekers and instead integrate them into normal local life to minimise their health risks.

Criminal justice: People of African descent are less focused on by the law enforcement agencies or in security discourses, but being “Arab” looking and being “Black” are profiles that trigger the same security activities. The report describes new profiling practices in airports and the loss of trust in the police by minorities and migrants.

The decrease in the numbers of right-wing politically motivated crimes is reflected in the report, as well as the increase of attacks on offices of political parties. It is seen as an organised targeted campaign of several Neo-Nazi groups with a common ideological background mainly directed against “the Left”.

It is reported that the raids on mosques after the Friday prayers have stopped all over Germany, and that the surveillance of Muslims has become more sophisticated.

It is highlighted that representatives of Muslim, Christian churches and of Jewish communities denounce the views expressed by the Islamophobic website “Politically Incorrect (PI)”, which portrays Islam as culturally inferior or agitates against building mosques and where former conservative politicians try to introduce a Geert Wilders Party in Berlin. The report also reflects on the massacre in Oslo and the related racist and Islamophobic world-view.¹

Key recommendation: Obligatory human rights training should be introduced into the further education of Police officers.

Access to goods and services: Incidents of refusing of young male Afro-Germans, migrants of African descent or migrants with a Middle Eastern background (and darker complexion) entrance into clubs or bars are described, as are the differing mental maps of newcomers and local youth of racialised „no go” areas. A set of court cases related to such refusals, but also to other barriers in the access to goods and services, like discriminatory practices by insurance companies and indirect discriminating effects of the welfare system are presented.

Key recommendation: Research on discrimination in the access to goods and services should be carried out in order to provide court judges with expert opinions on the topic.

¹ Attentäter sieht sich im "Rassenkrieg", die tageszeitung (TAZ), 24.07.2011, <http://www.taz.de/!75025/>, accessed 20.November.2011

Media: The chapter starts with an on-going debate about the use of the N-word which some, even leftists, consider as just another word for “black”. Some presented cases demonstrate a lack of sensitivity to problems of discrimination and the inherent question of power relations within the media and an over sensitivity to international criticism on questions of discrimination.

Key recommendation: Strengthen critical voices in the integration discourse, which bring in a European and international perspective on discrimination into the existing media discourses, by further media education on human rights and anti-discrimination issues.

Anti-racism and anti-discrimination: In this chapter important initiatives of the Anti-discrimination body (ADS), cases that were brought forward on the basis of the EU Race Equality Directive and the budget allocated to the ADS are described and reflected upon, as well as the dialogue between the government and NGO's.

Key recommendation: Civil society should start a comprehensive revision of the existing Equal Treatment Act.

Migration and integration: The working relations between government and organisations participating in the drafting of national integration plan are reflected upon. The new alleged integration debate, which was instigated by the book written by Thilo Sarrazin and the reaction of scientists to his “scientific” thesis, is described.² At the end of this chapter the **MIPEX index** for Germany is examined from an NGO perspective taking the findings of this shadow report into account.

Key recommendation: The government should critically evaluate the real role NGOs played in the National Integration plan and improve the dialogue structure between NGO's and the government in order to change the governments monologue into “real” dialogue.

The report ends with **national recommendations** for each of the thematic area.

² Sarrazin, Thilo; Deutschland schafft sich ab: Wie wir unser Land aufs Spiel, DVA, (München, 2010).

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III. Introduction

*"German media reported of the death of an Afro-German woman who was shot by a Police officer in a branch of the Rhine-Main Job Centre in Frankfurt."*³

*"In Hamburg, a trial against ten suspected pirates from Somalia has begun. It is the first trial after an attack on a ship at the Horn of Africa and also the first Pirate trial since 400 years in Hamburg. The defendants are seven adults, two teenagers and a youth. Their ages range between 17 and 48. If found guilty they expect a penalty of up to 15 years imprisonment."*⁴

*"To return the mortal remains of Herero and Nama, who were killed during the genocide of 1904-08 by German troops, an official delegation from the Republic of Namibia is expected in Berlin. Between 1904 and 1908 German troops waged an unimaginably cruel and atrocious war of extermination against the Herero, Nama and Damara people, aiming to break anticolonial resistance within the former German colony "Deutsch-Südwestafrika" (today known as the Republic of Namibia). Thousands of human remains were sent over 100 years ago to the pathological institute in Berlin and to other German research institutions for "scientific measuring." The skulls had to be "freed of flesh and prepared" by the wives of those murdered before being sent off."*⁵

Those are only some very recent headlines related to people of African descent. They carry different layers of meaning of a nearly forgotten history of black people in Germany. Unlike other post-colonial societies, such as France, Great Britain, Spain or Portugal Germany's colonial past in Africa⁶ ended after only 30 years with World War I. In the collective memory this period is not very present because it lies several generations in the past. Grassroots organisations rediscover this history in the public space. There are initiatives renaming streets which have colonial associations and instead naming them after prominent Afro-German persons⁷ or uncovering the historical colonial landscape in trading cities such as Hamburg.

The history of people of African descent in Germany starts much earlier, but little

³ Pressemitteilung: "Erschießung anscheinend unproblematisch" – Rüge der Medienberichterstattung über Tod im Jobcenter Frankfurt, Brauner Mob 24.5.2011, <http://www.derbraunemob.info/deutsch/index.htm>, accessed 30 August 2011.

⁴Erster Piraten-Prozess seit 400 Jahren, NDR 22.11.2010, <http://www.ndr.de/home/hamburg/piratenprozess101.html>, accessed 30 August 2011.

⁵Berliner Charité gibt geraubte Gebeine an Namibia zurück, Brauner Mob 16 August 2011, <http://www.derbraunemob.info/deutsch/index.htm>, accessed 30 August 2011.

⁶ The reasons why Germany never became a colonial power like the others cannot be discussed here, but there is evidence that because of its late national unity the colonial character evolved differently, as a merchant colonialism by cities such as Hamburg. Some scholars say that the traditional German colonialism since the thirteenth century was targeting Eastern Europe, such as Poland, the Baltic States, etc. The merger of those two types of colonialism in the late nation building process then culminated in the holocaust.

⁷Berlin, 29.08.2011: Offizielle Einweihung der Gedenktafel am May-Ayim-Ufer, <http://www.derbraunemob.info/deutsch/index.htm>, accessed 30 August 2011.

historical research is available prior to the nineteenth century. There is reason to believe that, at least since Roman times, the South of Germany, being a European crossroads, people of African descent have settled there and have merged with the local population. With the colonial period more evidence is available and shows that in the nineteenth century more and more people of African descent came as participants in international shows ("Völkerschauen"⁸), as students from the African upper class, as craftsmen, as musicians, as workers, as Afro-French soldiers of the French occupation army after World War I, or as American GI's after World War II⁹. Their descendants form an old, but often invisible minority of Afro-Germans in the third or fourth generation. During National Socialism their living conditions deteriorated, because they were considered to be a minor "race" and were persecuted, tortured and killed in concentration camps. Although Germany was "de-Nazified" after World War II, racist theories stemming from the colonial and Nazi period were taken over by the newly established Federal Republic. They were part of scientific, social and political life. Afro-German victims of the Nazis never received compensation for their suffering during the Nazi-times. In the post-war period children of German women and Afro-American Soldiers were considered to be a "racial special problem." New African immigrants, mostly students, arrived in the 1970's, after the independence of e.g. Nigeria or Ghana. In the former GDR the state officially recruited students from Mozambique or Kenya with state funded scholarships. Those former students and their children and grandchildren are also now living as academics in Germany.¹⁰

As there is no imagination about a German citizen, which includes black Germans or Muslim Germans, therefore people of African descent are mainly regarded as migrants having arrived recently. In the "old days", meaning before 2005, when the Federal statistical office changed their approach to counting the population, there was an easy binary split: German/Foreigner, the ethnic definition of Germanics and the rest of the world, which was foreign. Since then situations have become more complicated, especially for outsiders, who naively think that a migrant is somebody who recently migrated to Germany. Nowadays one hears of Germans with and without a migrant background or migration experience and as well of foreigners with or without a migrant background or migration experience. What this basically means is that all Germans and foreigners with migration experience are people who really migrated to Germany during their life-time. Germans and foreigners with a migration background were

⁸ In the 19th century, when the first zoos were established, foreign cultures were displayed as well. Those shows have been part of the colonial tradition and have been heavily criticised by post-colonial scientists and activists. See: Sunna Gieseke Die (koloniale) Begegnung. „Manche Herren sind sogar Stammgäste“ – Afrikanische Völkerschauen in Köln, <http://www.kopfwelten.org/kp/begegnung/voelkerschau/http://www.kopfwelten.org/kp/begegnung/voelkerschau/>, accessed 4 August 2011.

⁹ Madubuko, Nkechi (2011): Typologie im Umgang mit beruflichem Akkulturationsstress bei Afrodeutschen – Selbstselektion vs. erfolgreiche Stressbewältigung. In: Bundesamt für Migration und Flüchtlinge (2011): Potenziale der Migration zwischen Afrika und Deutschland. Beiträge zu Migration und Integration, Band 2, p. 128.

¹⁰Ibidem, p. 129.

generally born in Germany, but their parents migrated to Germany after 1950. This division was created because otherwise all the 12 million Germans, who were driven away from Eastern Europe after World War II would have a migration background as well and the migrant population, would have easily amounted to more than 30 or 40 %.

While right wing rhetoric's still paint a picture of Germany being overrun by immigrants, the population statistics show that since 2008 more people are leaving Germany than there are people migrating to Germany. Such outward migration happened between 1951-56 just shortly after the eviction of Germans in Eastern Europe came to an end and the last prisoners of war returned and shortly before the guest-worker recruitment programs started 1974-76 after stopping the guest worker recruitment in 1973 and between 1982-84, the then newly established conservative-liberal government introduced a migrant return program. Nowadays Experts attribute this increasing emigration, mainly of highly skilled Turkish migrants, to discrimination in the German labour market and the financial crisis increases the existing discrimination towards minority groups. This gives an overall picture that the situation is inconsistent in Germany: on the one hand the doors of legal migration are closed and there is an increasing number of qualified nationally born migrants who cannot gain access to the labour market because of discrimination, on the other hand there is a serious lack of qualified people for Germany's enterprises, which the employment sector wants to fill with highly qualified workers from abroad, who do not arrive in sufficient numbers.

Such inconsistencies are described in this years' ENAR shadow report 2010/11. But this time the report takes a slightly different approach in comparison to the previous years. One is, that we focus on a specific victim group, namely on people of African descent, but without neglecting other groups or general important developments, in Germany. The report embeds the specific situation of Afro-Germans and migrants from Africa who are residents, into the general developments in Germany between March 2010 and March 2011, including some important incidents which happened at a later stage of 2011. The second difference is a change in the structure of the report. The report starts, as usual, with the description of the communities vulnerable to racism and discrimination with a focus on people of African descent. In previous reports the manifestations of racism in the different areas (employment, housing, education, health, criminal justice, policing and ethnic profiling, racist violence and crime, counter terrorism, access to goods and services in the public and private sector, media, including the internet) always have been separated from political and legal context they happened in. Now they can be found in each of the thematic topics, which gives a better insight into political and legal framework that racism manifests itself in Germany. The report then ends with some main political and legal developments in anti-racism and anti-discrimination, where information about the emerging anti-discrimination infrastructure is presented, followed by the state of the art in migration and integration, including a brief assessment of MIPEX III index for

Germany.¹¹

The report then concludes and presents national recommendations for each of the thematic topics.

The authors' aim is to draw the reader's attention and awareness to the difficulties in an evidence based judgement in a federal system such as Germany, where a variety of different local practices exists, some of them never reaching a wider audience. Therefore the situation cannot be described in its totality and in-depth research is difficult, time consuming and therefore costly. But the authors hope that the reader can grasp some of the air in which racism operates in Germany and as well the efforts minorities, migrants and the majority undertake to share everyday life with each other and struggle in solidarity for a better place where they can live together.

¹¹British Council Germany, Migrant Integration Policy Index III, Europe's integration policies at your fingertips, <http://britishcouncil.de/d/projects/mipex.htm>, accessed 30 August 2011.

IV. Communities vulnerable to racism and discrimination

Data about the members of the German population who originated in Africa and about African migrants in Germany is barely available and has to be extracted from different kinds of sources. In last year's shadow report¹² we described, that Germany is not the primary destination for the most recent wave of migrants from Africa, most of them travel to France, Spain or Greece and that estimates say, the number of African immigrants will be increasing, assuming that approx. 20,000 to 35,000 people will be arriving in Germany every year¹³. The growth of communities with an African background can be observed over the last 20 years. While first mainly young male asylum seekers arrived in Germany now family reunions and female migration are increasing. An estimate says that in 1984 approx. 124 500 African migrants live in Germany, the number increased from 1990 to 2000 from 197 974 to 299 2514 and reached 303 000 in 2004¹⁵. Besides these newly developing communities of migrants of African descent, there is a small community of Afro-Germans whom have existed for a much longer period.¹⁶ Estimates about the size of this group of Afro-Germans vary between 200 000 in 2004¹⁷ and 500 000.¹⁸

German population statistics show that three per cent of people with a migrant background come from Africa, that's a group of approximately 477 000 people.¹⁹ The official statistics do not specify any regions in Africa, but take the continent as a whole. There is no distinction between the Arab north and the sub-Saharan part of the continent, as the French traditionally divided the continent. In Germany this region is called "Black Africa" (Schwarzafrika), referring at the same time to the colonial past, the "unknown" and complexion-colour.

To differentiate between those who have migrated to Germany and therefore

¹²Shadow report Germany 2009/10, <http://cms.horus.be/files/99935/MediaArchive/Germany.pdf><http://cms.horus.be/files/99935/MediaArchive/Germany.pdf>, p. 12, accessed 4 August 2011.

¹³BAMF-Studie: Hohes Migrationspotenzial in Afrika, http://www.migration-info.de/mub_artikel.php?Id=100210http://www.migration-info.de/mub_artikel.php?Id=100210, accessed 4 August 2011.

¹⁴ Institut für Ethnologien und Afrikastudien: Afrikaner in Frankfurt - Migration, Netzwerke, Identitätspolitik, Ergebnisse einer Lehrforschung, Frankfurt 2002.

¹⁵ Madubuko, Nkechi (2011), p. 129.

¹⁶ Geschichte der ISD. Schwarze Organisation in Deutschland - Ein geschichtlicher Abriss, <http://www.isdonline.de/modules.php?name=Content&pa=showpage&pid=12>, accessed 4 August 2011.

¹⁷ Madubuko, Nkechi (2011), p. 129.

¹⁸ Smith, David G. (5. Juni 2008). German Newspaper Slammed for Racist Cover. Spiegel Online. <http://www.spiegel.de/international/germany/0,1518,557861,00.html>, accessed 2 August 2011.

¹⁹ Statistisches Bundesamt, Fachserie 1 Reihe 2.2, Bevölkerung und Erwerbstätigkeit, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2009, Wiesbaden 2010, http://www.google.com/url?q=http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Publikationen/Fachveroeffentlichungen/Bevoelkerung/MigrationIntegration/Migrationshintergrund2010220097005,property%3Dfile.xls&ei=8tJUTpLbGcfssgbE8tEW&sa=X&oi=unauthorizedredirect&ct=targetlink&ust=1314183674423477&usg=AFQjCNEB1mWgSE1qdROBbO3i_o0kdtrjOw, accessed 4 August 2011.

have migration experience and those who were born in Germany and therefore belong to the “native” population, we have created a ratio between those persons with a migrant background and those with no migration experience. This ratio is among people of African descent is 28.5 %, meaning that 28.5 % of the whole group did not migrate to Germany. This is fairly high in comparison to other groups like Italians (43.7 %), Turks (40.5 %), Greeks (39.5 %), Croatians (32.2 %), Serbs and Montenegrins (29.6 %).²⁰ This means that between half to a quarter of those groups (formerly considered to be “foreigners”) cannot be considered as “migrants”, because they never migrated and have no migration experience and therefore can be considered to be part of the “native” population. This quite small group of people of African descendants are in the context of the larger changes of Germany as a migration society. In Germany 23.8 % of the 81 904 000 inhabitants (15 703 000) have a migration background among them 6 695 000 who were counted as foreigners in 2009. Of those with a migrant background 67.5 % (10 601 000 people) also had own migration experience, among them 31.9 % have a German passport. 32.5 % of those people with a migrant background did not have any personal migration experience, among them 10.3 % had a foreign passport.²¹ 96 000 people became naturalised in 2009.²²

This complicated way of describing the German population is due to the fact that Germany changed its population statistics in 2005 and since then it is possible to describe the population in Germany in a more differential way, than the former German citizen - foreigner dichotomy. The population in Germany is now subdivided into German citizens with and without migrant backgrounds and foreigners. Furthermore, Germans with a migrant background and foreigners can have personal migration experience or none.²³

Since 2008 more people are leaving Germany than there are people migrating to Germany (net migration 2008:-55 743, 2009: -12 782). The statistics show such an outward migration only for the years 1982-84.²⁴

²⁰Own calculations on the basis of: Statistisches Bundesamt, Fachserie 1 Reihe 2.2, Bevölkerung und Erwerbstätigkeit, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2009, Wiesbaden 2010.

²¹Own calculations on the basis of: Bundesamt für Statistik, Bevölkerung 2009 nach Migrationshintergrund und Ländern: [http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Bevoelkerung/MigrationIntegration/Migrationshintergrund/Tabellen/Content100/MigrationshintergrundLaender,templateId=renderPrint.psmI](http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Bevoelkerung/MigrationIntegration/Migrationshintergrund/Tabellen/Content100/MigrationshintergrundLaender,templateId=renderPrint.psmIhttp://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Bevoelkerung/MigrationIntegration/Migrationshintergrund/Tabellen/Content100/MigrationshintergrundLaender,templateId=renderPrint.psmI), accessed 3 August 2011.

²²Migration und Integration, [http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Navigation/Statistiken/Bevoelkerung/MigrationIntegration/MigrationIntegration.psmI](http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Navigation/Statistiken/Bevoelkerung/MigrationIntegration/MigrationIntegration.psmIhttp://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Navigation/Statistiken/Bevoelkerung/MigrationIntegration/MigrationIntegration.psmI)http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Navigation/Statistiken/Bevoelkerung/MigrationIntegration/MigrationIntegration.psmI, accessed 3 August 2011.

²³ BAMF: Grunddaten der Zuwanderung 2009, p.16

²⁴Bevölkerung und Wanderung: [http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Zeitreihen/LangeReihen/Bevoelkerung/Content75/lrbev07a,templateId=renderPrint.psmI](http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Statistiken/Zeitreihen/LangeReihen/Bevoelkerung/Content75/lrbev07a,templateId=renderPrint.psmIhttp://www.destatis.de/jetspeed/portal/c)http://www.destatis.de/jetspeed/portal/c

If you compare the current population figures to those of the last Shadow-report 2009/10 you realise that the numbers differ²⁵. This highlights a general problem with the German population statistics, which has been mentioned in several reports: „The Republic has changed – the data basis has not”.²⁶ The Census 2011 aims to change that situation. EU legislation requests that all Member States conduct a census every ten years from 2011 onwards and it shall be conducted by the Federal Statistical Office and the statistical offices of the länder (states). The Census aims to provide an accurate snapshot of basic information on the population, on housing space, on education and on employment. According to the Statistical Office „a lot depends also on the official numbers of population: the equalisation of revenue between the länder (states), the boundaries of constituencies for Bundestag elections, the distribution of votes among the länder (states) in the upper house (Bundesrat), and the number of seats Germany has in the European Parliament”.²⁷

The last complete census was held in 1987 in West Germany and in the GDR in 1981. Since then the population has been estimated using statistical methods (*inter-censal population updates*). The Statistical Office assumes that the estimated total population of Germany is about 1.3 million too high.²⁸ To implement the EU-wide 2011 Census, Germany uses „a mixed-mode method that collects data from multiple sources and combines a complete enumeration with sample surveys”.²⁹ But the existing administrative data does not contain information on education or on migrant background. For a Household Survey, 10% of the population interviewed in May 2011 were requested to provide information, about their education, vocational training, employment and migrant background.

After a huge boycott campaign during the 1987 census, the Statistical Offices stressed that it was not the objective to find out about the individual living conditions or opinions of the population. All official statistics in Germany are subject to the prohibition of transferring data back, and personal, individual data must not be passed on by the statistical offices to private or public institutions – neither to the Police nor to the tax offices nor to any other authority.³⁰ The results of the Census will not be available for this reporting period; therefore this report still relies on the old, often inconsistent, data available in 2009.

The population with a migrant background is, in comparison to the German population without any migration experience, still very young. Those holding no

ms/Sites/destatis/Internet/DE/Content/Statistiken/Zeitreihen/LangeReihen/Bevoelkerung/Content75/Irbev07a_templateld=renderPrint.psml, accessed 3 August 2011.

²⁵ See ENAR Shadow report Germany 2009/10, p. 8.

²⁶ The 2011 Census in Germany, <https://www.zensus2011.de/english.html> <https://www.zensus2011.de/english.html>, accessed 3 August 2011.

²⁷ Ibidem

²⁸ Ibidem

²⁹ Ibidem

³⁰ Ibidem

German passport (“Foreigners”) have, in comparison to German citizens, irrespective of their migration experience, a lower number of children who are younger than six years of age. This is due to the fact that according to the citizenship law of 2000, every child born in Germany automatically acquires German citizenship, also in cases where both parents hold a foreign passport. This citizenship is called “optional”, because the person has to decide between the age of 18 and 23 which citizenship they want to have, German or their parents citizenship. Members of the German National Coordination of ENAR (*Netz gegen Rassismus*), like Pro Asyl, the German Bar Association (DAV) and the Intercultural Council in Germany (IR) launched a campaign in August 2010 against this unequal treatment. Especially well established communities from Turkey or Serbia are affected by this law. The three organisations, in a unified voice, are calling for the first time ever for this “optional” citizenship to be abolished.³¹

Approximately 20 % of men and 19 % of women living in Germany have a migrant background.³² The highest percentage (32 %) of people with a migrant background are between 0 – 15 years of age. The age group active in the labour market (15 - 65) 21.6 % do have a migrant background. The lowest percentage can be found among pensioners with only 5.8 % having a migration background. Those figures do not differ much among the female and male population.³³

20.8 % of those living in a registered partnership and 19.1 % of those who are married have a migration background. While among those who are married to another German with a migration background (or with a foreigner) 79 % (79.8 %) have a migration background themselves, only 4.8 % of those married to a „native“ German (without a migrant background) have a personal migration background.³⁴

The spatial distribution of the population with a migrant background decreases from agglomeration areas (23.5 %) to urban areas (16.3 %) and rural areas (11.9 %). In Baden-Württemberg, Berlin, Bremen, Hamburg and Hessen more than 25 % of the population have a migration background. Among the population with

³¹ Migazin, Doppelte Staatsbürgerschaft. Optionszwang im Staatsangehörigkeitsrecht abschaffen, <http://www.migazin.de/2010/08/23/optionszwang-im-staatsangehoerigkeitsrecht-abschaffen/>, accessed 4 August 2011.

³² Statistisches Bundesamt, Fachserie 1 Reihe 2.2, Bevölkerung und Erwerbstätigkeit, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2009, Wiesbaden 2010, <http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Publikationen/Fachveroeffentlichungen/Bevoelkerung/MigrationIntegration/Migrationshintergrund2010220097005,property=file.xls>, accessed 4 August 2011.

³³ Own calculations on the basis of: Statistisches Bundesamt, Fachserie 1 Reihe 2.2, Bevölkerung und Erwerbstätigkeit, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2009, Wiesbaden 2010, <http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Content/Publikationen/Fachveroeffentlichungen/Bevoelkerung/MigrationIntegration/Migrationshintergrund2010220097005,property=file.xls>, accessed 4 August 2011.

³⁴ Ibidem

different grades of disabilities between 11 and 12 % in each of the categories (age younger than 50, age 50 to 99, and 100 % disability) have a migrant background.³⁵

Among the population with a migrant background the majority (65.5 %) originated in a European country (29.9 % in one of the EU-27 countries and 35.6 % in the rest of Europe). The largest groups originated from Turkey (15.9 %), Poland (8.3 %), the Russian Federation (6.8 %) and Italy (4.9 %). Outside of Europe the largest groups originated from Asia and Oceania (13.1 %), Middle East (8.1 %), Kazakhstan (4.2 %), South- and Southeast Asia (3.6 %) and Africa (3.0 %).³⁶

People of Turkish origin constitute the largest minority group in Germany and therefore Muslims constitute the second largest religious minority in Germany after Christians, although the non-religious percentage is also very high in certain areas, e.g. the East of Germany. It is estimated that between 3.8 and 4.3 million Muslims with a migration background are living in Germany, among them between 1.65 and 2.03 million German Muslims.³⁷

The estimates about the Jewish communities in Germany are more difficult. Approximately 100,000 Jewish people are living in Germany today. An additional 80,000 Jewish migrants came from the former Soviet Union since 1989. There are approximately 100 Jewish communities, the largest being in Berlin (11,000 members³⁸), Frankfurt a. M. (7,161 members³⁹) and Munich (9,500 members⁴⁰). Sinti (living in Germany since the 14th century) and Roma (arriving in the 19th century) are like the people of African descent, a less visible minority in Germany. Different estimations claim that between 80,000 to 120,000 Sinti and Roma are living in Germany. Most of the newly arriving Roma came from the former Yugoslavia and the Balkans⁴¹ and, nowadays, from Romania and Bulgaria.

41 332 people applied for asylum in Germany in 2010. This is 13 683 more asylum seekers than in 2009. This increase of approximately 50 % is due to the on-going applications by people from mainly 10 major countries. The highest amount of applicants came from Afghanistan (3 375 in 2009; 5 905 in 2010). 5

³⁵ Ibidem

³⁶ Ibidem

³⁷ Haug, Sonja; Müssig Stephanie and Anja Sticks, *Muslimisches Leben in Deutschland (Muslim Life in Germany)*, BAMF, Nuremberg, 2009, http://www.deutsche-islam-konferenz.de/cln_180/SharedDocs/Anlagen/DE/DIK/Downloads/WissenschaftPublikationen/MLD-Vollversion,templateld=raw,property=publicationFile.pdf/MLD-Vollversion.pdfhttp://www.deutsche-islam-konferenz.de/cln_180/SharedDocs/Anlagen/DE/DIK/Downloads/WissenschaftPublikationen/MLD-Vollversion,templateld=raw,property=publicationFile.pdf/MLD-Vollversion.pdf, accessed 4 August 2011.

³⁸ Jüdische Gemeinde zu Berlin, <http://www.jg-berlin.org/ueber-uns/kurzportraet.html>, accessed 4 August 2011.

³⁹ Wir über uns, Jüdische Gemeinde Frankfurt, <http://www.jg-ffm.de/web/deutsch/wir-ueber-uns/>, accessed 4 August 2011.

⁴⁰ Jüdische Gemeinde für München und Oberbayern, <http://www.ikg-m.de/gemeinde/>, accessed 4 August 2011.

⁴¹ Sinti und Roma seit 600 Jahren in Deutschland. Eine Kurzfassung über Geschichte, Kultur und Verfolgung http://www.zigeuner.de/sinti_und_roma_seit_600_jahren.htm, accessed 4 August 2011.

555 asylum seekers came from Iraq; half of them had Kurdish background. 4 978 Asylum seekers came from Serbia, that is 4 397 more applications than in the previous year and an increase of +757 %. A high increase was also registered from Iran (+1.305 application, increase of 111 %), Macedonia (+2.357 applications, increase of 2 162 %) and Somalia (+1.889 applications, increase of 546 %). 71 % of asylum seekers came from those 10 major countries. This is the third year in a row of increasing numbers of asylum seekers since the all-time low in 2007. 7 704 persons, that is 16 % of all asylum seekers, received the status of refugees according to the 1951 Geneva Refugee convention. 2 691 persons, 5.6 % of all asylum seekers, received “subsidiarity protection”, which protects them from deportation according to Art. 60, Ch. 2, 3, 5 and 7 of the residence act.⁴²

Regular migration is strictly monitored in Germany, and internal controls limit the room for the shadow economy and irregular migrant work. Regularisation programs have never been implemented, but those irregular migrants who cannot be deported for practical or humanitarian reasons are more or less tolerated. The green local MP of Bremen, Zahra Mohammadzadeh referred to approximately 500 000 undocumented migrants living in Germany, among them more than 30 000 children.⁴³ The Hamburg Institute of International Economics, provides regular updates and estimates that there were 140 000 to 330 000 irregular foreign residents in Germany in 2010.⁴⁴ This is considerably lower than the estimates of the Federal Office of Statistics (466 000 people)⁴⁵ or the project CLANDESTINO (approximately between 200 000 to 460 000) in 2009.⁴⁶

⁴² 41.332 Asylanträge im Jahr 2010, <http://www.bamf.de/SharedDocs/Pressemitteilungen/DE/2011/110117-0001-pressemitteilung-bmi.html>, accessed 4 August 2011.

⁴³ Menschen ohne Papier in Bremen, <http://zahramohammadzadeh.wordpress.com/2011/01/14/menschen-ohne-papier-in-bremen/#more-253>, accessed 5 August 2011.

⁴⁴ Database on irregular migration: Germany, http://irregular-migration.hwwi.de/Germany_Database.6165.0.html, accessed 24 August 2011.

⁴⁵ Migrationsbericht des Bundesamtes für Migration und Flüchtlinge im Auftrag der Bundesregierung, BMI, Berlin, 2010.

⁴⁶ Database on irregular migration: Germany, http://irregular-migration.hwwi.de/Germany_Database.6165.0.html, accessed 24 August 2011.

V. Racism and related discrimination in employment

VII.i Manifestations of racism and related discrimination in employment

Afro-Germans and black migrants represent a small and heterogeneous minority and belong to one of the most vulnerable groups in Germany.⁴⁷ Racism and discrimination is part of their everyday working life, no matter whether they are qualified or unqualified. This is illustrated by the following two cases:

The Anti-Discrimination Bureau of Cologne (ADB/ÖGG)⁴⁸ received a report about Mr G. who is employed in a well-established company since 2000. Until the previous superior was replaced in 2005 Mr G. was under his protection. After the new boss arrived he was continuously exposed to bullying because of his severe disability and the colour of his complexion. He tried to articulate the issue of discrimination to his colleagues and his boss several times. In 2007 Mr G. was unofficially offered an indemnity of 6.000€. After consultation with his lawyer he asked for 14.000€, which the company refused to pay. The Mr G. continued to work there, but the discrimination didn't end. In November 2010 a new trainee started to bully and insult him as well. Mr G. complained internally once more and Mr G and the trainee were heard by the boss, with the effect of an extraordinary dismissal of Mr G. The case was not filed as a lawsuit. The person in charge of bullying in the work council advised Mr G to make a complete break with the company.

The second case is about work colleagues making racist remarks at work: Mr E. put on a jacket of one of his team members by mistake. His colleague then insulted him as a "weird N...". In another situation the same colleague, who was talking with a comrade on the phone in the presence of Mr E. said "Do you want a N...kiss (=colloquial for a chocolate marshmallow in German) (...) E. is here with me... ". Mr E. first tried to resolve the situation with his colleague and then with the supervisors. Because no one supported him internally, he asked for external advice. After the company was approached externally, the director promised to talk with those involved, because, he said, he did not want to tolerate such behaviour. The conversation was postponed again and again due to many different reasons and in the end never took place.

The sociologist Madubuko analysed to which extent Afro-Germans are accepted on a professional level in her recent research.⁴⁹ All 37 participants in her qualitative research were born or raised in Germany. 27 had an African background and 10 had a European or Turkish background. To ensure that the origin of highly skilled migrants does not really play an important role for their success in the labour market she chose only interviewees with a university

⁴⁷ Madubuko, 129.

⁴⁸ The following cases are described in a report of ADB/ÖGG, which will be published at the end of 2011.

⁴⁹ Ibidem, 127.

degree.⁵⁰ She found out that Afro-Germans are subjected to discrimination in the labour market more frequently than European migrants or members of the Turkish minority.⁵¹

Access to the job market is full of barriers from the very beginning of the application procedure, when the first selection criteria are applied. At this point discrimination becomes most visible: disadvantages in comparison to “native” German applicants are stressed and competences of Afro-Germans are doubted. This faulty approach restricts the opportunities for Afro-Germans to go further in the application procedure in a negative way.⁵²

Madubuko identified four strategies used to deal with such discrimination among the interviewees: “Retreat and Fight”, “Support and Struggle”, the “Processing Artists” and the “Ethnically Independent”. Madubuko assigns herself to the group “Support and Struggle”. A graduate teacher, she suffered for a long time under the negative attributes that have been ascribed to her as a black woman. She ignored or repressed racist taunts at school and the “jokes” of her fellow students. She relied solely on her own achievements and showed others what she is capable of. Today, her struggle is over thanks to the backing of her family, and an African and German network mediated by a therapist.⁵³ Madubuko concluded in her study, that as a consequence of such discrimination certain professions are avoided by minorities after self-assessment and in order to elude discrimination.⁵⁴ Many highly qualified and skilled migrants in Germany developed such prevention strategies to deal with their discrimination experiences. This is in line with other European labour market research, which identified similar strategies e.g. among migrants in Sweden.⁵⁵ Consequently they will not be available to work for German businesses or companies.⁵⁶

The Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände) see diversity and combating discrimination as important socio-political goals, which have already been achieved in the enterprises in Germany.⁵⁷ In their view the Equal Treatment Act (AGG) is a burden to the German economy because of its alleged pointless bureaucracy and high costs. In continuation of their resistance to any EU regulations on discrimination since the introduction of the AGG, they repeatedly announce that the mere introduction of the law has triggered an expense of more than 1.5 billion € and that the annual expenditure for application procedures and hiring

⁵⁰ Ibidem, 132-133.

⁵¹ Burchard, Amory: Afrodeutsche. Kämpfer und Künstler, Die Zeit: <http://www.zeit.de/wissen/2011-01/kaempfer-und-kuenstler/>, accessed 01 August 2011.

⁵² Madubuko: 141-142.

⁵³ Amory: Afrodeutsche. Kämpfer und Künstler.

⁵⁴ Madubuko: 144.

⁵⁵ Rätzzel, Nora (2006) From individual heroism to political resistance: young people challenging everyday racism on the labour market. In: Journal of Education and Work. Vol. 19, No. 3, July 2006, pp. 219–235

⁵⁶ Madubuko: 152.

⁵⁷ Bundesvereinigung der Deutschen Arbeitgeberverbände: Fünf Jahre AGG kein Grund zum Feiern, http://www.arbeitgeber.de/www/arbeitgeber.nsf/id/DE_PI04211, accessed 25 August 2011.

processes amount to more than 150 million €, without explaining how they come to this amount and without calculating the loss that discrimination in the labour market causes for the German economy. They lobby the Federal Government to prevent further regulations at European level.⁵⁸

The German ENAR Shadow Report 2009/10 indicated the increasing emigration of highly skilled Turkish migrants as a result of discrimination in the German labour market. The “Expert Advisory Board of German Foundations for Integration and Migration” (*Sachverständigenrat deutscher Stiftungen für Integration und Migration*) points out that more and more young and well skilled migrants who are raised in Germany are leaving the country.⁵⁹ There is evidence that the financial crisis has even increased the discrimination towards minority groups in the German labour market. This is highlighted by a new global report of the International Labour Organisation, a specialised organisation of the United Nations, which highlights that discrimination in the job market increases particularly in times of economic uncertainty.⁶⁰

The overall picture in Germany is inconsistent: on the one hand there is an increasing number of qualified migrants, who cannot gain access to the labour market because of discrimination, on the other hand there is a serious lack of qualified labour force in Germany. According to the “Institute of the German Economy” (*Institut der Deutschen Wirtschaft*) there will be a lack of 200.000 engineers, scientists and technicians in 2014.⁶¹ In consideration of this situation politicians and labour market representatives debate about easier recognition of foreign certificates and graduate degrees and the recruitment of foreign qualified labour force as a solution to the problem.

Young, Modern, Muslim – Discussion and fashion show⁶²

On 8.2.2010 the Friedrich-Ebert-Foundation organised an event to reflect on the multiple layers of meaning of the headscarf. This event was seen as countering the derogative image of Thilo Sarrazin's image on “headscarf girls”. The fashion show presented a large range of headscarf designs and confronted the audience with their preconceived conceptions on Muslim girls with headscarves. This event targeted as well human resource managers.

⁵⁸ Ibidem.

⁵⁹ Kernbotschaften, http://www.svr-migration.de/wp-content/uploads/2011/04/kernbotschaften_jg_2011.pdf, accessed 05 August 2011.

⁶⁰ ILO legt globalen Bericht über Diskriminierung vor, <http://www.ilo.org/public/german/region/eurpro/bonn/aktuelles/gr2011.htm><http://www.ilo.org/public/german/region/eurpro/bonn/aktuelles/gr2011.htm>, accessed 05 August 2011, complete report: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_154779.pdf, accessed 05 August 2011.

⁶¹ Deutschland: Diskussion um Fachkräftemangel, [http://focusmigration.hwwi.de/Einzelansichten.1316.0.html?&tx_wilpubdb_pi1\[keyword\]=170&tx_wilpubdb_pi1\[title\]=38&tx_wilpubdb_pi1\[submit\]=Suchen&tx_wilpubdb_pi1\[article\]=2172&cHash=7427ed79bf15dfe4ece7f4e70f3f3089](http://focusmigration.hwwi.de/Einzelansichten.1316.0.html?&tx_wilpubdb_pi1[keyword]=170&tx_wilpubdb_pi1[title]=38&tx_wilpubdb_pi1[submit]=Suchen&tx_wilpubdb_pi1[article]=2172&cHash=7427ed79bf15dfe4ece7f4e70f3f3089), accessed 05 August 2011.

⁶² Jung, modern, muslimisch – Diskussion und Modenschau, <http://library.fes.de/pdf-files/do/08047.pdf>, accessed 25 August 2010.

FrauenComputerZentrumBerlin e.V. (FCZB)

The ILO (International Labour Organization) highlighted the FCZB and one of their staff as a best practice example of integration. Publishing the report on globalization and discrimination in the labor market the staff member Ljiljana Stamenkovic, reported on a video made for the ILO, how difficult it was for her to find a suitable workplace as an engineer with a migration background. Today she runs in FCZB numerous training courses, particularly for migrant women.⁶³

VII.ii Political and legal context

In June 2011 the Federal government introduced a “Concept for qualified employees”, which aims at meeting the needs for qualified labour by a better exhaustion of own internal capabilities.⁶⁴ This was welcomed by the Confederation of German Trade Unions (DGB), a member of German ENAR coordination,⁶⁵ as well as the “Act for the amelioration of the ascertainment and the acceptance of professional skills acquired abroad” (*Gesetz zur Verbesserung der Feststellung und Anerkennung im Ausland erworbener Berufsqualifikationen/BQFG*),⁶⁶ which aims at a better recognition of foreign labour market certificates. Nevertheless they criticised the fact that that only a limited advancement will be achieved, since it is restricted to ameliorating and ascertaining the skills acquired overseas, but there is still an absence of standardised statutory provisions for migrants with university degrees acquired abroad and which are not accepted in Germany.⁶⁷

In August 2010 the Federal Anti-Discrimination Body (ADS) started a new initiative against discrimination in the labour market by initiating a 12 month pilot project with some of the biggest companies in Germany, like: German Post, German Telekom, L'Oreal, Mydays, Procter & Gamble, the Federal Ministry for Family Affairs, the Federal Labour Agency in North Rhine-Westphalia and the city administration of Celle.⁶⁸ In this pilot project new ways of recruiting staff are

⁶³FrauenComputerZentrumBerlin e.V. (FCZB): <http://fczb.de/> and http://www.youtube.com/watch?v=bFQJECp1Tio&eurl=http%3A%2F%2Falexandradaxl.wordpress.com%2F2011%2F08%2F17%2F248%2F&feature=player_embedded#t=0s, accessed 20. November 2011.

⁶⁴Deutschland: Konzept zur Fachkräftesicherung beschlossen, http://www.migration-info.de/mub_artikel.php?id=110603, accessed 05 August 2011.

⁶⁵DGB fordert Ausschöpfung des Fachkräftepotenzials, see: <http://www.welt.de/wirtschaft/article13443824/DGB-fordert-Ausschoepfung-des-Fachkraeftepotenzials.html>, accessed 05 August 2011.

⁶⁶DGB Stellungnahme zum Referentenentwurf für ein „Gesetz zur Verbesserung der Feststellung und Anerkennung im Ausland erworbener Berufsqualifikationen-BQFG“, http://www.migration-online.de/data/e_dgbstellungnahme_auslerworbqualifikationen_14032011_2.pdf, accessed 25 August 2011.

⁶⁷Ibidem 3.

⁶⁸Pilotstudie zu anonymen Bewerbungen gestartet. Mehr Chancengleichheit bei der Jobsuche,

tried. Several thousand anonymous applications are made for about 225 jobs, training and study courses. The jobs range from apprenticeships through to university places, from technical jobs to jobs in customer service.⁶⁹ The aim of these anonymous application procedures is to abolish discrimination towards certain groups in their attempts to access the job market. The Anti-Discrimination Association of Germany (ADVD) appreciated this initiative by the ADS.⁷⁰ There has been a mid-term evaluation (November 2010 to May 2011) which found that 4000 applications had been received and 111 jobs had been allocated.⁷¹ The lack of personal information like name, sex, date of birth, family status and the photograph helped to increase the focus on the qualifications of the applicants. 45.3% of the applicants preferred the anonymous application, and 35.8% personalised application. 44.2% of the applicants said that the anonymous application did not take more time. The human resources departments said it helped them to reflect on their recruitment procedures and made them aware how important a clear description of the current workplace is.⁷²

An expert opinion commissioned by the ADS stressed the importance of Article 13 of the General Equal Treatment Act (AGG), which makes it obligatory for an ombudsman to be appointed and clearly announced to the workers in every company and in every agency irrespective of the company size.⁷³

<http://www.tagesschau.de/wirtschaft/anonym108.html>, accessed 05 August 2011 and Anonymisierte Bewerbungsverfahren - das Pilotprojekt, Gleiche Qualifikation, ungleiche Chancen, http://www.antidiskriminierungsstelle.de/DE/Projekte_ADS/anonymisierte_bewerbungen/anonymisierte_bewerbungen_node.html;jsessionid=387206DB78DF699A63C78C994B7BFA95.2_cid103, accessed 25 August 2011.

⁶⁹ Anonymisierte Bewerbungsverfahren - das Pilotprojekt, Gleiche Qualifikation, ungleiche Chancen, http://www.antidiskriminierungsstelle.de/DE/Projekte_ADS/anonymisierte_bewerbungen/anonymisierte_bewerbungen_node.html;jsessionid=387206DB78DF699A63C78C994B7BFA95.2_cid103, accessed 25 August 2011.

⁷⁰ Diskriminierung bei Bewerbungsverfahren - Schauen Sie nicht zu!, <http://www.adb-sachsen.de/media/documents/1283341088.pdf>, accessed 05 August 2011.

⁷¹ Zwischenbericht des Pilotprojekts „Anonymisierte Bewerbungsverfahren“, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/20110616_Zwischenbericht_anonym.pdf?__blob=publicationFile, accessed 25 August 2011.

⁷² Ibidem, 5.

⁷³ Doris, Liebscher/Anne Kobes, 'Beschwerdestelle und Beschwerdeverfahren nach § 13 AGG', Antidiskriminierungsstelle des Bundes, ed., (Berlin: 2010), 6, 8. http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/beschwerdestelle_und_beschwerdeverfahren.pdf;jsessionid=7CE22F174F297ED3A748C1ED73168268.2_cid103?__blob=publicationFile, accessed 25 August 2011.

VI. Racism and related discrimination in housing

VI.i Manifestations of racism and related discrimination in housing

The Hamburg based association “Tenants helping tenants” (MhM) gives a broad picture of the problems that people of African descent are facing during their search for accommodation. Families whose flats have become far too small after the birth of a child do not find adequate flats for periods of years even if they possess an accommodation permit for public housing (*Wohnberechtigungsschein für öffentlich geförderten Wohnraum*). Landlords and Real-estate agents openly tell them during the search „If you at least had a German wife you would have had a chance to get this flat“ or „We do not want your complexion colour at this place“ or „We are looking for a German couple“.⁷⁴ The “Afrika Club”, a Hamburg based migrant organisation, confirms such experiences and points out that Afro-Germans who have a German citizenship also have huge problems in attempting to access favoured and adequate housing. Beside such forms of direct discrimination and racist prejudice, the “Afrika Club”⁷⁵ points out the structural background of the disadvantages faced by people of African descent, which they see to be due to their low incomes which are caused by their disadvantages in the labour market. The “Afrika Club” highlights two more aspects. One is the already cramped housing situation of people of African descent, which then grows more acute when they harbour relatives with an irregular residence status.

This is a wider feature of the German housing market: people with a migrant background are more likely to live in smaller flats under more cramped conditions and pay higher rent than people without a migration background as the report of the Commissioner on Migration, Refugees and Integration also demonstrated.⁷⁶ Secondly, people of African descent are hit by the gentrification, a phenomenon with the effect of ‘involuntary segregation’, because rents are dramatically increasing in the inner city areas following redevelopment programs and poorer inhabitants have to move to the fringes of the city where cheaper accommodation is available.⁷⁷

Several studies and expert opinions, as well as reports of other community leaders, show that due to socio-economic disadvantages discriminatory practices and involuntary segregation exist to a certain extent, often due to the withdrawal

⁷⁴Mieter helfen Mieter, Wohnungsprobleme der Schwarzen Community, http://www.mhmhamburg.de/Black_Community/zeitung--1225551959/artikel.html, accessed 8 August 2011.

⁷⁵ Afrika-Club e.V., <http://www.hamburg.city-map.de/01110000/afrika-club-ev-integrationszentrum>, accessed 20 November 2011.

⁷⁶Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration, 8. Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland (2010), pp. 266-267, http://www.bundesregierung.de/Content/DE/___Anlagen/2010/2010-07-07-langfassung-lagebericht-ib,property=publicationFile.pdf, accessed 9 August 2011.

⁷⁷ Ibidem

of “native” Germans from the area.⁷⁸ Residential districts with an above-average migrant population can be found in almost all German cities, in particular in areas which have not yet undergone a redevelopment program and areas with multi-storey buildings at the peripheries of the cities.⁷⁹ For years, such examples of structural aspects of segregation have been described. The low income of numerous migrants, the often above-average size of their households and discriminatory renting practices seriously reduce the accommodation choices for people with a migrant background in residential areas in the low or mid-range price segment, especially in the context of a tight housing market.⁸⁰ It is the specific type of segregation in Germany that, to a large extent, results in ethnic segregation going hand in hand with social segregation. Ethnic segregation itself did not increase during the last few years, but social segregation did.⁸¹ Segregated districts are characterised by a concentration of difficult social and discriminatory living conditions, which, for example affect the educational opportunities of children living there.⁸²

These and other problems, already described throughout the reports of the past years, still remain. Landlords and Real-estate agents in the housing market frequently favour candidates without migration background rather than those with a migrant background and presume people with a migrant background are not solvent enough, unreliable tenants, or troublemakers. An inquiry from North Rhine-Westphalia with 1000 participants of Turkish descent showed that 47 % had experienced discrimination during their search for housing.⁸³ Likewise the Federal Anti-discrimination Body (ADS) reports that numerous people called for support because they felt that they were discriminated against while searching for accommodation, because of their accent, their skin colour, or their (foreign) name.⁸⁴ A Muslim woman who had an individual viewing appointment with a

⁷⁸ Schnur, Olaf; Gute Beziehungen, schlechte Beziehungen: Lokales Sozialkapital und soziale Integration von Migranten im Quartier, vhw FW 3 (June-Juli 2008), <http://www.vhw.de/nc/publikationen/studien/?cid=1749&did=235&sechash=1351d496>, accessed 20 November 2011.

⁷⁹ Sachverständigenrat deutscher Stiftungen für Migration und Integration, Einwanderungsgesellschaft 2010 (Berlin: 2010), p. 193, http://www.svr-migration.de/wp-content/uploads/2010/05/einwanderungsgesellschaft_2010.pdf, accessed 8 August 2011.

⁸⁰ Verbundpartner „Zuwanderer in der Stadt“, Empfehlungen zur stadträumlichen Integrationspolitik (Darmstadt, 2005), p. 21, http://www.schaderstiftung.de/docs/empfehlungen_zur_stadtraeumlichen_integrationspolitik.pdf, accessed 25. August 2011.

⁸¹ Sachverständigenrat deutscher Stiftungen für Migration und Integration, Einwanderungsgesellschaft 2010 (2010), pp. 193-194, http://www.svr-migration.de/wp-content/uploads/2010/05/einwanderungsgesellschaft_2010.pdf, accessed 8 August 2011.

⁸² Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration, 8. Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland (2010), pp. 261-262, http://www.bundesregierung.de/Content/DE/___Anlagen/2010/2010-07-07-langfassung-lagebericht-ib,property=publicationFile.pdf, accessed 9 August 2011.

⁸³ Sauer, Martina, Teilhabe und Orientierungen türkeistämmiger Migrantinnen und Migranten in Nordrhein-Westfalen (Essen: Stiftung Zentrum für Türkeistudien, 2010), p. 146, http://www.deutsch.zfti.de/downloads/down_mehrthemenbefragung-2010_langfassung.pdf, accessed 8 August 2011.

⁸⁴ Antidiskriminierungsstelle des Bundes, Mit Rat zur Tat (2010), pp. 53-55, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/mit_rat_zur_tat_faelle_au

landlord reported to the ADS that the moment the landlord arrived and saw her wearing a headscarf he announced that the flat was already taken. A friend of hers with a German name called the next day to ask for the very same flat and was told, that it was still vacant.⁸⁵ Another person reported that her landlady refused a tenant because of his skin colour. The landlady justified her decision saying that she needed reliable lease payments and did not want to have any trouble.⁸⁶

Repeatedly neighbourhood conflicts are being attributed to ethnicity. Migrants suffer racist bullying and revilement. 33 % of the participants in an inquiry in North Rhine-Westphalia experienced discrimination in their neighbourhood.⁸⁷ Such experiences are also reported to the Anti-discrimination Network Berlin (ADNB). A commonality of the people concerned was that they had freshly moved to a residential district where nobody, or only few people, with a migrant background had been living. Shortly after they moved in neighbours started to complain saying that the new tenants had bad behaviour and uttering sentences like „*What are you doing here? Go back to where you come from.*“⁸⁸ In some cases the long-established neighbours in communities have anonymously sent abusive letters, reported damage to property or theft to the police or even, as happened in one case, reported child neglect to the youth welfare office.⁸⁹

Examples of NGO Good Practice:

Planerladen e.V. works as a service point for anti-discrimination in the sphere of housing. In February 2011 Planerladen e.V., together with the Integration Council of the City of Dortmund and the Tenant Association Dortmund started a campaign to identify and highlight those landlords who practice non-discriminatory tenancy. The coalition awards non-discriminatory landlords with a seal of quality as a public signal against discriminatory practice in the housing market. In collaborating with this initiative landlords pledge to conduct non-discriminatory tenancy practices. Planerladen e.V. verifies the practice through unheralded covered testing. In case of a negative result in the testing Planerladen e.V. and the landlord concerned will analyse the reasons for this and search for a solution.⁹⁰

s_der_ads.pdf?__blob=publicationFile, accessed 10 August 2011.

⁸⁵ Ibidem

⁸⁶ Ibidem

⁸⁷ Sauer, 146.

⁸⁸ Berliner Mieterverein, Nicht einschüchtern lassen, <http://www.berliner-mieterverein.de/magazin/online/mm1110/hauptmm.htm?http://www.berliner-mieterverein.de/magazin/online/mm1110/111021.htm>, accessed 9 August 2011.

⁸⁹ Ibidem

⁹⁰ For further information see: [http://www.planerladen.de/50.html?&tx_ttnews\[pointer\]=3&tx_ttnews\[tt_news\]=402&tx_ttnews\[backPid\]=7&Hash=a842dd5372](http://www.planerladen.de/50.html?&tx_ttnews[pointer]=3&tx_ttnews[tt_news]=402&tx_ttnews[backPid]=7&Hash=a842dd5372), accessed 25 August 2011.

VI.ii Political and legal context

The Equal Treatment Act (AGG) itself provides legitimate grounds for unequal treatment in the housing sector by providing exception clauses. One is the concept of a “balanced ethnic mixture”, which dominates the housing policies in Germany since the 1970s. A quota of 15 % inhabitants with a migrant background within a residential district is considered as balanced.⁹¹ This quota goes back to INWIS, the Research Institution of the European Housing and Immovable Industry.

During the different consultations on anti-discrimination legislation between 2001 and 2006 the leading organisations of the immovable industry managed to implement this philosophy into the Equal Treatment Act (AGG). Art. 19, Ch. 3 which allows an exception if a practice aims at creating economically, socially and culturally balanced living conditions and serves the purpose of conserving socially stable residential area. In 2007 the European Commission started an infringement procedure criticising among other things Art. 19, Ch. 3. Unfortunately the infringement procedure was dropped in November 2010. The reasons why are not known. Since the beginning of the EU proceedings the leading organisations of the immovable industry continue to propagate that such indirect discrimination prevents direct individual discrimination, supports integration and prevents the stigmatisation of the residential areas concerned.⁹² They even predict that a deletion of Art. 19, Ch. 3 will intensify segregation, ghettoisation, and social tensions which, in the end, could lead to riots like those in the French banlieues.⁹³ Accordingly, the housing industry retains this practice. In contrast, the independent research community as well as municipal politicians, stakeholders of the Association of German Cities and Towns (Deutscher Städtetag), foundations and non-profit associations like the Federal Association for Housing and Urban Development (VHW) changed the debate as well as their policies. Today such quotas are no longer an instrument of municipal housing policies. The awareness and the knowledge, that a “balanced ethnic mixture” can not be produced by a regulatory policy and quota arrangement nor does an above-average percentage of inhabitants with a migrant background necessarily destabilise a residential area.⁹⁴

The project „Immigrants in the City” requested in 2005 the acknowledgement of this reality and recognition of the fact, that the policy of “ethnic mixture” had not been able to establish equal living conditions for migrants and minorities. The

⁹¹ Münch, Sybille; *Integration durch Wohnungspolitik? Zum Umgang mit ethnischer Segregation im europäischen Vergleich*, (Wiesbaden: VS Verlag, 2010).

⁹² Die Wohnungs- und Immobilienwirtschaft, *Derzeitiger Diskriminierungsschutz wirkt - BSI kritisiert Antrag der Linkspartei zur Verschärfung des AGG auch im Bereich der Wohnungswirtschaft*, http://www.gdw.de/index.php?mod=article_details&id_art=1784, accessed 10 August 2011.

⁹³ *Wohnungswirtschaft aktuell*, EU leitet Vertragsverletzungsverfahren ein, <http://www.wohnungswirtschaftaktuell.de/index.php?id=1256>, accessed 10 August 2011.

⁹⁴ Telephone interview with Dr. Sybille Münch, TU Darmstadt, 10 August 2011 and Münch, Sybille, *Integration durch Wohnungspolitik? Zum Umgang mit ethnischer Segregation im europäischen Vergleich* (Wiesbaden: VS Verlag, 2010).

project recommended “*integration despite segregation*” and that instead of implementing quotas cities should work to prevent the social exclusion caused by the territorial segregation of migrants.⁹⁵ This recommendation finally found its way into political consulting papers like „Immigration Society 2010“⁹⁶ and reflects a new political discourse. Discrimination towards migrants in the housing sector has always been discussed in a stigmatising way, portraying migrants as people who are voluntarily living in parallel societies and are reluctant to integrate. The paper rectifies these assumptions, which have even been recognised as erroneous by the Commissioner on Migration, Refugees and Integration,⁹⁷ and talks about the set-up of the housing market, the withdrawal of “native” Germans from those areas and the practices of landlords which isolate ethnic groups from each other.⁹⁸ NGO’s active in the field of housing, like Planerladen e.V., have welcomed the fact that their long-lasting efforts to bring the issue of discrimination in the housing sector into political discourse is finally proving to be successful.

⁹⁵ Verbundpartner „Zuwanderer in der Stadt“, Empfehlungen zur stadträumlichen Integrationspolitik (Darmstadt, 2005), pp. 18-21, http://www.schaderstiftung.de/docs/empfehlungen_zur_stadtraeumlichen_integrationspolitik.pdf, accessed 9 August 2011.

⁹⁶ Sachverständigenrat 2010, 199.

⁹⁷ Die Beauftragte der Bundesregierung für Migration, Flüchtlinge und Integration, 8. Bericht der Beauftragten der Bundesregierung für Migration, Flüchtlinge und Integration über die Lage der Ausländerinnen und Ausländer in Deutschland (2010), pp. 263-264, http://www.bundesregierung.de/Content/DE/___Anlagen/2010/2010-07-07-langfassung-lagebericht-ib,property=publicationFile.pdf, accessed 9 August 2011.

⁹⁸ Sachverständigenrat 2010, 195-199.

VII. Racism and related discrimination in education

VII.i Manifestations of racism and related discrimination in education

German schools often fail to adequately support students in cases of ethnic discrimination or to resolve such incidents accordingly. As indicated by help desks and anti-discrimination offices, cases show that, in particular, students of African descent are highly affected by massive harassment and left without internal support and protection.⁹⁹ The incidents always seem to follow the same pattern such as the following example of the case of a young girl of African descent in the second grade of a primary school. Her class teacher complained about her body cream stinking. After this incident her class mates started to offend her as well and she had to sit apart from them. She became isolated and her attempts to defend herself led to the accusation of being aggressive. To solve this untenable situation her mother took her to another school.¹⁰⁰ The pattern that can be found in all these cases is: First the student is stigmatised and humiliated, then excluded. If the student defends him or herself, he or she is then singled out as a troublemaker. In the end the student is forced to switch to another school. Students, teachers and social workers report that Muslim girls wearing a headscarf often become the target of criticism and harassment from teachers. One girl was asked by her teacher: „*Why do you wear a headscarf? It is useless, take it off!*“. The same teacher ignored her when she raised her hand to answer the teacher's questions, even when she was the only one in the class who raised her hand. Another girl, because she talked to her class-mate, was asked by her teacher „*Do you have to have the lesson translated into German?*“ although the pupil spoke fluent German. A school in Saxony advised parents of Afghan descent to send their headscarf-wearing daughters to another school when the parents tried to enrol the children. The school argued with the house rules that forbid head dress in general. After public intervention the Ministry of Education declared that all Saxon schools must allow students to wear a headscarf as a religious symbol according to the German Constitution.¹⁰¹

Despite the various reforms and new strategies that were implemented since the first OECD Programme for International Student Assessment (PISA) evaluation, Germany has been unable to dissolve the strong correlation between academic performance and ethnic background to date. Current figures illustrate on-going

⁹⁹ See former Shadow Reports for Germany: Güney, Ülkü, and Hieronymus, Andreas, ENAR Shadow Report 2007 – Racism in Germany (Hamburg: Institut für Migrations- und Rassismusforschung, 2007), p. 18 and Hieronymus, Andreas and Fögen, Ines and Meheroglu, Yücel and Kröger, Justin, ENAR Shadow Report 2009/2010 – Racism in Germany (Hamburg: Institut für Migrations- und Rassismusforschung, 2007), p. 19.

¹⁰⁰ From an unpublished case documentation of the Anti-discrimination Office Cologne (ADB/ÖGG) 2010.

¹⁰¹ Antidiskriminierungsbüro Sachsen, Newsletter des Antidiskriminierungsbüros Sachsen 02/2010 (Leipzig: 2010), <http://www.adb-sachsen.de/media/documents/1292854277.pdf?adb=upag140blpgn80mm02sgdpo9j0>, accessed 19 August 2011 and Welt Online, Schülerinnen dürfen Kopftücher wieder tragen, <http://www.welt.de/politik/deutschland/article11211617/Schuelerinnen-duerfen-Kopftuecher-wieder-tragen.html>, accessed 19 August 2011.

disadvantages faced by children with a migrant background in the German school system.¹⁰² Migrant children attend General Secondary School (Hauptschule) twice as often as native/ethnic German children of the same socio-economic strata. It is extremely difficult to continue with vocational training after Secondary School for pupils who graduate from General Secondary School as it is, and it is more difficult for young people with a migrant background. 48 % of native/ethnic German students, but 67 % of students with a migrant background did not get an apprenticeship or trainee position and therefore spend an extra year in a so called "vocational preparatory class" (Berufsvorbereitungsklasse).¹⁰³ A survey published in 2010 showed that about 50 % of migrant parents doubt that their children have the same chances as children of native/ethnic German descent.¹⁰⁴ When asked, what they think are the reasons for the disadvantage, 53 % stated, that there are not enough teachers who can talk to their children in their first language available. 49 % stated that teachers do have prejudices about migrant students, 47 % stated that teachers give too little assistance to migrant students and 36 % stated that migrant students get lower marks for similar performances. Irritatingly, these findings were published under the headline „Parents of children with a migrant background have confidence in German schools.“¹⁰⁵ This might be another hint to the wide spread existing consensus, which ignores incidences of ethnic discrimination.

Best practice:

Network Against Racism in School (NeRaS) is a Hamburg based network of NGOs and individuals. NeRaS pursues the goal of initiating a public examination of racist and discriminatory practices in schools. NeRaS therefore organises public discussions, and meetings with parents to empower them for discussions within schools. NeRaS also presents their findings to the Department of Education (Schulbehörde).¹⁰⁶

VII.ii Political and legal context

There have been no relevant legal developments in the field of education on a national level, which could be reported for this year. This is due to the fact that education is solely a competence of the individual länder (states) (of the Federal States of Germany).

¹⁰² Autorengruppe Bildungsberichterstattung, Bildung in Deutschland 2010, (Bielefeld: W. Bertelsmann Verlag, 2010), http://www.bildungsbericht.de/daten2010/bb_2010.pdf, accessed 18. August 2011.

¹⁰³ Ibidem, 9.

¹⁰⁴ Bertelsmann Stiftung, Umfrage: Eltern von Migrantenkindern haben Vertrauen in deutsche Schulen, http://www.bertelsmann-stiftung.de/cps/rde/xchg/bst/hs.xsl/nachrichten_101304.htm and http://www.bertelsmann-stiftung.de/cps/rde/xbc/SID-D4A85919-674762CD/bst/xcms_bst_dms_31411_31412_2.pdf, accessed 18 August 2011.

¹⁰⁵ Ibidem

¹⁰⁶ For further information see www.neras.de, accessed 23 August 2011.

One of the major topics in regard to the reforms after the first PISA evaluation¹⁰⁷ was the comprehensive advancement of German language skills in pre-school and secondary school education. Today children aged between four and six have their fluency in German tested in 14 German Federal States, using 17 different testing-methods.¹⁰⁸ Because these methods use different parameters the results cannot be compared.¹⁰⁹ This makes it difficult to evaluate the conditions that lead to results such as “good” or “limited” fluency in German, as well as the evaluation of the testing methods themselves. Children with “limited” language skills are obliged to take part in a remedial teaching course. They have to take part in the remedial teaching course for 2 to 15 hours per week in a period between 3 to 18 months. Professional recommendations on how to induce linguistic improvements only exist in a few Federal States.¹¹⁰ Sufficient financial resources for linguistic remedial teaching courses, which were set out as measures in each of the German Länders to improve the quality of school education, were not always available.¹¹¹ In October 2010 the Ministry of Education of Lower Saxony explored the possibility of imposing sanctions on parents who do not send their children to such remedial teaching courses. Although the ministry had no figures on how many parents were not sending their children to the classes,¹¹² the State Secretary of the Ministry explained the need to increase the willingness of parents to send their children to such classes. Lower Saxony started testing pre-school children’s fluency in the German language in 2002, but in 2010 the number of children with “limited” language skills still remained unalterably high.¹¹³ There is an unclear and undefined practice of testing and remedial teaching on the one hand and a recurrent discussion to punish parents if they do not send their children to linguistic remedial teaching on the other hand. Such discourse feeds the impression that the question of comprehensive advancement of German language skills is in part more influenced by a long-standing ideological debate on migrant’s reluctance to integrate into the German society than by the willingness to really improve the situation by providing the necessary resources.

¹⁰⁷ Pisa-Studien, <http://de.wikipedia.org/wiki/PISA-Studien>, accessed 20 November 2011 and Autorengruppe Bildungsberichterstattung.

¹⁰⁸ Autorengruppe Bildungsberichterstattung, 9.

¹⁰⁹ Ibidem 57.

¹¹⁰ Ibidem 9.

¹¹¹ Ibidem 175.

¹¹² Hamburger Abendblatt, Strafe für Verweigerer von vorschulischer Sprachförderung, <http://www.abendblatt.de/region/article1663546/Strafe-fuer-Verweigerer-von-vorschulischer-Sprachfoerderung.html>, accessed 19 August 2011.

¹¹³ MIGAZIN, Niedersachsen prüft Sanktionen gegen Eltern, <http://www.migazin.de/2010/10/27/niedersachsen-pruft-sanktionen-gegen-eltern/>, accessed 19 August 2011.

VIII. Racism and related discrimination in health

VIII.i Manifestations of racism and related discrimination in health

For a long time researchers and professionals in the health sector pointed out that language, cultural and religious differences are some of the main barriers to equal access to the health system and to equal medical treatment. This situation is reflected highly in the field of specialised medical care like: rehabilitation, prevention services, and psycho-medical care.

All over Germany there are far too few psychotherapists who are able to work therapeutically with patients in the patients' native language. 104.000 inhabitants of the city of Essen have a migrant background, about 20 % of the total population, but only ten psychotherapists can be found who are able to offer altogether psychotherapy in seven other languages than German.¹¹⁴ Many German cities try to reduce the problem by providing lists with addresses of psychotherapists, physicians, and dentists etc. who are able to work therapeutically in another language.¹¹⁵ For some groups e.g. of Turkish, Iranian or Arabian descent this is quite helpful. For people of African descent there are practically no psychotherapists available who are able to work therapeutically in an African language, especially when it is not English or French. Also, many physicians and psychotherapists are not trained to deal with different cultural concepts of illness (e.g. that it might be not usual to speak about mental problems with persons outside of the family). Diagnosis and therapy for mentally ill people with a migrant background therefore tends to come at a very late stage. How extremely necessary it is to meet the demand for culturally sensitive psycho-medical care, can be observed in Hamburg and Duisburg. Such services were established in these two cities during the past year and shortly after opening waiting lists had to be used. In Duisburg 500 aspirants entered their names on the waiting list within three months.¹¹⁶

The quality and success of the treatment of physical diseases is also affected by the insufficient supply of culturally sensitive medical care, as is illustrated through the following example from the University of Bremen: a woman of Turkish descent suffered from diabetes. Her native German physician sent her on a course to learn how to cope the illness. The patient hardly understood anything

¹¹⁴Der Westen, Migranten in Essen finden selten Therapie bei psychischen Erkrankungen, <http://www.derwesten.de/staedte/essen/Migranten-in-Essen-finden-selten-Therapie-bei-psychischen-Erkrankungen-id4633924.html>, accessed 12 August 2011.

¹¹⁵See Google research results: <http://www.google.de/search?q=gesundheitswegweiser+migranten&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:de:official&client=firefox-a>, accessed 12 August.

¹¹⁶Der Westen, Hilfe für Migranten bei psychischen Krankheiten, <http://www.derwesten.de/staedte/duisburg/Hilfe-fuer-Migranten-bei-psychischen-Krankheiten-id3366650.html>, accessed 12 August 2011; Ärzte Zeitung.de, Psychiatrische Tagesklinik legt Fokus auf Probleme der Migranten - und hat Erfolg, http://www.aerztezeitung.de/politik_gesellschaft/berufspolitik/article/598048/psychiatrische-tagesklinik-legt-fokus-probleme-migranten-erfolg.html, accessed 12 August 2011.

during the course. The physician explained to her the concept of “carbohydrate units” with the help of German food. Her diabetes did not change for the better and her doctor stigmatised her as being difficult to treat because of her cultural background. It was only after a physician of Turkish descent explained “carbohydrate units” to her with the help of Turkish food that her diabetes became consolidated.¹¹⁷

In 2007 the Anti-Discrimination Office Cologne (ADB/ÖGG Cologne) reported long-standing psychosomatic diseases among minorities, which were related to racist harassment and hostility.¹¹⁸ In 2010 a study showed that people who experienced discrimination reported a significantly worse mental and physical state of health.¹¹⁹ This study of 1844 persons with a migrant background was the first research to analyse the correlation between the state of health and experience of discrimination in Germany. The researchers concluded that the experience of discrimination should be recognised as psycho-social stress, which migrants are exposed to.¹²⁰ A conference held in Munich in 2010 also reflected such results.¹²¹ It is clear that more research is needed for a deeper understanding of the interrelation between discrimination experiences and individual symptoms. (Mental) health professionals must also develop a practice of reflecting upon their own cultural background to enable them to take a step back from their perception of “normality” and the debate about everyday racism must be intensified.¹²²

A study, released in July 2010, highlighted the fact that the detention of asylum-seekers in order to deport them is making the detainees sick.¹²³ Even more disastrous than the impact on their physical constitution is the impact on their mental constitution. 90 % of the interviewees said that the detention had a negative impact on their mental health. On a scale of 1 to 10 their mental health deteriorated from 8.5 to 5. The detainees reported problems like dumpishness,

¹¹⁷Universität Bremen, Workshop am 17. Juni 2011 zum Thema „Kulturelle Pluralität anerkennen“, http://www.uni-bremen.de/no_cache/universitaet/presseinfos/pressemitteilungen/rss-einzelanzeige/article/armut-migration-gesundheit.html?cHash=0e9d30589018571b1868ca3781ba56fe, accessed 12 August 2011.

¹¹⁸Güney, Ülkü, and Hieronymus, Andreas, ENAR Shadow Report 2007 – Racism in Germany (Hamburg: Institut für Migrations- und Rassismusforschung, 2007), p. 19.

¹¹⁹ Igel, Ulrike and Brähler, Elmar and Grande, Gesine: 'Der Einfluss von Diskriminierungserfahrungen auf die Gesundheit von MigrantInnen', *Psychiatrische Praxis*, 37 (4) (2010).

¹²⁰Ibidem, 183-190.

¹²¹The conference was arranged by the Anti-Discrimination Body for people with a migrant background Munich (AMIGRA), the Department for Health and Environment Munich and the African Meeting Centre Munich (ABEZE).

¹²²Landeshauptstadt München Direktorium, Antidiskriminierungsstelle für Menschen mit Migrationshintergrund, Alltagsrassismus und rassistische Diskriminierung – Auswirkungen auf die psychische und körperliche Gesundheit (München: 2011).

¹²³Jesuiten Flüchtlingsdienst Deutschland, Quälendes Warten: JRS-Studie belegt, wie Abschiebungshaft Menschen krank macht, http://www.jesuiten-fluechtlingsdienst.de/index.php?option=com_content&task=blogcategory&id=17&Itemid=37 http://www.jesuiten-fluechtlingsdienst.de/index.php?option=com_content&task=blogcategory&id=17&Itemid=37, accessed 16 August 2011.

sleeplessness, mental stress, confusion and suicidal thoughts.¹²⁴

NGO Good Practices:

KISS-Hamburg is an organisation for the support of the “self-help structure” in the city of Hamburg. In self-help groups; people who are affected by the same problem (e.g. chronic illnesses or life crisis) try to support each other through exchanging information, experiences and through mutual emotional help. The concept of self-help is a supplemental stake within the German health care system. Until now people with a migrant background did not use this possibility for support on a big scale. Therefore KISS initiated the project 'Self-help for migrants in Hamburg' to reduce the existing barriers to access that hinder persons with a migrant background to profit from self-help groups.¹²⁵

The **Health Centre for Migrants, Cologne (GfM)** works as a bridge between migrants and the standard psycho-medical care system. GfM has two main fields of activity: One is to provide access to the standard psycho-medical care through individual support, counselling and information meetings in migrant communities. They also train health professionals in order to to develop and improve their cross-cultural understanding and know-how in the psycho-medical care system.¹²⁶

VIII.ii Political and legal context

The health care system is a centralised system in Germany, which has a clear command structure, when it comes to e.g.fighting diseases. To our knowledge there has not been any major legal developments in the field of migrant’s health care within the reporting period.

The German Government is working on an Action Plan for Integration, which is the firm establishment of the National Integration Plan.¹²⁷ Policy and strategic

¹²⁴ Jesuiten-Flüchtlingsdienst Deutschland, Quälendes Warten – Wie Abschiebungshaft Menschen krank macht, http://www.jesuiten-fluechtlingsdienst.de/images/pdf/jrs_europe_devas_deutsche_zusammenfassung_100630.pdf, accessed 16. August 2011.

¹²⁵ For further information see: http://www.kiss-hh.de/xhtml/projekte.html#Modellprojekt_Migration, <http://www.kiss-hh.de/xhtml/aktuelles.html#Radio>, accessed 15 August 2011

¹²⁶ For further information see: <http://www.forum-seniorenarbeit.de/index.phtml?La=1&sNavID=1759.172&object=tx|373.1797.1>, <http://www.medical-tribune.de/medizin/falldiskussion/artikeldetail/brueckenschlag-fuer-migranten.html>, http://www.lvr.de/de/nav_main/kliniken/verbundzentrale/frderundmodellprojekte/frderprogramme/sozialpsychiatriaschekompetenzentrenmigrationspikom/sozialpsychiatriaschekompetenzentrenmigrationspikom_2.html, accessed 18 August 2011

¹²⁷ See also this report p. 54, chapter on migration and integration and Nationaler Integrationsplan/ Nationaler Aktionsplan, <http://www.bundesregierung.de/Webs/Breg/DE/Bundesregierung/BeauftragtefuerIntegration/ThemenNeu/NationalerIntegrationsplan/nationaler-integrationsplan.html>, accessed 20 November 2011.

plans for the health sector were discussed in April 2011 in a working group meeting for the Action Plan for Integration of government representatives, experts and NGO's organised by the government, where some member of the German ENAR-coordination participated. Some of the issues concerning the structural disadvantages faced by people with a migrant background (e.g. the need for integrated interpretation by professional interpreters) which have been raised by members of NGO's, migrant organisations and experts were discussed for a long time, while others like the interrelationship between the state of health of migrants and their experiences of discrimination, or the gaps in the health care system concerning asylum seekers, refugees and undocumented migrants, were not discussed. The Action Plan for Integration shall be finished at the end of 2011 and will then be examined by NGOs.

IX. Racism and related discrimination in criminal justice

IX.i Manifestations of racism and related discrimination in criminal justice

In the field of criminal justice and ethnic profiling the main target group in Germany seems to still be Muslims. People of African descent, because they don't have large communities in Germany, are less targeted by the law enforcement agencies or by security discourses, but they still fit into existing profiling patterns. Shella Mysorekar, journalist and member of the NGO "Initiative of Black People in Germany" described her first-hand experience at the airport of Düsseldorf in an article of the daily newspaper TAZ and showed that being "Arab" looking and being "Black" triggers security activities. *"I have checked in and passed all security controls, showed my passport and now I am sitting with 50 other passengers in the boarding area, waiting to enter the plane. Suddenly two Police officers come and pick three people, whom they search again very intensively: two Arab looking men and me. This was pure accident of course. My question, why exactly us, that we are controlled again is never answered. But the answer is fairly clear and a white woman complained about this particular harassment scenario."*¹²⁸

IX.i.i Policing and ethnic profiling¹²⁹

The head of Düsseldorf Airport, Christoph Blume, said in December 2010 that air passengers should be divided into different risk categories, meaning they would be subject to varying degrees of scrutiny by airport security. Profiling passengers according to characteristics such as race, religion and country of origin would allow German airports to avert a further tightening of security. According to Blume, airports will soon no longer be able to cope with the threat of terrorism: *"Each new incident leads to extra checks and security measures. This creates a security escalation that will eventually hit its technical and operational limits."*¹³⁰ He also supported the introduction of so-called "naked scanners" which can reveal dangerous objects under clothing at German airports. The backscatter scanners have been tested in Hamburg since autumn 2010. Since then approximately 800 000 passengers have been voluntarily scanned. The results have been disappointing. In 70 % of the scans additional checks were necessary

¹²⁸Mysorekar, Shella, Hände hoch - Ihre Hautfarbe ist verdächtig! 7 August 2010, die tageszeiten, <http://www.taz.de/1/archiv/digitaz/artikel/?ressort=tz&dig=2010%2F08%2F07%2Fa0028&cHash=ca42d078f9>, accessed 10 August 2010.

¹²⁹The Open Society Institute defines "ethnic profiling" as the "use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity".

¹³⁰Airports demand racial profiling to fight terror, the Local – Germany's news in English, 28.12.2010, <http://www.thelocal.de/national/20101228-32077.html><http://www.thelocal.de/national/20101228-32077.html>, accessed 9 August 2011.

and that is not acceptable according to the conservative head of the federal committee for Internal Affairs, Wolfgang Bosbach (CDU).¹³¹ According to the newspaper Hamburger Abendblatt, such scanners can only be an interim solution. Airports and national security departments of 19 countries aim to develop a “Checkpoint of the Future”, where the passengers can pass security without being stopped or touched.¹³² According to IATA-Chief Giovanni Bisignani, 7.5 Million US-Dollars are spent every year on security at airports. The “Checkpoint of the Future” will have three parallel tunnels, each representing a different risk. The decision, which tunnel to enter (“known traveller”, “normal traveller”, “high risk traveller”) is taken by the biometrical chip in the passport. The risk is assessed by a combination of data, like personal data, past travel destinations, if the ticket was paid cash or by credit card and a random element to restrict predictability.¹³³ An essential precondition for the introduction of this kind of separation of passengers according to risk groups is the acceptance by the wider public and politicians. The Federal Ombudsman for Data Protection, Peter Schaar has spoken of the possible resulting discriminating effects and further tightening of security measures restricting personal rights and freedom.¹³⁴

In February 2011 approximately 1.400 experts met in Berlin for the 14th European Police Congress with a focus on changes in migration, integration and security in Europe.¹³⁵ The director of the Fundamental Rights Agency (FRA) presented a Europe-wide survey on Police checks and discrimination directed towards minorities.¹³⁶ He highlighted the clear evidence that people have lost a large amount of trust in the police.¹³⁷ The survey for Germany showed that while 43 % of the majority of the population had been asked for their identity cards by the police, in comparison to 75 % of the population with a Turkish background and 75 % of the population with a Western Balkans background. Members of a minority group had to answer questions from the Police more often during the checks than members of the majority. Other studies,¹³⁸ such as the FRA survey

¹³¹ Kein Fummeln und Abtasten am "Checkpoint der Zukunft", Hamburger Abendblatt, 6./7. August 2011, p. 3

¹³² Ibidem

¹³³ Ibidem

¹³⁴ Ibidem

¹³⁵ Interview mit Katharina Spiess (Amnesty International), Ohne Vertrauen gibt es keine wirksame Polizeiarbeit, 24.2.2011, <http://www.amnestypolizei.de/aktuell/ohne-vertrauen-gibt-es-keine-wirksame-polizeiarbeit-interview-mit-katharina-spiess-amnesty-international><http://www.amnestypolizei.de/aktuell/ohne-vertrauen-gibt-es-keine-wirksame-polizeiarbeit-interview-mit-katharina-spiess-amnesty-international>, accessed 10 August 2011.

¹³⁶ Agentur der Europäischen Union für Grundrechte (FRA), Bericht der Reihe „Daten kurz gefasst“ Polizeikontrollen und Minderheiten, 2010, http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police_DE.pdfhttp://fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police_DE.pdf, accessed 9 August 2011.

¹³⁷ Interview mit Katharina Spiess (Amnesty International), Ohne Vertrauen gibt es keine wirksame Polizeiarbeit, 24.2.2011, <http://www.amnestypolizei.de/aktuell/ohne-vertrauen-gibt-es-keine-wirksame-polizeiarbeit-interview-mit-katharina-spiess-amnesty-international><http://www.amnestypolizei.de/aktuell/ohne-vertrauen-gibt-es-keine-wirksame-polizeiarbeit-interview-mit-katharina-spiess-amnesty-international>, accessed 10 August 2011.

¹³⁸ Hieronymus, Andreas (2010), Muslims in Hamburg, Open Society Institute, http://www.soros.org/initiatives/home/articles_publications/publications/muslims-hamburg-

state that the trust in the Police by all groups is very high, but it is highest among the majority of the population (89 %), among people with Turkish background 63% and 75 % of people with a migrant background from former Yugoslavia¹³⁹. FRA published a handbook, as they want to avoid ethnic profiling and would like to make policing more effective.¹⁴⁰

Amnesty International in Germany calls for a critical reflection of “ethnic” or “racial” profiling and sees a need to improve the basic standards of policing by improving human rights education in the further education of police officers and also by making it obligatory.¹⁴¹ The German Institute of Human Rights published a study in 2007 by the criminologist Günter Schicht on human rights education of the German Police. The study found that there is a need to develop a culture of self-correction and self-critical professional ethics within the law enforcement agencies.¹⁴²

IX.i.ii Racist violence and crime

In the report from the Secret Police (Verfassungsschutz) for 2010 the numbers of right-wing politically motivated crimes decreased from 19.468 reported crimes in 2009 to 16.375 in 2010. Among them were 11.401 (2009: 13.295) propaganda crimes according to §§ 86, 86a of the penal law (StGB) and 806 (2009: 959) violent crimes.¹⁴³ In comparison to 2009 there was 15.2 % less right-wing politically motivated crimes, mainly propaganda crimes or hate speech crimes, and 14.5 % less violent right-wing crimes. 275 violent crimes were been committed against “Left-extremist” or people who were seen to be “Left-extremist” and 42 crimes were directed “against other political enemies”.¹⁴⁴

http://www.soros.org/initiatives/home/articles_publications/publications/muslims-hamburg-20100629, accessed 10 August 2010.

¹³⁹ Agentur der Europäischen Union für Grundrechte (FRA), Bericht der Reihe „Daten kurz gefasst“ Polizeikontrollen und Minderheiten, 2010, http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS-police_DE.pdf, accessed 9 August 2011.

¹⁴⁰ Europäische Grundrechteagentur (FRA), 2010, Für eine effektivere Polizeiarbeit. Diskriminierendes „Ethnic Profiling“ erkennen und vermeiden: ein Handbuch, http://fra.europa.eu/fraWebsite/attachments/Guide-ethnic-profiling_DE.pdf, accessed 10 August 2010.

¹⁴¹ Europäische Grundrechteagentur (FRA), 2010, Für eine effektivere Polizeiarbeit. Diskriminierendes „Ethnic Profiling“ erkennen und vermeiden: ein Handbuch, http://fra.europa.eu/fraWebsite/attachments/Guide-ethnic-profiling_DE.pdf, accessed 10 August 2010.

¹⁴² Schicht, Günter, 2007, Menschenrechtsbildung für die Polizei, Deutsches Institut für Menschenrechte, http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/studie_menschenrechtsbildung_fuer_die_polizei.pdf, accessed 10 August 2010.

¹⁴³ http://www.verfassungsschutz.de/download/de/publikationen/verfassungsschutzbericht/vsbericht_2010_vorabfassung/vsbericht_2010_vorabfassung.pdf, accessed 15 August 2011.

¹⁴⁴ Ibidem

According to “Spiegel Online” the state of Saxony-Anhalt shows the highest amount of right-wing politically motivated violence in relation to its population.¹⁴⁵ A black local councillor of the social democrats in Halle, Saxony-Anhalt received racist letters after he gave an interview to the right-wing weekly newspaper “Junge Freiheit” (Young Freedom), which is a think tank linking conservatives to right-wing world-views. The councillor, Mr Karamba Diaby, who is the head of the Council for Immigration, gave the interview without knowing about the political orientation of the newspaper and talked about a resolution they sent to the Federal Parliament (Bundestag), calling for a wider legal range of the Art. 130 of the German penal law, to combat racist hate speech more effectively¹⁴⁶. In 2009 the TV program “Monitor Mainz” started to collect information on attacks on offices of political parties. From January to June 2010 they already registered 59 incidents, in comparison to the same period in 2009 with 39 incidents, most of the incidents were related to right-wing motivations. The majority (50 incidents) happened in the East of Germany, with a focus on Mecklenburg-Vorpommern (26 incidents). In the West mainly in North-Rhine-Westphalia (7 incidents) party offices were attacked. While mainly offices of the party “The Left” (36 incidents) were attacked, bureaus and private flats of social democrats were also targeted (14 incidents), as well as those of the Liberals (FDP), Green and Conservatives (CDU) (altogether 9 incidents).¹⁴⁷ The NGO LOBBY, which counsels victims of right-wing attacks, referred to 70 incidents since January 2010 and complained about the limited reaction of civil society. They consider it to be an organised targeted campaign of several Neo-Nazi groups with a common ideological background.¹⁴⁸

IX.i.iii Counter terrorism

In the last few shadow reports, especially in last year’s supplement on “ethnic profiling”¹⁴⁹ we described in detail raids on mosques and other profiling practices in Germany, which were legitimised as ‘preventing terrorist attacks’. In 2011 the practice of raids on mosques after the Friday prayers seems to have stopped all

¹⁴⁵Rechtsextremismus-Hochburg Sachsen Anhalt, Spiegel Online 5 August 2011, <http://www.spiegel.de/politik/deutschland/0,1518,778461,00.html><http://www.spiegel.de/politik/deutschland/0,1518,778461,00.html>, accessed 19 August 2011.

¹⁴⁶ Ibidem

¹⁴⁷Rechtsextremismus-Forscher: „Beginn einer terroristischen Struktur“, Angriffe auf Politiker- und Parteibüros nehmen stark zu, Report Mainz, 7.6.2010, <http://www.swr.de/report/presse/-/id=1197424/nid=1197424/did=6477190/stng7t/index.html><http://www.swr.de/report/presse/-/id=1197424/nid=1197424/did=6477190/stng7t/index.html>, accessed 20 August 2011.

¹⁴⁸Angriffe auf Parteibüros: LOBBI beklagt öffentliches Desinteresse, 28.7.2011, <http://npd-blog.info/2011/07/28/angriffe-auf-partebueros-lobbi-beklagt-offentliches-desinteresse/><http://npd-blog.info/2011/07/28/angriffe-auf-partebueros-lobbi-beklagt-offentliches-desinteresse/>, accessed 20 August 2011 and <http://www.lobbi-mv.de/presse/33.php><http://www.lobbi-mv.de/presse/33.php>, accessed 20 August 2011.

¹⁴⁹Hieronymus, Andreas et al. Supplement on Ethnic Profiling, ENAR Shadow report 2009/10, <http://cms.horus.be/files/99935/MediaArchive/ENAR%20Ethnic%20Profiling%20Supplement%20Germany.pdf><http://cms.horus.be/files/99935/MediaArchive/ENAR%20Ethnic%20Profiling%20Supplement%20Germany.pdf>, accessed 10 August 2010.

over Germany. The secret Police (“Verfassungsschutz”) have started to stress that their task is not to observe Islam as a religion. They now say, they do not target personal beliefs or religious practices, which are protected by Art. 4 of the German Constitution (Grundgesetz). On the contrary, their role is to protect the freedom of religion for all citizens, including Muslims. The Secret Police now classify “Islamist” organisations according to methods and means they use to achieve their aim,¹⁵⁰ such as:

1. Organisations and groups, who related positively to violent “Jihad”, are globally active, connected to “Mujahedin” networks or part of the Al-Qaeda.
2. “Islamist” organisations, who want to change society or the power relations in their home country with violent (terrorist) means. It is said, that their members came as political refugees to Germany and they try to support their struggle with logistics and propaganda. They are seen as a latent danger for the institutions and interests of their state of origin.
3. Organisations, which exploit the legal instruments to implement their “Islamic” positions in society in Germany or create open areas for organised “Islamic” activities and help to create an “Islamic” closed society.

The third definition in particular, still gives enough room for manoeuvre and keeps those organisations which legally cannot be touched under surveillance. While the surveillance of Muslims has become more and more sophisticated the secret Police have difficulties in dealing with the phenomenon of Islamophobia. For example, the website “Politically Incorrect (PI)”, founded in 2004 which has been previously referred to in several German shadow reports. Although alliances with right groups like “Pro Europe” and “Pro NRW” are known and “Pro NRW” is being observed by the secret Police (Landesverfassungsschutz) of NRW (NRW = North Rhine Westphalia, biggest state in the Federal Republic) as of a couple of years, local and federal secret Police have not seen enough evidence for surveillance.¹⁵¹

Representatives of Muslim, Christian churches and Jewish communities do not share this view. Bekir Alboga, representative of the (Turkish) Muslim organisation DITIP (Türkisch-Islamische Union der Anstalt für Religion e.V. - Turkish-Islamic Union of the Institution for Religion) believes that the surveillance by the secret Police would be a stigma, which would act as a deterrent, preventing normal users from visiting the website.¹⁵² The Berlin Centre, researching anti-Semitism, sees PI as playing the racist card for example when they portray Islam as culturally inferior or agitate against building mosques. According to newspaper

¹⁵⁰Islamismus und islamistischer Terrorismus, http://www.verfassungsschutz.de/de/arbeitsfelder/af_islamismus/http://www.verfassungsschutz.de/de/arbeitsfelder/af_islamismus/, accessed 10 August 2010.

¹⁵¹Verfassungsschutz, Politisch völlig inkorrekt, FR 5.5.2011, <http://www.fr-online.de/politik/politisch-voellig-inkorrekt/-/1472596/8408656/-/index.htmlhttp://www.fr-online.de/politik/politisch-voellig-inkorrekt/-/1472596/8408656/-/index.html>, accessed 15 August 2011.

¹⁵²Ibidem

reports established politicians like the former conservative politician Rene Stadtkewitz, the founder of PI, Stefan Herre, and the dutch politician Geert Wilders, are all active for PI, as well as the former spokesman of the Bavarian CSU (Christian Social Union, only active in Bavaria), Michael Stürzenberger, who formed a strategic alliance with “Pax Europe” in 2010.¹⁵³ After it became clear that the massacre in Oslo was related to the Islamophobic world-view of the perpetrator, which is to a large extent identical to the ideology of PI, the voices who call for surveillance of this website have increased again.¹⁵⁴

IX.ii Political and legal context

German legislation defines right-wing activities as anti-constitutional activities with references to the Neo-Nazi past and to anti-Semitism. There is comprehensive legislation against these core elements of right-wing extremism and such crimes are punished severely. On 16th of March 2011 the German Parliament adopted the law implementing the EU Framework Decision on Racism and Xenophobia (2008/913/JI), which covers racist crimes on the internet as well.¹⁵⁵

However, despite these extensive and repressive instruments, there is a stable basis of right-wing violence. The strict focus on right-wing extremism seems to shift under the current liberal-conservative government. In last year’s shadow report we reflected on the ideological nature of the definitions of extremist anti-constitutional activities, irrespective of their social context. In 2010/11 this trend to see the real threat in left-wing activities is increasing, especially in the context of the 50th anniversary of the construction of the wall separating East from West Germany. The Wall is de-contextualised from World War II and the following Cold War and is attributed to the totalitarianism of communist ideology.¹⁵⁶ This adds to the already existing confusion, due to the incomparability of the different data recording systems as well as the cloudy picture of the extent of racial violence in Germany (which was described extensively in last year’s supplement on ethnic profiling).¹⁵⁷ The isolated view of racism held by legislative, judicial and executive

¹⁵³Ibidem

¹⁵⁴Politisch korrekter Hass, FR 9 August 2010, <http://www.fr-online.de/politik/politisch-korrekt-hass/-/1472596/8787018/-/index.html><http://www.fr-online.de/politik/politisch-korrekt-hass/-/1472596/8787018/-/index.html>, accessed 15 August 2010.

¹⁵⁵ Gesetz zur Umsetzung des Rahmenbeschlusses 2008/913/JI des Rates vom 28. November 2008 zur strafrechtlichen Bekämpfung bestimmter Formen und Ausdrucksweisen von Rassismus und Fremdenfeindlichkeit und zur Umsetzung des Zusatzprotokolls vom 28. Januar 2003 zum Übereinkommen des Europarats vom 23. November 2001 über Computerkriminalität betreffend die Kriminalisierung mittels Computersystemen begangener Handlungen rassistischer und fremdenfeindlicher Art 1, 16. März 2011, (BGBl. I S. 418), http://gesetze.berlin.de/default.aspx?typ=reference&y=100&g=BRD_001_2011_0418, accessed 29 August 2011.

¹⁵⁶Linke-Politiker boykottieren Mauergedanken, die Welt, 13 August 2011, <http://www.welt.de/politik/deutschland/article13542978/Linke-Politiker-boykottieren-Mauergedanken.html>, accessed 29 August 2011

¹⁵⁷Hieronymus, Andreas, Supplemental report: Ethnic profiling in Germany, <http://cms.horus.be/files/99935/MediaArchive/ENAR%20Ethnic%20Profiling%20Supplement%20Germany.p>

institutions and the media, which still see racism as the sole practice of organised extreme right wingers, without any assessment of everyday racism and discrimination as practices of ordinary citizens, is still dominant. This became clear when the new social democratic government in Hamburg took power and destroyed a coherent administrative structure, which tried to combine the fight against racism with measures for gender equality and anti-discrimination. The Senator of Social Affairs even declared in a public event, that there is no discrimination, but only misunderstandings.¹⁵⁸ Through this narrow understanding, manifestations of racism tend to be neglected in the criminal process.

The German coordination of ENAR - NgR fears that the focus on right-wing crime or hate crime may be diluted and therefore, in its new plan of action against racism, which was adopted in 2010, places the focus on anti-racism in a changing environment.¹⁵⁹ New activities will target the field of “Hate Crime” and “Ethnic Profiling” to fight new negative developments in Germany and Europe as a whole.

df, accessed 29 August 2011.

¹⁵⁸ Standortfaktor Vielfalt - Hamburg International, 18 April 2011, http://uog-ev.de/extras/uog-nachrichten/uog-nachricht/article/standortfaktor-vielfalt-hamburg-international/?tx_ttnews%5BbackPid%5D=44&cHash=512fc9354c, accessed 20 November 2011

¹⁵⁹ Netz gegen Rassismus, Aktionsplan gegen Rassismus, 17.12.2010, http://www.netz-gegen-rassismus.de/files/pdf/Nationaler_Aktionsplan_NgR.pdf, accessed 29 August 2011.

X. Racism and related discrimination in access to goods and services

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

The discrimination towards migrants in the access to goods and services very often manifests itself in the form of the refusal of entry into a club or a bar by a bouncer. In most of the cases this is related to skin colour. Especially young male Afro-Germans, migrants of African descent, or migrants with a Middle Eastern background (and darker complexion) seem to be the main targets. Newcomers, who don't know the area well, seem to be the main victim group, while local youth share the knowledge on where to go and where not to go. They seem to have a racialised map of „no go” places in their heads.¹⁶⁰

On the 3rd of August 2011 in a court ruling a young black man won his case against the owner of a club, after he was refused entrance several times. The victim asked the „Bureau for the Implementation of Equal Treatment (BUG)”, an NGO which offers legal help in cases of discrimination and supports strategic litigation, for help. Discrimination on the basis of skin colour could then be proven through the testimony of the victims' friend, who was also black, he reported that the bouncer said *“There are already enough blacks in there!”* Other visitors to the club said this was not true and young people with fair complexion did not have a problem gaining entrance the club.¹⁶¹ Although the judge recognised that a discriminatory act happened, he did not grant any compensation, because he could not see any physical damage. The victim and BUG appealed against this verdict and are waiting for the next higher court to grant compensation.

The reasons bouncers give for refusing people with darker complexion or a “southern” look entrance to clubs are mostly the same: they don't fit the picture of the general customer, their clothing is not appropriate or their consumption of alcohol is too high. A study by the University of Berlin, for example, shows that the antidiscrimination body of the city of Hannover had the highest percentage of reported discrimination cases that were related to the refusal of access to goods and services between 2006 and 2008.¹⁶²

Discrimination manifestations in this area are often multi-dimensional or intersectional, as the bouncer cases show, where appearance (black or dark complexion), gender (male) and age (young), often a combination of characteristics, triggers discriminatory behaviour. Although there are more and

¹⁶⁰ Schlaap, Markus, Realität der Diskriminierung in Deutschland – Vermutungen und Fakten, DOSSIER der Heinrich-Böll-Stiftung „Rassismus & Diskriminierung in Deutschland“, http://www.migration-boell.de/web/diversity/48_2525.asp, accessed 20 November 2010.

¹⁶¹ Press release of BUG, 03 August 2011

¹⁶² Rottleuthner Hubert & Mahlmann, Matthias: Zusammenfassung der Studie „Diskriminierung in Deutschland. Fakten und Vermutungen“, http://www2.diskriminierung-in-deutschland.de/uploads/zusammenfassung_der_studien.pdf, S.11, accessed 8 August 2011.

more such incidents reported and the trials often end with compensation, the general tendency indicates a move to a settlement outside of court, because the compensation is very low and the legal steps which have to be taken to achieve this are quite intensive.¹⁶³ This is highlighted by the case of a dark-skinned student from Bremen, who was refused entrance into a club and received 300€ compensation. This was the first legal court ruling of this kind in Bremen, but the judge and the lawyer highlighted the fact that there is little expert literature on this type of discrimination and often the evidence is not that clear, as it was in this case.¹⁶⁴ How widespread these discriminatory practices of „access policies “are can be seen through the experience of a German-Filipino student, who was refused entry to four different clubs in Duisburg on one single evening.¹⁶⁵

Migrants and minorities do not only face discrimination in regard to entrance to clubs. After a dark-skinned German woman entered the bus with a valid ticket (in Hamburg you don't have to show your tickets during day time), the bus driver assumed that she was a fare dodger and checked only her ticket. With the help of the Hamburg based NGO Basis & Woge the woman went to court. There is no court ruling yet, but Basis & Woge assumes that a lot of people of African descent or dark skin colour encounter such discrimination in public transport.¹⁶⁶

Another type of discrimination towards migrants, minorities and people of African descent in access to goods and services became visible in the insurance sector, where the company D.A.S, a subsidiary of the ERGO insurance company, was involved. They are accused of refusing to sell car insurances to migrants, especially to people of Turkish background.¹⁶⁷ Readers and former employees reported that on the homepage of the „Insurance Journal“ 100 % more money was demanded from migrants in order to more or less force them into choosing other insurance companies and that it also stipulated that the annual fee was to be paid in cash.¹⁶⁸

The policies of banks towards low income customers can have indirect discriminatory effects, because migrants often can be found in this stratum of the population. For people on social welfare (Hartz IV), or poor people, a bank account without credit function is the only way to participate in the exchange of goods and services, because if you want to pay your rent, receive money, or pay

¹⁶³ Ibidem, p.12

¹⁶⁴ Schirrmeister, Beno, Gericht verurteilt Rassismus, TAZ 10.2.2011, <http://www.taz.de/!65717/http://www.taz.de/!65717/>, accessed 8 August 2011.

¹⁶⁵ at, Sinan, Wie Türsteher in Duisburg und Moers südländische Gäste diskriminieren, <http://www.derwesten.de/staedte/duisburg/Wie-Tuersteher-in-Duisburg-und-Moers-suedlaendische-Gaeste-diskriminieren-id4664141.html>, accessed 8 August 2011.

¹⁶⁶ Press release of Basis & Woge e.V., 15.05.2011

¹⁶⁷ Spiegel Online, Ergo soll ausländische Kunden diskriminiert haben, <http://www.spiegel.de/wirtschaft/unternehmen/0,1518,776251,00.html>, accessed 8 August 2011.

¹⁶⁸ Beschwerden bei Ergo nehmen kein Ende, 28.7.2011, <http://www.versicherungsjournal.de/unternehmen-und-personen/beschwerden-bei-ergo-nehmen-kein-ende-108897.php>, accessed 8 August 2011.

bills it is essential nowadays to have at least an account without a credit function. Normal accounts (where you can draw credit, a checking account, „Girokonto“) are offered more and more for free, but when it comes to accounts without a credit function banks charge high fees. The bank „Frankfurter Sparkasse“ has increased the monthly fee from 1,50€ to 8,40€, „Deutsche Bank“ charges 8,99€ and the „Berliner Sparkasse“ who up until now charged 3,50€ is increasing to 8€ in October 2011.¹⁶⁹ The banks argue that it takes a lot of extra work to monitor such accounts of people in difficult financial situations. The consumers' organisation VZBV (*Verbraucherzentrale Bundesverbandes*) rather claim that the banks want to get rid of such economically un-interesting customers. Public banks like the „Sparkassen“ are obliged by law to provide such accounts for any customers and the VZBW assumes that the high fees are a way to prevent people from opening such accounts.¹⁷⁰

Best Practice:

The Antidiscrimination Network Berlin (ADNB) in their expert assessment „Local Trade Law, racist, ethnic discrimination and testing procedures,”¹⁷¹ for the first time since the introduction of the Equal Treatment Act (AGG) investigated into the framework of discrimination in the access to goods and services. The local trade supervision departments have the right to enter business premises and to look into documents. Their expert assessment concluded that they have the legal tools available to sanction discrimination through written warnings, constraints, and withdrawal of the permission to trade.¹⁷²

Best Practice:

The NGO „Bureau for the Implementation of Equal Treatment (BUG)” legally supports victims of discrimination. In their first strategic plan of action (SAP) they focus on the discrimination based on ethnic background, religion or world view, disability and sexual identity, especially in the access to goods and services. Their activities include strategic litigation, national and international policy lobbying and the finding of discrimination cases for the strategic litigation.¹⁷³

X.ii Political and legal context

¹⁶⁹ Guthabenkonten, Geldhäuser bitten die Armen zur Kasse, Frankfurter Rundschau, 9 August 2011, <http://www.fr-online.de/wirtschaft/geldhaeuser-bitten-die-armen-zur-kasse/-/1472780/8786904/-/index.html><http://www.fr-online.de/wirtschaft/geldhaeuser-bitten-die-armen-zur-kasse/-/1472780/8786904/-/index.html>, accessed 15 August 2011.

¹⁷⁰ Ibidem

¹⁷¹ Pressemitteilung des Antidiskriminierungsnetzwerk Berlin 09.07.2010

¹⁷² Klose, Alexander, Gewerberecht, rassistische / ethnische Diskriminierung und Testingverfahren, http://www.tbb-berlin.de/downloads_adnb/ADNB_Gutachten_Gewerberecht_final_07.07.2010.pdf, accessed 8 August 2011.

¹⁷³ Zusammenfassung Strategischer Plan Büro zur Umsetzung von Gleichbehandlung e.V. (BUG) für 2009 – 2011, <http://www.bug-ev.org/images/stories/strplansumm.pdf>, accessed 8 August 2011.

In 2010 a new debate about the social welfare benefits for asylum seekers (*Asylbewerberleistungsgesetz*) started after the German Constitutional Court declared the current general social welfare benefits (*Hartz IV*) as not being in accordance with the Constitution. Since 1993, when the new asylum legislation was introduced after the unification of Germany, the social welfare benefits for asylum seekers have been kept very low, to prevent other asylum seekers from coming to Germany. They received, as described and reported in several other shadow reports, their benefits mainly as goods, but vouchers or cash are also given in certain parts of Germany.¹⁷⁴ If the benefits are paid in cash, the adult head of a household receives 224,97 € per month.¹⁷⁵ The Constitutional Court criticised this practice saying that that the way the total amounts were calculated is not transparent and that they are too low.¹⁷⁶

Parties like the Green or the Left, but also the Catholic CARITAS, the Council of Evangelic Churches, the Council of Refugees Berlin and Pro Asyl called for the abolition of the law (*Asylbewerberleistungsgesetz*¹⁷⁷), while experts at the Ministry for Migration and Refugees (*BAMF*) and the main organisation representing local municipalities have been in favour of keeping the law.¹⁷⁸ A decision is expected in 2011.

¹⁷⁴ Auch AsylbLG verfassungswidrig, Sozialleistungen für Flüchtlinge auf dem Prüfstand, Migazin 14.2.2011, <http://www.migazin.de/2011/02/14/sozialleistungen-fur-fluchtlinge-auf-dem-prufstand/>, accessed 09 August 2011.

¹⁷⁵ Presseerklärung Proasyl, 07.02.2011, Sachverständige fordern Abschaffung des AsylbLG, http://www.proasyl.de/en/press/press/news/sachverstaendige_fordern_abschaffung_des_asylblg/?cHash=7a92d2a7d7cd9c83aae09a12d61b18fe&no_cache=1&sword_list%5B0%5D=asylblg, accessed 09 August 2011.

¹⁷⁶ Ibidem

¹⁷⁷ Bundesministerium der Justiz, Asylbewerberleistungsgesetz, <http://www.gesetze-im-internet.de/asylblg/> accessed 20 November 2011

¹⁷⁸ Auch AsylbLG verfassungswidrig, Migazin 14 February 2011.

XI. Racism and related discrimination in the media

XI.i Manifestations of racism and related discrimination in the media, including the internet

According to estimates only 2 to 3% of journalists have a migration background.¹⁷⁹ But being a migrant does not prevent journalists from becoming entangled in racist traps. In June 2010 a journalist of migrant background in a leftist newspaper hit the headlines with a racist comment. The nationwide well-established daily newspaper "TAZ" published an article titled "*Ladies and Gentlemen! Sorry, dear Negers!*"¹⁸⁰ "Neger" (I am going to use instead "N-word" in the rest of the text to avoid the reproduction of racist language) is the German equivalent to the derogative English "nigger" and unfolds multiple meanings from the colonial past to the German President Ernst Lübke, who in 1962 addressed the audience at a conference in Liberia in a similar manner to that title.¹⁸¹ Three days before the newspaper released an article with the title "10 little N...ers", referring to a children's song.¹⁸² And at the time of the election of Barack Obama they referred to the White House as "Uncle Barack's hut."¹⁸³ When asked by black community organisations or anti-racism NGOs, what the purpose of using this type of language is, they say it is satire and provocative. But they never stated whom they want to provoke.¹⁸⁴ This continues as an on-going debate about political correctness, the use of the N-word and that it is only another name for "black".¹⁸⁵ These cases demonstrate a lack of sensitivity from the media in general to problems of discrimination towards the black community in Germany and the medias' lack of reflection on the power relations within the German society.

Another aspect of discrimination in the media is highlighted by an interview with Udo Ulfkotte, a so-called critic of Islam, in August 2010 in the "Leipziger

¹⁷⁹ Migrantenquote - Ironie der Geschichte, Logik der Dialektik oder konsequente gesellschaftspolitische Entwicklung? Migazin, <http://www.migazin.de/2011/05/09/migrantenquote-spd-sarrazin-ironie-der-geschichte-logik-der-dialektik-oder-konsequente-gesellschaftspolitische-entwicklung/>, accessed 30 August 2011.

¹⁸⁰ Meine Damen und Herren! Sorry, liebe N...! Kolumne von DENIZ YÜCEL, 23.6.2010, <http://www.taz.de/154530/> accessed 08 August 2011.

¹⁸¹ Lübke und die Neger, http://www.zeit.de/2002/14/200214_stimmts_luebke.xml, accessed 29 August 2011

¹⁸² Die Taz bewirbt sich auch 2010 um den Preis "rassistischste Mainstreampublikation Deutschlands", 25.6.2010, <http://blog.derbraunemob.info/2010/06/25/die-taz-bewirbt-sich-auch-2010-um-den-preis-rassistischste-mainstreampublikation-deutschlands/>, accessed 29 August 2011.

¹⁸³ Onkel Baracks Hütte, 5.6.2008, <http://www.taz.de/1/archiv/print-archiv/printressorts/digi-artikel/?ressort=a1&dig=2008%2F06%2F05%2Fa0035&cHash=c67f79c3e6>, accessed 29 August 2011.

¹⁸⁴ TAZ Titel - "Onkel Baracks Hütte" soll provozieren? <http://www.isdonline.de/modules.php?name=News&file=article&sid=197>, accessed 29 August 2011.

¹⁸⁵ Satire darf alles? – Über Rassismus, political correctness und Humor, 24.6. 2010, <http://afrikawissenschaft.wordpress.com/2010/06/24/satire-darf-alles-uber-rassismus-political-correctness-und-humor/>, accessed 29 August 2011.

Volkszeitung”¹⁸⁶. Ulfkotte spoke about the false multi-billion “*Migration and Integration Industry*” which is supported by “*naïve politicians*”. He sees devastating consequences for the “*ethnic Germans*”. According to him, the politicians destroy, with the help of migrants, “German” prosperity and values, in doing so the will of the population is not respected. He then warns, that the ethnic German population will wake up and is going to ‘get even’ with the politicians through violence. The “Leipziger Volkszeitung” (LVZ) is the only regional newspaper in Leipzig and is opinion-leading in the political public sphere. Furthermore it is one of the most quoted regional newspapers in Germany. Through offering this interview, the “LVZ” offered Ulfkotte a platform for his racist, populist and Islamophobic thesis and therefore supported the spreading of his world view.¹⁸⁷ The anti-discrimination bureau Sachsen responded to the interview with an open letter to the editor to demonstrate their opposition to such propaganda.¹⁸⁸

The social report of the Committee on Economic, Social and Cultural Rights of the United Nations presented in May 2011 evoked intense indignation in the media as well as in politics. Although the report didn’t report any new issues, it nevertheless initiated even more controversy. The report mentioned that 25 % of students go to school without breakfast, migrants are discriminated against, there is no holistic program to fight poverty, migrants cannot access their right to education and employment, asylum seekers do not get sufficient social benefits and they do not get equal access to the social security system, to the health system and to the labour market.¹⁸⁹ However the public reactions did not appear until July. Most strongly the United Nations deplored that many of their previous recommendations were not implemented.¹⁹⁰ NGO’s used the opportunity to call attention to the social problems in Germany while the government reacted with total rejection of the results of the report. A speaker of the ministry of social affairs proclaimed that the criticism from the UN is “*in large parts irreproducible and also not documented by scientific facts.*”¹⁹¹

¹⁸⁶ Published in the printed edition of the “Leipziger Volkszeitung” 27 August 2010. Access to the online version of the interview on the homepage of the “LVZ”(http://nachrichten.lvz-online.de).

¹⁸⁷ Stellungnahme des Forums für Kritische Rechtsextremismusforschung (FKR) zur „Integrationsdebatte“ in der Leipziger Volkszeitung, http://www.engagiertewissenschaft.de/de/inhalt/Leipzig_braucht_eine_Debatte_ueber_Rassismus, accessed 08 August 2011.

¹⁸⁸ Offener Brief an die Leipziger Volkszeitung, <http://www.adb-sachsen.de/media/documents/1283934641.pdf>, accessed 08 August 2011.

¹⁸⁹ Staatenbericht. Uno kritisiert deutsches Sozialsystem, 6.7.2011, <http://www.spiegel.de/politik/deutschland/0,1518,772620,00.html>, accessed 29 August 2010.

¹⁹⁰ Meisner, Matthias: UN rügen Deutschland. „Tief besorgt“ wegen Arbeits-und Sozialpolitik, *Der Tagesspiegel*: <http://www.tagesspiegel.de/politik/un-ruegen-deutschland/4361036.html>, accessed 9 August 2011.

¹⁹¹ Unsoziales Deutschland. Regierung findet UNO-Kritik ungerecht, <http://www.spiegel.de/wirtschaft/soziales/0,1518,772706,00.html>, accessed 09 August 2011

NGO good practices

MiGAZIN is an online magazine that is devoted to issues around integration and migration. The magazine is open to all, independent of ethnicity and religion. The German Commission for UNESCO and the dm-chemist's store awarded MiGAZIN in 2009 in the "Be a futurist"-contest.¹⁹²

On 24 February 2011 the book "***Manifesto of the many - Germany reinvented***" was presented at an event in the Maxim Gorki Theater in Berlin. The manifesto is the answer of 30 well known writers of migrant background to Sarrazins "*Germany does away with itself*". The premiere night under the motto "*dance the Sarrazin*" centered on the question of German identity. "*In order not to do away with Germany it has to reinvent itself*" the authors unanimously say. "Sarrazin comes and goes. But we remain and we are already living in the world of tomorrow" this is the message of the "multitude."¹⁹³

XI.ii Political and legal context

There were no major legal changes in the area of media. The Hungarian media law was intensively discussed and the German media legislation was compared to it. While conservatives see the Prime Minister Victor Urban as a freedom fighter and his media law as a liberal approach, which is even more liberal than the media law of North-Rhine-Westphalia, Green and left parties condemned the media law as authoritarian and abolishing the freedom of the media.¹⁹⁴

The dreadful attack in Oslo¹⁹⁵ caused an unexpected debate about the media coverage in Germany. A short time after the attack journalists made erroneous assumptions about the perpetrator. Based on a statement from the self-appointed expert on terrorism, Rolf Tophoven, the media uncritically adopted his vague speculation. They identified the alleged delinquent before the police said anything: The media referred to an Islamist attack. It was not until after the arrest of a 32-year-old blond Norwegian the media began to back track.¹⁹⁶

¹⁹² Migazin – Migration in Germany, <http://www.migazin.de>.

¹⁹³ Buchpremiere: "Manifest der Vielen", Deutschland schafft sich noch lange nicht ab!<http://www.migazin.de/2011/02/28/deutschland-schafft-sich-noch-lange-nicht-ab/>, accessed 30 August 2011.

¹⁹⁴ Interview mit Klaus-Heiner Lehne (CDU): "Auch deutsche Mediengesetze müssten überarbeitet werden", Euroaktiv 19.1.2011, <http://www.euractiv.de/zukunft-und-reformen/artikel/auch-deutsche-mediengesetze-muessen-berarbeitet-werden-004244>, accessed 30 August 2011.

¹⁹⁵ The Guardian, Norway attacks: at least 92 killed in Oslo and Utøya island <http://www.guardian.co.uk/world/2011/jul/23/norway-attacks>, accessed 20 November 2011.

¹⁹⁶ Jung, Jacob: Terror in Oslo: Im Zweifel war's ein Islamist, *Der Freitag*: <http://www.freitag.de/community/blogs/aredlin/terror-in-oslo-im-zweifel-wars-ein-islamist>, accessed 09 August 2011. Meyer, Robert: Hauptsache, wir haben die Story zuerst! Obgleich man nach dem Massaker wenig wusste, spekulierten die "Experten" munter drauflos, *Neues Deutschland*: <http://www.neues-deutschland.de/artikel/202933.hauptsache-wir-haben-die-story-zuerst.html>, accessed 09 August 2011.

Now the media themselves are slowly starting to reflect upon their responsibilities in regard to heated discussions on Islam in the media. Often only clear cut critics of Islam with their ready-made arguments are invited to talk shows about topics related to Islam. Their opponents often have less media appeal and weak arguments. Mediating voices are seldom heard, because they are not invited. Such artificially produced bipolarity immediately escalates debates and discussions, without any valuable new knowledge, which might have come out of a sincere dialogue.¹⁹⁷ The death of Marwa El-Shebini, the first Islamophobic murder in Germany and the events of Oslo seem to have triggered a reflection about media responsibilities in relation to a rising Islamophobia.

Vosatka, Michael: Terror in Norwegen. Der Moslem war's!, *derStandard.at*: <http://derstandard.at/1310511975907/Terror-in-Norwegen-Der-Moslem-wars>, accessed 09 August 2011.

¹⁹⁷ Argumente gegen die Extreme, Vom Nutzen und Nachteil der Islamkritik für das Leben, Migazin, <http://www.migazin.de/2011/06/09/vom-nutzen-und-nachteile-der-islamkritik-fur-das-leben/>, accessed 30 August 2011.

XII. Political and legal developments in anti-racism and anti-discrimination

The Federal Anti-discrimination Body (ADS) started three important initiatives: The initiative “Society without Discrimination”, the pilot scheme “Anonymous Application Procedure” and the research project “University without discrimination.”¹⁹⁸

The initiative “Society without Discrimination” comprises three subprograms:

- “Networks against Discrimination” intends to create nationwide networks of local and low-threshold helpdesks offering protection against discrimination as a cross-sectional task in cooperation with anti-discrimination organisations. The ADS has 1,2 million euros for the establishment and the support of such anti-discrimination networks.¹⁹⁹
- In cooperation with the Federal States and the communes concerning anti-discrimination work the ADS initiated the “Coalition against Discrimination”. It is the aim of this initiative to encourage responsible persons in the Federal States and communes to develop consolidated strategies against discrimination.
- The sub-program “Diversity Main-streaming in Administrations” consists of a multi-part research project and several workshops with responsible persons of Federal States and communes. The outcome will be a manual with descriptions and recommendations on how to implement equality of opportunity within the administrations and by administrations.

The nationwide pilot scheme “Anonymous Application Procedure” was previously described in this reports’ section on the labour market and is aimed at targeting discrimination in access to jobs. The research project “University without discrimination” aims to develop indicators to make discriminatory structures and procedures within universities visible.

To date there is still no data available which reflects the impact of these policies and initiatives on ethnic and religious minorities, but it can be presumed that the pilot scheme “Anonymous Application Procedure” will have a positive impact,

¹⁹⁸ Antidiskriminierungsstelle des Bundes, *Offensive diskriminierungsfreie Gesellschaft*, http://www.antidiskriminierungsstelle.de/DE/Projekte_ADS/offene_diskriminierungsfreie_gesellschaft/offene_diskriminierungsfreie_gesellschaft_node.html#&slider1=8, accessed 25. August 2011; ibidem, *Anonymisierte Bewerbungsverfahren - das Pilotprojekt*, http://www.antidiskriminierungsstelle.de/DE/Projekte_ADS/anonymisierte_bewerbungen/anonymisierte_bewerbungen_node.html, accessed 25. August 2011; ibidem, *Diskriminierungsfreie Hochschule*, http://www.antidiskriminierungsstelle.de/DE/Projekte_ADS/diskriminierungsfreie_hochschule/diskriminierungsfreie_hochschule_node.html, accessed 25 August 2011.

¹⁹⁹ MİGAZİN, *Offensive für eine diskriminierungsfreie Gesellschaft*, <http://www.migazin.de/2011/02/22/offensive-fur-eine-diskriminierungsfreie-gesellschaft/>, accessed 25. August 2011.

because it targets ethnic discrimination due to foreign-sounding names or physical features, which have resulted in the perception of the applicants 'not being German'. The research project "University without discrimination", which focuses much more on gender and age, might have a more negative impact as it fails to highlight the intersection with ethnic discrimination and in doing so, it might increase rather than decrease the general blindness concerning ethnic discrimination within German society.

Despite the long-standing demand of anti-discrimination organisations class action ("*Verbandsklagerecht*"), the extension of the period in which you can go to court ranges from two to at least six months, and a practicable shift of the burden of proof from the victim to the perpetrator have still not been implemented in the current version of the Equal Treatment Act (AGG).²⁰⁰ Also existing exception clauses have not been cancelled.²⁰¹ Infringement procedures against Germany in 2007 were pert due to these issues. In November 2010 the Commission closed the procedure after Germany presented drafted laws and notified the Commission that further national laws are applicable. It is not known, what these drafted laws and further national laws imply, but from an NGO perspective the legal situation did not change.

Three cases that have been brought forward on the basis of the EU Race Equality Directive have been published by anti-discrimination organisations, the Federal Anti-discrimination body (ADS) and several newspapers. Two of these cases were related to the domain of access to nightclubs and were previously described in the section on "access to goods and services."²⁰² The third case was related to employment. A male Muslim working in a large store was laid-off after refusing to sell alcoholic drinks. He argued that on grounds of his religion he cannot handle alcoholic drinks. The District court approved the lay-off, but the Federal court annulled the decision, requesting that the District court clarify exactly what practices are forbidden by the complainant's religion and to explore other tasks which the employer can carry out for his employee.²⁰³ There might be more cases being brought forward on the basis of the EU Race Equality Directive, but they remain invisible if they are not supported by the publicity raised by anti-discrimination organisations.

²⁰⁰ Bundesministerium der Justiz, Allgemeines Gleichbehandlungsgesetz, <http://www.gesetze-im-internet.de/agg/>, accessed 20 November 2011

²⁰¹ See Shadow Report 2009/2010: Hieronymus, Andreas and Fögen, Ines and Meheroglu, Yücel and Kröger, Justin, *ENAR Shadow Report 2009/2010 – Racism in Germany* (Hamburg: Institut für Migrations- und Rassismusforschung, 2007), p. 35.

²⁰² www.taz.de, *Gericht verurteilt Rassismus*, <http://www.taz.de/!65717/>, accessed 24 August 2011; Amadeu Antonio Stiftung, „*Klagen statt jammern!*“, <http://www.amadeu-antonio-stiftung.de/aktuelles/klagen-statt-jammern/>, accessed 24 August 2011 and Büro zur Umsetzung von Gleichbehandlung, *Landgericht Tübingen entscheidet - Die Abweisung an Discotür wegen dunkler Hautfarbe ist eine Diskriminierung*, http://bug-ev.org/index.php?option=com_content&view=article&id=85&Itemid=89&lang=de, accessed 24 August 2011.

²⁰³ Antidiskriminierungsstelle des Bundes, *Ausgewählte Entscheidungen deutscher Gerichte zum Antidiskriminierungsrecht* (2011), pp. 23-24, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/rechtsprechungsbereich_antidiskriminierungsrecht.pdf?__blob=publicationFile, accessed 24 August 2011.

The numbers of convictions on grounds of ethnic discrimination are limited and therefore there are almost no legally binding court rulings which a judge can refer to. In one of the cases where entrance to a club was refused the judge described the existing specialised literature as “scanty.”²⁰⁴ The handling and the use of the Equal Treatment Act (AGG) by German courts is contradictory. In some court rulings ethnic discrimination is defined in a specific and differentiated manner and the disclosed discrimination is comprehensively and clearly condemned.²⁰⁵ In other cases, the judge obligated the licensee to allow the complainant to enter the disco in the future but refused compensation for the discrimination on grounds of it not being “grave enough.”²⁰⁶ From an anti-racism perspective this is highly problematic, because a rejection on the grounds of skin colour is always a grave infraction of someone’s personal rights and dignity. In the case of an Afro-German woman who pressed charges against a bus driver because of racist defamation a similar appraisal was given by the Public Attorney's Office, who denied that the phrase “Blacky” (“*die Schwatte*”) is a racist defamation. It was argued that neither the speaker nor the addressee was able to define the “objective meaning of a phrase”. The Chief Public Attorney's Office who outrageously determined the phrase “Blacky” (“*die Schwatte*”) as not being a racist defamation.²⁰⁷ Such argumentations show the urgent need to train judges, prosecutors and lawyers in the field of anti-racism, diversity and human rights. 2.677.000 € was allocated to the Federal Anti-discrimination body (ADS) in 2010. This is 10 % less than in the previous year²⁰⁸. Besides this funding by the Federal State there are different ways of funding anti-discrimination-bodies and anti-discrimination organisations in some of the länder (the German Federal States) and communes e.g. in Berlin, North Rhine-Westphalia, Brandenburg, Frankfurt on the Main, Munich, Hannover, Leipzig. The new director of the Federal Anti-discrimination body (ADS), Christine Lüders, who has been in office since the beginning of 2010, intensified collaboration with NGOs and enterprises as well as conducting PR work, which had the effect that issues of discrimination are more discussed in greater society.

In 2010 the Federal Anti-Discrimination Body (ADS) started a process of developing a concept for data collection on discrimination in consultation with

²⁰⁴ Die Tageszeitung, *Gericht verurteilt Rassismus*, <http://www.taz.de/!65717/>, accessed 24 August 2011; Amadeu Antonio Stiftung, „*Klagen statt jammern!*“, <http://www.amadeu-antonio-stiftung.de/aktuelles/klagen-statt-jammern/>, accessed 24 August 2011 and Büro zur Umsetzung von Gleichbehandlung, *Landgericht Tübingen entscheidet - Die Abweisung an Discotür wegen dunkler Hautfarbe ist eine Diskriminierung*, http://bug-ev.org/index.php?option=com_content&view=article&id=85&Itemid=89&lang=de, accessed 24 August 2011.

²⁰⁵ See Shadow Report 2009/2010: Hieronymus, Andreas and Fögen, Ines and Meheroglu, Yücel and Kröger, Justin, *ENAR Shadow Report 2009/2010 – Racism in Germany* (Hamburg: Institut für Migrations- und Rassismusforschung, 2007), p. 34.

²⁰⁶ MİGAZİN, *Abweisung an der Discotür: „Es sind schon genug Schwarze drin“*, <http://www.migazin.de/2011/08/08/abweisung-an-der-discotur-es-sind-schon-genug-schwarze-drin/>, accessed 24 August 2011.

²⁰⁷ Written replies of the Public Attorney's Office Lüneburg (Lower Saxony) and the Chief Public Attorney's Office Celle (Lower Saxony), provided by the complainant.

²⁰⁸ Offener Haushalt, *Antidiskriminierungsstelle des Bundes*, <http://bund.offenerhaushalt.de/1706.html>, accessed 23 August 2011.

anti-discrimination organisations. An expert recommended three measures: A systematic, homogeneous, one-stop interpretation of discrimination cases; a standardised documentation of court cases on the basis of the Equal Treatment Act (AGG) and intensified research on discrimination.²⁰⁹ Currently, methods of data collection in regard to discrimination differ considerably and this makes comparison extremely difficult. While the Federal Anti-Discrimination Body (ADS) needs aggregated data for political discussions and for the press (there only numbers count as being objective), anti-discrimination organisations stress the need for less aggregated qualitative data which reflects single cases in order to expose the phenomena and pattern of discriminatory acts to support their local counsel. To mediate between those differing needs, a continuous consultation between ADS and the anti-discrimination organisations, around questions of data reporting and their interpretation, is needed. This collaboration needs to be established as a network process and not a hierarchical command line from above.²¹⁰

The “Forum against Racism” was established in 1998 to enable dialogue between the government and NGO's. The ministry of the Interior is the partner on the government level and, officially, approximately 80 NGO's participate.²¹¹ During the years the persons and the administrative units responsible for the Forum changed on the government side. From which level of hierarchy the administrative unit in charge comes from, indicates clearly what level importance this dialogue for the government has. Since 2005 the Forum appears to be more dead than alive.

The Anti-Discrimination Association of Germany (ADVD), an umbrella association of German anti-discrimination organisations, has been watching the policy of the Federal Anti-Discrimination Body (ADS) from its beginning on. Having been very ineffective until the change of the director in February 2010, the ADVD now approves of the new focus of the ADS,²¹² but still expresses differences in conceptions and demands in public discussions. The ADVD supports the ADS in its intent to create a nationwide network of local and low-threshold helpdesks and stresses the need for, (besides the cross-sectional helpdesks like parenting support centres, debt counselling or social services), specialised and particular anti-discrimination counsel by independent and qualified anti-discrimination

²⁰⁹ Antidiskriminierungsstelle des Bundes, *Machbarkeitsstudie: „Standardisierte Datenerhebung zum Nachweis von Diskriminierung!? – Bestandsaufnahme und Ausblick“* (2010), p.3, http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/machbarkeitsstudie.pdf?__blob=publicationFile, accessed 25 August 2011.

²¹⁰ Antidiskriminierungsstelle des Bundes, *Dokumentation des Fachgesprächs der Antidiskriminierungsstelle des Bundes zu „Standardisierte Datenerhebung zum Nachweis von Diskriminierung !“* (2010), http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/doku_standardisierte_datenerhebung_2010.pdf?__blob=publicationFile, accessed 25 August 2011

²¹¹ Forum gegen Rassismus, <http://www.bmi.bund.de/SharedDocs/Standardartikel/DE/Themen/PolitikGesellschaft/PolBilGesZus/forum.html?nn=271448>, accessed 30 August 2011.

²¹² See Shadow Report 2009/2010: Hieronymus, Andreas and Fögen, Ines and Meheroglu, Yücel and Kröger, Justin, *ENAR Shadow Report 2009/2010 – Racism in Germany* (Hamburg: Institut für Migrations- und Rassismusforschung, 2007), p. 32.

organisations. In six of the sixteen capitals of the länder (states) neither a governmental nor independent anti-discrimination services, which provide counselling for victims of discrimination are available.²¹³

Example of NGO good practice

Anti-discrimination organisations are not sufficiently financially secured, therefore the ADVD demands that the network building program must be made sustainable in a mid-term perspective and provided with sufficient financial resources.²¹⁴ This problem was highlighted by the Anti-Discrimination office of Saxony, after their funding was to be cut up to 60%. They announced publicly that they cannot continue their anti-discrimination services providing counselling for victims of discrimination. After protests from all over the republic the city council of Leipzig dropped the planned cuts. Leipzig is the only commune in the East of Germany which supports an anti-discrimination organisation institutionally.²¹⁵

The ADVD sees the programme for universities free of discrimination as helpful to rationalise the discourse on discrimination.²¹⁶ The pilot scheme “Anonymous Application Procedure” should be supplemented by an examination of the employers, about the procedures and role of human resource management in the application procedures, and how this relates to the legal ban on instruction to discriminate and the victimisation of persons who act against discrimination or an instruction to discriminate.²¹⁷ This initiative should be embedded into a national action plan against discrimination involving representatives of civil society, of the economic and political sphere and administrations.²¹⁸

²¹³ No anti-discrimination counselling is available in Magdeburg (Saxony-Anhalt), Wiesbaden (Hesse), Stuttgart (Baden-Württemberg), Saarbrücken (Saarland), Dresden (Saxony) and Erfurt (Thuringia). Finding from an enquiry of the Institut für Migrations-und Rassismuskforschung at the website of the ADS (heading “Beratungsstellensuche”), http://www.antidiskriminierungsstelle.de/DE/Home/home_node.html, accessed 24 August 2011.

²¹⁴ Antidiskriminierungsverband Deutschland (advd), *Antidiskriminierungsverband Deutschland begrüßt die „Offensive für eine diskriminierungsfreie Gesellschaft“*, <http://www.antidiskriminierung.org/?q=node/333>, accessed 24 August 2011.

²¹⁵ Zukunft des Antidiskriminierungsbüros Sachsen: Die Unterstützung durch die Stadt Leipzig schafft Luft, <http://www.adb-sachsen.de/antidiskriminierungsbuero.html>, accessed 30 August 2011.

²¹⁶ Antidiskriminierungsverband Deutschland (advd), *Antidiskriminierungsverband Deutschland fordert die Schaffung von Beratungsnetzwerken und deren Etablierung als Beratungsstellen*, <http://www.antidiskriminierung.org/?q=node/319>, accessed 24 August 2011.

²¹⁷ Antidiskriminierungsverband Deutschland (advd), *Diskriminierung bei Bewerbungsverfahren - Schauen Sie nicht zu!*, <http://www.antidiskriminierung.org/?q=node/316>, accessed 24 August 2011.

²¹⁸ Antidiskriminierungsverband Deutschland (advd), *4 Jahre AGG: Antidiskriminierungsverband Deutschland fordert Nationalen Aktionsplan gegen Diskriminierung!*, <http://www.antidiskriminierung.org/?q=node/315>, accessed 24 August 2011.

XIII. Migration and integration

At the 4th summit on integration in November 2010, the Federal government introduced an “action plan for the further development of the National Integration Plan (NIP).”²¹⁹ The integration objectives which are defined in the National Integration Plan have to be underpinned by a schedule of definite actions until the next summit at the end of 2011 with the aim of selecting the best integration tools and developing new arrangements.²²⁰

Participants in the different working groups were disappointed about the results of the conference. The opposition parties criticised the underfunding of the integration policy and the German national coordination of ENAR, “Network Against Racism” criticised the fact that the Federal Government practically disregarded the contributions of the organisations involved in the final texts. The previously intensely discussed issues of former NIPs have now been completely silenced. Problems such as structural discrimination are entirely ignored and resolutions on tolerated and paperless people are no longer being handled, because solely the position of the Federal Government has materialised in the final text.²²¹

The meeting was also overshadowed by yet another “integration debate” initiated by Thilo Sarrazin, the former chair of the German Central Bank, former senator for finance in the Berlin social democratic (SPD) and Left-party (DIE LINKE) government. Mr. Sarrazin is himself a member of the social democratic party (SPD). An alliance of publishers published his book “Germany does away with itself” in 2010. The main thesis of his book is that Germany is made stupid by the biological increase of Muslim population in Germany.²²² Scientists of the Humboldt-University in Berlin compared his controversial thesis with research findings and published the study “Sarrazin’s thesis put to test.”²²³ It shows how he utilised data for his thesis and presents the empirical evidence of structural, cultural and social integration of Muslims and migrants of Turkish background in Germany. The study very clearly demonstrates a racist pattern of argumentation: negative aspects in the statistics are extremely overemphasised and positive

²¹⁹ Aktionsplan zur Weiterentwicklung des Nationalen Integrationsplans, 6.1.2011, <http://www.bmbf.de/de/15695.php>, accessed 30 August 2011.

²²⁰ Deutschland: Integrationsgipfel verabschiedet Aktionsplan, http://www.migration-info.de/mub_artikel.php?id=100901, accessed 12 August 2011.

²²¹ Netz gegen Rassismus, für gleiche Rechte, *Ergebnisse der Sitzung des Netzes gegen Rassismus am 30. Mai 2011 in Berlin* (Berlin: 2011), p. 2.

²²² Deutschland: Kontroverse um Thilo Sarrazin löst Integrationsdebatte aus, http://focus-migration.hwwi.de/Einzelansichten.1316.0.html?&tx_wilpubdb_pi1%5Bkeyword%5D=124&tx_wilpubdb_pi1%5Btitle%5D=38&tx_wilpubdb_pi1%5Bsubmit%5D=Suchen&tx_wilpubdb_pi1%5Barticle%5D=2170&cHash=fc52ccad1794530f48a822715c7c44c4, accessed 12 August 2011.

²²³ Deutschland: Sarrazin-Argumente halten Prüfung nicht stand, http://www.migration-info.de/migration_und_bevoelkerung/archiv/ausgaben/ausgabe1101.htm#110103, accessed 12 August 2011.

aspects are disregarded.²²⁴ In a 2009 poll by “The Expert Advisory Board Of German Foundations for Integration and Migration” (*Sachverständigenrat deutscher Stiftungen für Integration und Migration*) 21.7 % of migrants said that the majority of the population live side by side with immigrants without any discrepancies. This changed dramatically in November and December 2010 after the Sarrazin-debate to 9.1%.²²⁵

In December 2010 the Federal state of Berlin passed an integration law. The “Law for Regularisation of Participation and Integration in Berlin”²²⁶ aims to improve the participation and integration of migrants in Berlin by further opening up the access people with foreign roots to jobs in the public service and in state owned companies.

XIII.i. MIPEX Germany from an NGO perspective

This year for the first time we reflect on the “*Migrant Integration Policy Index (MIPEX)*” in light of our own findings. This exercise is not about challenging MIPEX, but about examining some of the results from a NGO perspective. While MIPEX tries to measure integration policies in all European Union Member States plus Norway, Switzerland, Canada and the USA using 148 policy indicators,²²⁷ the ENAR shadow reports describe manifestations of discrimination related to racism, and the legal and political context of racism in the 27 EU countries and integration is only one part of this description.

For Germany, MIPEX rightly mentions the decline in immigration and asylum since 1995 and sees little improvement in the last 3 years. Germany's average scores on education and family reunion policies are surprising, but Germany is did not score far below average level on equality policies and long-term residence conditions. While the implementation of a set of EU Directives in 2007 aimed at demanding and promoting real participation in society, the government has still to deliver, e.g. the assessment of the citizenship test and the new German tests abroad, to ascertain if they are a barrier and therefore discriminatory in nature, as they aim at keeping people outside of the country, or

²²⁴ The complete study is here available: <https://www2.hu-berlin.de/hcsp/de/1524/going-public/foroutan-sarrazins-thesen-auf-dem-prufstand-dossier-presseecho/>

²²⁵ The study is presentable for the old Federal States, but not for the whole of Germany. Umfrage: Sarrazin-Debatte trübt Zuversicht bei Zuwanderern in Deutschland. SVR sieht „Eigentor“, http://www.svr-migration.de/?page_id=2633, accessed 12 August 2011.

²²⁶ Berlin: Integrationsgesetz, http://www.migration-info.de/migration_und_bevoelkerung/archiv/ausgaben/ausgabe1101.htm, accessed 12 August 2011. In der Diskussion: Das Berliner Partizipations-und Integrationsgesetz, http://www.berlin.de/lb/intmig/partizipationsgesetz_berlin.html, accessed 12 August 2011. Abgeordnetenhaus Berlin, *Vorlage- zur Beschlussfassung-Gesetz zur Regelung von Partizipation und Integration in Berlin* (Berlin 2010), <http://www.parlament-berlin.de/ados/16/IIIPlen/vorgang/d16-3524.pdf>, accessed 12 August 2011.

²²⁷ Welcome to the Migrant Integration Policy Index (MIPEX), <http://www.mipex.eu/>, accessed 30 August 2011.

if they really are a useful tool to improve integration through participation.²²⁸ MIPEX's assessment that Germany's policies improved through partnership with länder (states) and NGOs and with the "National Action Plan" (NAP) mentioned as an example, cannot be supported. There has been long term experience of the NGO community being unsatisfactorily involved in the process of defining the NAP, which is the opposite of good practices. This has been described in several shadow reports. The German coordination of ENAR (Netz gegen Rassismus) even felt the need to write its own NAP, because it was neither satisfied with the process nor with the outcome.²²⁹

Although Germany might have some of the best targeted measures for the labour market integration in place, there are still problems with discrimination during the recruitment process. Although it seems that there is a localised solution in regard to the recognition of qualifications, it might turn out in the future that it is too complicated and too expensive for the individual.

It is true that education envisions more intentions and well-evaluated projects than actual entitlements and because of the federal structure changes often require that authorities cooperate to reach a national consensus. Such decentralised education policies result in school certificates that are not comparable within Germany, not to mention certificates from abroad: rather than cross credit these certificates they are not recognised at all. The whole question of discrimination and teachers expectations toward migrants are, in our opinion, not taken into account and as a result of all of this the picture is being painted as much brighter than it actually is.

Studies, as well as our assessment, show which is in line with MIPEX, that Political participation, not necessarily the voting right, on a regional/local level is better than on the national level, with the effect that migrants feel to be part of the local community.

Although Germany has the most restrictive conditions for long-term residence, there are some secure residence rights and equal rights for families, as long as they are not refugees or asylum seekers. This should be examined as well, as families with such backgrounds often live for decades in Germany, and their children are born there, but at a certain point in time they get deported and their families are torn apart (e.g. Kosovo).²³⁰

²²⁸ Overview, <http://www.mipex.eu/germany>, accessed 30 August 2011.

²²⁹ Netz gegen Rassismus: Aktionsplan gegen Rassismus, 17.12.2010, http://www.netz-gegen-rassismus.de/files/pdf/Nationaler_Aktionsplan_NgR.pdf, accessed 30 August 2011.

²³⁰ Some 10,000 Roma are to be deported from Germany to Kosovo. They belong to the group of more than 14,000 Kosovars tolerated in Germany after the war in Kosovo. This number is based on an agreement in April 2010 by Interior Minister Thomas de Maiziere and his Kosovo counterpart Bajram Rexhepi, who signed repatriation agreements for "persons required to leave. Deutschland will 10.000 Roma ins Kosovo abschieben, Die Welt, 18.9.2010, <http://www.welt.de/politik/deutschland/article9721993/Deutschland-will-10-000-Roma-ins-Kosovo-abschieben.html>, accessed 20 November 2011.

In general we agree that the Anti-Discrimination Law is undermined by weak equality bodies and commitments but with the new leadership of the Anti-Discrimination Body (ADS) in place, efforts are being made to improve the situation, although the means are restricted. To achieve the level of other countries who give better help to potential victims, NGO's working in the field of anti-discrimination need to be strongly supported.

XIV. National recommendations

Employment

- Awareness raising should be conducted by work councils and their migrant members about bullying and discrimination and they should be empowered to develop anti-bullying strategies which include strategies against discrimination in the work place.
- Professional networks of migrants and people of African descent should be supported by local and federal governments to develop strategies to counteract discrimination during the application process.
- The government should engage in a dialogue with local small and medium size enterprises to develop a discrimination-free work environment to overcome labour shortage and to counter act the arguments of the employers lobby, who state that anti-discrimination measures are negative for the economy.

Housing

- Municipalities should initiate local networks with NGOs, landlords and local politicians to develop anti-discrimination policies in the local housing market.
- Landlords should inscribe an anti-discrimination policy into their company guidelines, and commit themselves publicly to non-discriminatory application procedures and these should be evaluated through internal testing by the landlords and external testing by NGOs.

Education

- Schools, that have not yet done so, should confront themselves with their own discriminatory practices and structures.
- Ministries of Education in the länder (states) should establish and ensure a comprehensive anti-discrimination culture in the schools and within the ministries:
 - Establish independent complaint bodies for people who feel discriminated against in school;
 - Develop clear rules on how schools have to inform students, parents and teachers about their rights to act against discrimination;
 - Conduct qualification courses for teachers, headmasters and counselling bodies in schools on topics of ethnic discrimination.

Health

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

Criminal justice

- Awareness raising activities should be conducted within the ministries of the interior and police departments about the negative effects of ethnic profiling on policing.
- A culture of self-correction and self-critical professional ethics should be developed within law enforcement agencies through educational programs and organisational development.
- Obligatory human rights training should be introduced into the further education of Police officers.

Access to goods and services

- The government should increase the level of compensation for victims of discrimination.
- Research on discrimination in the access to goods and services should be carried out in order to provide court judges with expert opinions on the topic.

Media

- Strengthen critical voices in the integration discourse, which bring in a European and international perspective on discrimination into the existing media discourses, by further media education on human rights and anti-discrimination issues.

Anti-racism and anti-discrimination

- The Anti-Discrimination Body (ADS) should carry out publicity campaigns on positive court rulings in order to show that it is worth going to court against discrimination and to show the public where discrimination starts.
- The ADS and other anti-discrimination bodies should evaluate their activities with regard to the actual effects they have on ethnic and religious groups.
- Standardised data collection on discrimination has to be developed and this should be done in consultation with NGOs.
- Civil society should start a comprehensive revision of the existing Equal Treatment Act.

Migration and integration

- Evaluation of the experiences with the Integration Law of Berlin and its possible transfer to other länder (states) as best practice.
- The government should critically evaluate the real role NGOs played in the National Integration plan and improve the dialogue structure between NGO's and the government in order to change the governments monologue into "real" dialogue.

XV. Conclusion

We can conclude that the direct discrimination towards people of African descent is most prominent in the areas of access to public and private goods and services, like clubs, bars or public transport, in schools, in housing and in the labour market. These are all areas where visibility plays a role in the interaction. Indirect forms of discrimination are much more related to their often marginal social status and affect them in a similar way to other marginalised migrants.

The German colonial heritage in Africa, but also in south-east Asia is marginal in the collective memory, although there are active NGO's who re-discover this history and try to make such heritage visible. Critical approaches, like studies in "Critical Whiteness" or post-colonial theories on inter-cultural education are developed, but up to now such initiatives did not expand much outside of universities, but they do provide useful food for thought for NGO's active in the field.

During completion of this report in August 2011 the fifth anniversary of the Equal Treatment Act (AGG) was celebrated by a range of press releases of all relevant representatives, the Federal Anti-Discrimination Body (ADS), the Anti-Discrimination Association of Germany (ADVD) and the Confederation of German Employers' Associations. While employers still monotonously echo the arguments from the beginning of the debate in 2001, that the law is a bureaucratic monster and that it costs the enterprises millions of Euro, seconded for example by the Social Democratic Senator Of Social Affairs, Mr. Scheele, in Hamburg, who does not see any discrimination, but only misunderstandings, anti-discrimination policy has a new drive with the new director of the ADS, surprisingly selected by the liberal-conservative government of Chancellor Dr. Angela Merkel. With the different initiatives, among them the establishment of an anti-discrimination infrastructure for Germany (100.00 € each for 10 local networks)²³¹ the ADS made a reasonable step forward in knitting together existing structures and establishing a new structure to bring, what the ADVD calls "anti-discrimination culture" to the länder (states) and local level.

Although this is a big step forward, recent developments show how shaky this emerging structure is and that it very strongly depends on political will of the governing parties. Anti-discrimination politics in Germany are always in danger of being squeezed between party politics. This became clear on a local level, when funding for the Anti-Discrimination Bureau in Saxony (ADB Sachsen) was to be cut by 60 % and this was avoided only after a big civil society protest.

Even worse is the situation in Hamburg, where the former conservative-green

²³¹Förderprogramm: Netzwerke gegen Diskriminierung, http://www.antidiskriminierungsstelle.de/DE/Projekte_ADS/offene_diskriminierungsfreie_gesellschaft/foerderprogramm/foerderprogramm_node.htmlm accessed 30 August 2011.

government established a remarkable pilot-project in the ministry of Justice, bringing together gender-equality, the fight against right-wing extremism, sexual identity freedom, demographic development, and anti-discrimination, in one high-level administrative structure. As this was a coalition compromise, which the conservatives never wanted and the Greens never saw it as important enough to get into a conflict with the coalition partner, the "Working Group Diversity" ("Arbeitsstelle Vielfalt") in its two years of existence never had internal backing in the administration nor external backing from civil society, because it became entangled far too much in internal bureaucratic procedures instead of reaching out to civil society.

Although the composition of the "Arbeitsstelle Vielfalt" and its actions were concentrated on the establishment of an anti-discrimination culture inside the administration and for the whole of Hamburg, it was seen by the new social-democratic government, which came to power early 2011, as a "green" playground, which needed to be cleared out.. Since then neither any coherent anti-discrimination body nor any gender equality body has been established, which is visible to the outside. Some minor symbolic acts, such as renaming the ministry of Justice to "Ministry of Justice and Equality", an act which had already been initiated by the Greens or the participation in the "Coalition Against Discrimination" initiated by the Federal Anti-discrimination body (ADS) have been performed.

These examples show that, although there is a civil society lobbying locally for an anti-discrimination infrastructure and there is an opportunity to have political partners who are politically able to establish such an infrastructure, it still needs a strong civil society movement in support of such infrastructure for it to become sustainable. Secondly, relying solely on political parties to implement such structures in the existing administration seems to always depend on political "zeitgeist" and therefore other options of independent civil society solutions in cooperation with local administration seem to be much more favourable.

There were two events in 2010/11, which increased awareness on the topic of Islamophobia and its intersection with anti-Semitism. One was the publication of the book "Germany does away with itself", written by Thilo Sarrazin, the former chair of the German Central Bank and member of the Social democrats, presented by an alliance of mainstream publishers, and with the assistance of Necla Kelek, one of the most prominent "Islam critics" in Germany who was present at the launch press conference. The other was the tragic attack in Oslo, although outside of the reporting period, they are very important in order to analyse the changes in this field.

In the book written by Sarrazin, a long standing German tradition of conservative thinking from the 19th century came to surface. The theme of the decline of one's own culture, the demographic calculations, the call for a strong elite and the fear of modernity and mass culture is re-emerging in all of the new populist narratives

in Europe. The solutions for such a framed problem are similar as well: strengthening the nation through sacrifices, disciplining the masses through separation from the social ballast and creation of national elite.²³²

Such types of discourse, are now re-emerging as an anti-Islamic populist movement, and are part of an emerging European identity spawned by economic crises. This type of racism is not new. Parallels between anti-Semitic campaigns in nineteenth century Germany and the anti-Muslim campaigns nowadays can be drawn. But now we know that racism is always prevalent in times of economic hardship and that specific groups try to protect their privileges by naturalising them.²³³ Therefore encouraging signs are the mobilisation of civil society against events conducted by the European right and the slow disappearance of “Islam critics” in public discourse after the massacre in Oslo, at least in Germany.

²³²Weiß, Volker, Deutschlands Neue Rechte. Angriff der Eliten - Von Spengler bis Sarrazin (Verlag Ferdinand Schöningh, 2011)

²³³Hieronimus, Andreas, Germany. Clarifying the immigration debate, 6.9.2010, <http://www.vita.it/news/view/106783>, accessed 30 August 2011.

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Annex 1: List of abbreviations and terminology

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

ADNB = Antidiskriminierungsnetzwerk Berlin (Anti-discrimination network Berlin)

ADS = Antidiskriminierungsstelle des Bundes (Federal Anti-discrimination body)
advd = Antidiskriminierungsverband Deutschland (Anti-discrimination association of Germany)

AGG = Allgemeines Gleichbehandlungsgesetz (General Equal Treatment Act)

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

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

CDU = Christlich Demokratische Union (Christian Democratic Union)

DIE LINKE = THE LEFT

DITIB = Türkisch-Islamische Union der Anstalt für Religion e.V. (Turkish-Islamic Union of the Institution for Religion)

FDP = Freie Demokratische Partei (Liberal Democratic Party)

FRA = Grundrechteagentur (Fundamental Rights Agency)

GfM = Gesundheitszentrum für Migranten (Health Centre for Migrants)

IATA = International Aviation and Transport Association

MhM = Mieter helfen Mieter (Tenants helping Tenants)

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

NGO = Nichtregierungsorganisation (non-governmental organisation)

NIP = Nationaler Integrationsplan (National Integration Plan)

StGB = Strafgesetzbuch (Penal Law)

TAZ = Tageszeitung (Daily newspaper)

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

TGD = Türkische Gemeinde Deutschland (Turkish Community of Germany)

VZBV = Verbraucherzentrale Bundesverband (Federal Association of Consumers Organisations)

