

"FOREIGNERS OUT"

Xenophobia and Right-Wing Violence in Germany

**Human Rights Watch/Helsinki
(formerly Helsinki Watch)**

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Human Rights Watch/Helsinki was established in 1978 to monitor and promote domestic and international compliance with the human rights provisions of the 1975 Helsinki Accords. It is affiliated with the International Helsinki Federation for Human Rights, which is based in Vienna, Austria. Jeri Laber is the executive director; Lois Whitman is the deputy director; Holly Cartner and Julie Mertus are counsel; Erika Dailey, Rachel Denber, Ivana Nizich and Christopher Panico are research associates; Christina Derry, Ivan Lupis, Alexander Petrov and Isabelle Tin-Aung are associates; Željka Markić and Vlatka Mihelić are consultants. Jonathan Fanton is the chair of the advisory committee and Alice Henkin is vice chair.

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INTRODUCTION

Germany is currently confronted with a political and social crisis that has profound consequences for German citizens, as well as for the foreigners who seek refuge within its borders. Recent violence in the northeastern city of Rostock and the widespread right-wing violence that has occurred almost every night since have shocked the world and damaged Germany's international reputation. Yet the anti-foreigner violence in Rostock was only the most recent in a long line of anti-foreigner crimes that have occurred since unification of the German Democratic Republic ("GDR") and the Federal Republic of Germany ("FRG") on October 3, 1990. Rioting skinheads throwing molotov cocktails at refugee shelters, onlookers applauding and cheering, slogans such as "foreigners out" and "Germany for Germans", inevitably recall images of Nazi terror during the Third Reich. Physical injury, fear and humiliation have become a daily experience for foreigners in unified Germany.

German officials report that the number of politically motivated crimes against foreigners has dramatically increased over the last two years. Experts point to a growing willingness on the part of right-wing extremists to use violence and predict that the recent outbreaks are likely to continue. What is more, membership in right-wing parties and organizations has also increased significantly.

Violence against foreigners occurs in both East and West Germany. Nevertheless, in proportion to the population, attacks on foreigners are much higher in the East and the chances of being physically attacked appear to be far greater for foreigners living in the states of the former GDR.

Similarly, the response of the police and local officials appears to be qualitatively different in the eastern states, with significant evidence of police unwillingness or inability to respond promptly and effectively to calls for assistance and protection by foreigners.

In part, the differences between East and West can be explained by the unification process and the resulting breakdown of the social and economic fabric in East Germany. On November 9, 1989, the Berlin Wall fell. In one dramatic and euphoric year, the two German states were united. In the rush to a speedy unification, however, German politicians and citizens failed to heed warnings by an isolated few that unification would have far higher costs, both economically and socially, than were being acknowledged. The two years since unification have highlighted the deep divisions between East and West Germany and post-World War II experiences that are fundamentally different.

The federal government must shoulder much of the blame for the increase in right-wing violence. It disregarded warnings that East Germany was too burdened by its own problems to take on responsibility for asylum seekers and assigned asylum seekers to the East long before the necessary infrastructure had been created. In their eagerness to reduce the strain on West Germany by transferring asylum seekers to the East, the German government failed to make a realistic assessment of the ability of local authorities to protect foreigners.

The German government has failed to guarantee the safety of foreigners living in East Germany. It has been slow to recognize the weakness of the East German police and their need for backup, additional training and modernized equipment.

Finally, government officials have failed to address the underlying economic and social problems that have contributed to the dramatic rise in anti-foreigner violence, and instead have used the violence to further the political goal of a restricted right to asylum. The never-ending debate on a constitutional amendment restricting the right to asylum stirs the emotions of the German population and has the effect of diverting attention away from the enormous costs of unification. Furthermore, responding to violent attacks on foreigners by restricting the right to asylum gives the appearance that the government is caving in to the demands of right-wing extremists.

The German government has also failed to investigate adequately the response of the police and local officials and to take the necessary disciplinary measures to address police failure. Repeatedly referring to police response as primarily the responsibility of the states, the federal government has failed to live up to its obligations under international law to protect persons against mob violence and discriminatory treatment.

*** * ***

From mid-May to mid-June 1992, Helsinki Watch sent a fact-finding mission to Germany to investigate the increase in violence against foreigners. A Helsinki Watch representative visited numerous asylum shelters to speak with residents, as well as the German staff. Interviews were conducted with many dozens of foreigners who had been victims of right-wing violence. Representatives also spoke with refugee organizations and those fighting racism in Germany, as well as with police and government officials. Helsinki Watch conducted interviews in Berlin, Bonn, Dresden, Frankfurt/Main, Frankfurt/Oder, Leipzig, Magdeburg, and Schwerin. The following report sets out the background to the latest violence in Germany. It focuses primarily on violent attacks in the former GDR, but some information is included on West Germany as well.¹ The report also attempts to document the failure of the police to respond in an appropriate manner when foreigners' safety is in jeopardy, as well as the government policies that have contributed to the crisis.

Violent attacks against foreigners continue with no sign of decreased frequency or intensity. Helsinki Watch will continue to monitor closely anti-foreigner violence in Germany, the government's response. Helsinki Watch plans to issue further reports on this topic.

BACKGROUND

Prior to the fall of 1989, there were 191,190 foreigners living in the German Democratic Republic, comprising 1.2 percent of the population.² Eighty percent of these foreigners came from five countries: Vietnam, Poland, Mozambique, the Soviet Union and Hungary.³

Most of these foreigners were contract workers brought to the GDR as part of inter-governmental agreements between the GDR and other socialist states. When the GDR collapsed and shortly thereafter began the process of reunification, the majority of these individuals returned to their homes. Of the approximately 20,000 that remain, many are unemployed and ultimately may be forced to return to their native countries. Advocates for the rights of foreigners are trying to obtain permanent residence for these

individuals, many of whom have lived in East Germany for many years.

Prior to unification, there were very few asylum seekers living in East Germany. Although many leaders in the East protested, West Germany succeeded in including a provision in the Unification Treaty establishing a formula for assigning asylum seekers to the East. The Unification Treaty established a quota system for the assignment of asylum seekers to the eastern states based on the distribution of the population.⁴

Twenty percent of all asylum seekers were to be sent to the states of the former GDR based on each state's population. The remaining eighty percent were to be dispersed among the western states.⁵

The Unification Treaty entered into force on October 3, 1990, and, theoretically, asylum seekers could have been assigned to the East immediately thereafter. However, the first refugees were not sent to the East until December 1990, because there were no asylum shelters or personnel.

Once the first refugees arrived in the East it became clear that the eastern states were simply not prepared for this new responsibility. Many refugees complained about the primitive conditions in the East, the lack of heating, scarce health care, dearth of personnel trained in asylum procedures and few translators.

Refugee organizations called on government officials to postpone sending foreigners to the East. Herbert Leuninger, spokesperson for the refugee organization Pro Asyl, stated that "Before asylum seekers are distributed to any of the new federal states, humane accommodations must be guaranteed."⁶

Almost immediately after the first refugees arrived in the East, they began to flee from their assigned shelters and return to West German refugee intake centers (these individuals are referred to as double-refugees). The double-refugees told horror stories of physical attacks by local skinheads and daily verbal abuse and discrimination by the local population and administrative officials. The following sworn statement by a Somalian refugee is typical:

On the evening of December 21, 1990, I and my brother Abdi Karim, as well as two other Somalian citizens, were waiting at the train station in Fürstenwalde. We wanted to go to Berlin. About 9:50 p.m. fifteen people, most of whom were teenagers, appeared at the train station, and began to insult and threaten us. Some in the group were armed. One person from the group destroyed a windowpane in the Fürstenwalde station with a (club). One of our companions suffered an injury on the hand because of the splintering glass.

A few minutes later, four youths came onto the station platform and one of them started to attack me with a gun. He aimed the pistol directly at my head and began to insult me. Finally, we were taken into the personnel quarters of the station by the person on duty. From there we notified the police, but they never appeared.⁷

Some refugee organizations condemned the German government for placing political considerations before the safety of the refugees being sent to the East. The Frankfurt Refugee Board stated that:

Reports from refugees make clear that: . . . Anti-foreigner tendencies in large portions of the population and daily attacks by right-wing groups on their shelters, threaten the

refugees. Yet no one seems to feel responsible for guaranteeing effective protection for the victims. . . . The Frankfurt Refugee Board considers the hasty distribution of a fifth of all the asylum seekers that arrive in the Federal Republic of Germany to the former GDR as irresponsible. We view it as part of a general strategy to scare off foreign refugees, when human beings that come here in search of protection from persecution are subjected to such a situation.⁸

As it became clear that the eastern states were not only unprepared for the influx of refugees, but that foreigners were faced with daily threats to their physical safety, refugee groups began to protest strongly against assigning refugees to the East. For example, in a letter to the then-Federal Interior Minister, Wolfgang Schäuble, the Berlin Refugee Board stated:

We are deeply disturbed by the sometimes massive physical attacks on refugees in the [eastern] states that are a result of racist and anti-foreigner sentiments. Some of the refugees do not leave their lodging for days at a time because they fear attacks. The security and physical integrity of the refugees must be achieved here.⁹

Initially, government officials insisted that all refugees who had fled their quarters in the East had to return. However, as the reports of right-wing extremist violence, of the firebombing of refugee shelters and of physical injuries accumulated, refugee organizations succeeded in convincing the government to allow double-refugees to remain in the West. For example, refugee groups in Frankfurt were able to reach an agreement with the Hessen state government to allow double-refugees to remain temporarily in the intake center in Schwalbach near Frankfurt.

Approximately six hundred refugees who had returned to the state of Hessen from East Germany were ultimately allowed to stay in Hessen. After much negotiating, in April 1991 the state government agreed to allow them to stay until February 1992. However, by the summer of 1992, refugees were being transferred to the East as a matter of course. Those refugees who continued to flee the East were forced to return to their assigned shelters.

Bernd Mesovic, who works with the refugee division of the Workers Benevolent Society (Arbeiterwohlfahrt) in Frankfurt, believes that the decision to send refugees to the East contributed to violent attacks as in Hoyerswerda.¹⁰ Mr. Mesovic told Helsinki Watch:

The distribution of refugees to the East went too fast. There was no thought, no overall concept, no organization. These refugees were viewed as solely a problem of order by the authorities. They were worried about protecting the German population from the foreigners. It was only later that they realized that it was the foreigners who needed protection. . . . The speed with which reunification and these transfers occurred contributed to the violence. The population was unprepared for the refugees. They were too preoccupied with themselves. The problems were obvious. Predictable. It was clear that their security could not be guaranteed. But the government sent them anyway.

GROWTH OF RIGHT-WING EXTREMISM

Germany has experienced a dramatic increase in violence against foreigners. It has also experienced a growth in members of right-wing extremist organizations and political parties. For the first

time since the end of World War II, the Federal Office on the Protection of the Constitution (hereinafter "BfV") has reported that right-wing terrorism poses more of a threat than left-wing terrorism in Germany. "Officials in Bonn now consider the far right a bigger threat to internal security than leftist groups such as the Red Army Faction, and its forerunner, the Baader-Meinhof gang."¹¹

As of December 1991, there were seventy-six right-wing extremist organizations in the Federal Republic of Germany. According to the BfV, there were 39,800 members of these organizations, including 4,200 skinheads. An additional two hundred individuals of right-wing orientation were not members of any organization.¹² The BfV reported that, not only had the absolute number of right-wing extremists increased, but their willingness to use violence to achieve their aims had also grown. The BfV estimated that 4,200 (1,200 in the West; 3,000 in the East) skinheads are willing to use violence.¹³

By September 1992, Ernst Uhrlau, head of the BfV for the city state of Hamburg and an expert on right-wing extremism, reported that he estimated 60,000 right-wing extremists in Germany. Mr. Uhrlau expressed fear that Germany would continue to experience a dramatic rise in right-wing extremism for the foreseeable future. As he stated:

The themes of the 1990s will be right-wing extremism, xenophobia, nationalism and self-absorption. The violence is increasing constantly . . . More than twenty percent of the younger generation sympathizes with the right-wing parties. Once they have established themselves, they will change the society, although with the opposite goals, more significantly than the leftists of 1968 ever hoped.¹⁴

Initially, government officials referred to the violence against foreigners as unorganized and lacking any supra-regional coordination. However, reports from Rostock indicated that skinheads travelled to Rostock from several cities in West Germany, and that leaders were communicating via portable phones. Hans-Ludwig Zachert, a representative of the Federal

Crimes Bureau (Bundeskriminalamt, or "BKA"), concluded that the violence (in Rostock) had been organized and centrally directed.¹⁵

Experts also fear that right-wing extremists are increasingly prepared for armed struggle. Mr. Uhrlau stated in an interview with *Der Spiegel* that "Last week in Mülheim and Bonn, radicals fired on refugee shelters with live ammunition and practice grenades. I fear that soon these weapons will be used to attack people as well."¹⁶

Right-wing political parties such as the Republicans, the National Democratic Party of Germany, and the German People's Union have made significant electoral gains in the last year. The Republican Party, whose leader is a former trooper in the Nazi Waffen SS, won nearly ten percent of the votes in western Berlin (8.1 percent for East and West Berlin combined) in May 1992. Previously, in April, approximately three-quarters of a million persons voted for the ultra-right parties that had campaigned with anti-foreigner slogans in the state parliamentary elections in Baden-Württemberg (the Republicans won 10.9 percent) and in Schleswig-Holstein (the German People's Union won 6.3 percent).¹⁷

Opinion polls also show that a growing number of Germans believe that their lives and well-being are threatened by the presence of foreigners in Germany. For example, after the violent events in Rostock,

an independent poll of two thousand German citizens, selected equally from East and West Germany, revealed that 25 percent of those questioned considered the slogan "foreigners out" wholly or largely justified. Thirty-seven percent believed that "Germans must defend themselves against foreigners in their own country." More than half of those questioned supported the maxim "Germany belongs to Germans."¹⁸

* * *

Many Germans are struggling to explain this dramatic increase in right-wing extremism and xenophobia. The complete economic collapse in the former GDR, with resulting high unemployment and economic insecurity, is clearly a contributing factor. The unemployment rate has risen to fifteen percent in the East, with unemployment in areas such as Rostock even higher.

Some experts emphasize the dramatic social and political upheaval experienced in the East over the last two years, leaving many East Germans disoriented and angry, and feeling like unequal partners in the united Germany. The authors of a recent research project on xenophobia in the former GDR stated:

The most important reason given by our experts is the change in the economic and social situation that is connected to uncertainty, disorientation, and fears for the future, and leads to foreigners being viewed as competition. Furthermore, some experts suspect that foreigners are serving a scapegoat function, in that they are held responsible for the general economic and social problems. Still others see in the xenophobia a certain ventilation function: one's own fear and insecurity is compensated by aggression against weaker persons.¹⁹

Similarly, a report prepared by the Alliance 90/Green Party in the state parliament of Sachsen-Anhalt, explained:

The adults have absolutely no interest at the moment in dealing with [the youth], because they are trying to deal with themselves. In this situation, right-wing ideologies provide orientation. From the GDR times, they are used to having someone tell them what to believe. Especially from right-wing groups, I hear over and over again: "Everything was much better before." They mean the time under socialism. There were clear rules, and one knew exactly what would happen if they were violated. Social differences were not so great. Unequal treatment and inequality play an important role in the right-wing scene. They themselves feel like foreigners in Germany.²⁰

In this context, heated debates about the number of foreigners in Germany and the need for new restrictions on Germany's asylum law have contributed to a tense situation throughout the country.

Those who claim that right-wing extremism is mainly a result of the dramatic increase in asylum seekers in Germany are ignoring the facts. In many East German cities the number of foreigners has actually decreased due to large numbers of foreign guest workers returning to their home countries. For example, in the East German city of Magdeburg, the city with the largest number of registered right-wing attacks in the state of Sachsen-Anhalt, the number of foreigners has declined:

May 1990	9,200 foreigners
June 1991	2,294
January 1992	1,400

As one author reported:

The tendency for xenophobia to increase as the number of foreigners decreases applies for all of Sachsen-Anhalt. As of October 3, 1990, there were 30,000 foreigners living in Sachsen-Anhalt. By mid-1991 there were only 12-14,000. Xenophobia is not a problem that actually has to do with foreigners. It is an expression of the problems Germans are having with themselves.²¹

What is more, a study by the Central Institute for Youth Research in Leipzig found that in the summer of 1990, in other words before a single asylum seeker was sent to East Germany, forty percent of East German youths found foreigners bothersome; twenty-five percent wanted to force foreigners out of the country, and twenty percent were willing to act personally to see that foreigners were not allowed to remain in Germany.

What is more difficult to explain is the dramatic increase in violence occurring in West Germany as well. While some perpetrators of anti-foreigner crimes in the West are also unemployed, others are from well-to-do families and do not have economic concerns. Sociologists report that support for the far right is increasing within all socio-economic levels of the society. Many suspect that latent xenophobic tendencies among segments of the West German population are now emerging, encouraged by the success of right-wing extremists in the East.

VIOLENT ATTACKS AGAINST FOREIGNERS

Statistical Overview²²

According to the Federal Crimes Bureau (Bundeskriminalamt, hereinafter "BKA"), 2,370 crimes motivated by anti-foreigner sentiment were committed in Germany during 1991. The BKA defines such crimes as

crimes against persons whereby the perpetrators oppose such persons' right to remain in the area where they live or in the whole Federal Republic of Germany because of their nationality, ethnic origin, race, skin color, religion, philosophical perspective, descent or outward appearance.²³

According to government officials, there were 338 cases of arson, 219 cases of physical injury, and 1,813 cases of property damage, threats, slander and "propaganda-crimes" against foreigners. Three deaths were reported in 1991.²⁴ There are no comparable statistics on violence against foreigners in 1990 because the systematic registration of crimes against foreigners only began in 1991. Nevertheless, BKA representatives interviewed by Helsinki Watch reported that 1991 figures are estimated to be eight times higher than those of the year before. As of August 1992, Neo-nazis had already committed 970 violent attacks, resulting in seven hundred injured and ten dead.²⁵ This number is significantly higher than the comparable figure for the same period in 1991, when a disproportionate number of crimes against

foreigners occurred during the late fall (for example, there were 904 attacks in October 1991).

Most of the press attention, both in Germany and abroad, has focused on the high visibility attacks in the former GDR. However, attacks against foreigners occur frequently in the West as well. A representative of the BKA reported to Helsinki Watch that in absolute terms "the number of violent acts against foreigners is at least as frequent in the West as in the East."

Nevertheless, there is a qualitative and quantitative difference between the violence in the two parts of Germany. For example, of the 338 cases of arson reported by the BKA, 27 percent (91 cases) were committed in the East. Similarly, thirty-five percent (77 cases) of the physical attacks against persons occurred in the East. Given that East Germans make up only twenty percent of the total German population, and that East Germany has a much lower foreigner-to-German ratio, the most serious crimes are occurring disproportionately in the East.²⁶

In the five states of East Germany, with a population of 16.9 million Germans and 150,000 foreigners, there were 168 serious attacks on foreigners (ratio 1:892). In the states of West Germany, with a population of sixty-two million Germans and 4.8 million foreigners (ratio 1:12,340), there were 389 serious attacks. "The probability of becoming the victim of racially

motivated violence was twenty times greater in Saxony-Anhalt in 1991 than in Nordrhein-Westfalen, the state with the largest absolute number of serious attacks on foreigners."²⁷

Case Studies

The number and brutality of right-wing attacks against foreigners is most vividly evidenced by the testimony of the victims themselves. The following cases are only a few of the many reported to Helsinki Watch.

- **Hoang Thi Vinh, a Vietnamese living in Dresden, was at home on the night of September 11, 1991. She was six months pregnant at the time. Shortly after her husband left the apartment at about 5:30 p.m., three men wearing masks broke down the door. Ms. Hoang reported to Helsinki Watch that "I tried to cry for help but one of them covered my mouth. They beat me on the head, the arms and the stomach. They shot at me with a gas pistol. They pulled out my hair. No one helped me. The neighbors looked on and listened. Maybe they were afraid. After the skinheads left, the neighbors called the police."**
- **The events in the town of Hoyerswerda were the first to catch the attention of the world press. From September 18 - 23, 1991, crowds of skinheads, along with many local citizens, gathered in front of a shelter for approximately 150 foreigners (mainly from Vietnam and Mozambique). Right-wing youths used clubs, stones and molotov cocktails to attack the shelter, trying on several occasions to storm the building. They were supported and encouraged by the local population. Nguyen Hiep Duc, a Vietnamese worker, reported:**

On Friday evening (September 20, 1991) thirty skinheads suddenly appeared in front of our house with other radical youths wearing bomber jackets and face masks. They attacked our house with stones, flare guns, and tear gas and smashed several windows....

On the afternoon of September 21, all women and children were evacuated from the building. However, the attacks continued and, in fact, became increasingly violent over the next three days. Another resident of the shelter, a 24-year-old Bangladeshi, reported to Helsinki Watch:

The last two days were increasingly dangerous. More and more people were coming from other towns to participate. All day, and especially at night, we heard shouting and stones being thrown at the windows. At one point, molotov cocktails were being thrown by a group of about forty teenagers, but no one was arrested. Instead, we were told by the police to stay in our rooms.

Finally, on September 23, 1992, all foreigners in the shelter were evacuated. Mr. Nguyen continued:

The transportation left at 7:40 p.m. and had to drive through the crowd of neighbors who were cheering loudly and in a truly festive spirit. Our vehicle was showered with stones and a Vietnamese friend of mine was seriously injured in the eye from glass fragments from the bus window. . . . We were driven in the bus to a place forty minutes from Pirma and very cut off. Hardly anyone cared about us when we arrived there and without having had anything to eat and without shelter, we slept in the open air. We were still filled with fear and panic and totally exhausted.

- **On September 19, 1991, in the West German town of Saarlouis, a refugee shelter was firebombed. Samuel Yeboah, a 27-year-old from Ghana, died in the fire, and two Nigerians were severely burned. On October 3, 1991, in the West German town of Hünxe, two Libyan children were severely burned after a firebomb was thrown through the window of their bedroom and set on fire the bed where the children were sleeping.**
- **Vu Xuan Ke, a Vietnamese living in Leipzig, was attacked in his apartment on November 13, 1991, by a gang of skinheads and continues to suffer physical symptoms. He reported to Helsinki Watch:**

I saw (through the peephole) approximately ten skinheads with masks standing at the door and on the steps. They had metal sticks and knives. I was terribly afraid. They were insulting me and shouting "foreigners out. You must die." Then they began kicking in the door. I saw that the door was coming off the hinge and felt that they were really going to kill me. . . . I tried to hide myself on the balcony. They came out on the balcony and stabbed me in the head. I tried to climb down the balcony, but fell from the third story onto the cement below. I was bloody and had broken my leg in three places. I tried to crawl to a bush to hide and I called in German for help. No one came. But the skinheads came downstairs and three of them stabbed me in the leg. They had a special knife that was serrated and took out lumps of my flesh. Then I fainted.

Since the attacks began in Rostock on August 22, right-wing extremists have carried out a nightly rampage of violent attacks on foreigners throughout Germany. The following are two of the more serious attacks:

- **In the town of Halle, a private apartment in which Vietnamese were living was firebombed. A 26-year-old Vietnamese woman who was five months pregnant suffered serious burns. • In the West German town of Hemsbach, "a four-year-old boy and a six-year-old girl, both refugees from fighting in the Balkans, were severely burned by a firebomb hurled by Neo-Nazis."²⁸**
- POLICE FAILURE TO PROTECT FOREIGNERS**

The Police Failure to Intervene

The police in East Germany have been unable or unwilling to guarantee the safety of foreigners living within their jurisdiction. The shocking failure of the police in Rostock to intervene when Vietnamese were trapped in a burning building is only the most recent in a long series of police failures to protect foreigners in danger.

Helsinki Watch received numerous complaints of police passivity or lack of concern for the safety of foreigners. Foreigners, as well as Germans working in refugee shelters, reported that local police frequently failed to provide adequate protection when foreigners are threatened. The following allegations are typical and were repeated in every city visited in East Germany.

- **A Liberian refugee living in Leipzig reported that "the attacks are so frequent, I think the police are bored with all our calls for help. They do show up, but usually an hour or so after everything is over. The police station is only a few minutes away by car, but they never respond quickly."**
- **Tamara Henschel, a German supervisor of a home for Vietnamese in East Berlin, stated that "over the last year the windows of the home were broken over and over again. The police always came too late. Repeatedly, we have the feeling that the police are uninterested in protecting foreigners. They just aren't present when the violence occurs."**
- **A German supervisor of an asylum shelter in Frankfurt/Oder reported that "the refugees come here to escape the violence in their own countries and find similar violence here. The police provide no protection for us. The police have told me before that I picked a very unfortunate time to call them, and they could not come to the shelter. They showed up when the skinheads were no longer here. It was an outrage."**

Both Germans and foreign refugees referred to a distinct lack of motivation on the part of the police. As one refugee stated:

It is not a matter of ability, but of motivation. The local police are not motivated to protect us against their neighbors. They are, however, quite able and willing to respond when there is a disagreement between foreigners in the shelters.

Similarly, a Ghanaian worker who has lived in Leipzig for many years asked:

Why can't the police protect refugee shelters when they are being attacked? They arrive after everything is over. Although they are only five minutes from our place, it took over an hour for them to respond to our call. But if there is internal conflict between foreigners in

the shelter, the police are there immediately.

Death of Amadeu Antonio Kiowa

Amadeu Antonio Kiowa, a guestworker from Angola, was murdered in the town of Eberswalde during the night of November 25, 1990. A group of skinheads marching through the town and shouting anti-foreigner slogans made their way to a disco where foreigners were known to meet. When the owner learned that skinheads were heading toward the disco, he decided to close early.

The Africans who had been inside left the establishment and ran from the oncoming skinheads. They could not escape. One Angolan was seriously injured with cuts to the face and back. Another was hit over the head with a baseball bat.

Amadeu Antonio was surrounded by approximately fifteen skinheads who were wearing masks to hide their identity. These assailants severely beat and kicked him until he fell to the ground. One of the defendants in the trial testified that "the [skinhead] with the hat said, 'He is still breathing' and jumped with both feet on the head of the Negro. I told him he should stop the jumping. I had enough, I told him, and I left." Amadeu Antonio died three weeks later without ever regaining consciousness.²⁹

During the attack on Amadeu Antonio, three armed police officers were watching from a distance. They had followed the mob to the disco, but had kept their distance. One of the policemen testified at the trial that "I immediately called both of my colleagues back, because I wanted to prevent their getting into any conflict with the group." According to *Die Zeit*, a witness testified that she had heard one of the policemen say, "I am not doing anything for an African. I won't risk my own life."³⁰

An investigation into the failure of the three policemen to provide assistance to Amadeu Antonio and his companions was begun by the Prosecutor's office in early July 1992.

Attack on Asylum Shelter in Hoyerswerda

In Hoyerswerda,³¹ the police were fully aware that a group of approximately twelve skinheads were heading toward the asylum shelter, shouting racist slogans. As they reached the shelter, they began to throw stones. Police witnesses at the trial of several of the skinheads testified that the police had observed all of the mob's activities that afternoon. One police officer testified that two police cars followed the group to the asylum shelter, but they made no attempt to intervene. When the police finally called for back-up, the situation had already escalated, and the asylum shelter had already been damaged. The police back-up arrived four hours later.

Violence in Rostock

The police response during the recent violence in Rostock is perhaps the most vivid example of the failure of the police to provide protection for foreigners in its jurisdiction.

On August 22, 1992, right-wing skinheads gathered in front of a complex for foreigners, including an asylum shelter and a home for guestworkers, in the Lichtenhagen section of Rostock. Over the next two days, the number of skinheads grew, as did the number of onlookers and sympathizers from the town. Reports estimate that there were approximately 150 skinheads and some five hundred sympathizers

during the first days. They gathered each evening in front of the shelter, threw stones, molotov cocktails, shouted anti-foreigner slogans, and fought the approximately 150 local police who had been sent to protect the shelter. During the first two nights, over 100 policemen were injured from the fighting.

By August 24, Rostock politicians decided that the two hundred people, largely Romanian Gypsies, living in the shelter should be moved. These asylum seekers were packed onto buses and transported to other shelters in the area. However, approximately 150 Vietnamese guestworkers who lived in a building next to the shelter were not moved.

During the afternoon of August 24, large numbers of right-wing skinheads gathered in front of the complex. Throughout the day, radio reports indicated that more violence was expected in Rostock. Thomas Euting, a television reporter for the news program Kennzeichen "D," arrived at the scene at approximately 7 p.m. and was an eyewitness to the events that followed. He told Helsinki Watch:

There were approximately 200-300 police officers in front of the building. These were the ones that were visible. I learned later that other police troops were stationed further away, out of sight. There was no tense atmosphere. The police were talking with the demonstrators. We went into the house to conduct interviews.

After the interviews, at approximately 9:30 p.m., I looked out the window of the [seventh floor] and saw to my shock that the police had withdrawn from the area and were stationed on the hill, at some distance from the building. I could see their blue flashing lights, but they did not come closer. The house was surrounded by right-wing skinheads and others who were throwing molotov cocktails and trying to storm the building.

By this time, the building was burning from the molotov cocktails and the house was filled with smoke. The fire department arrived at the scene between 9:35 and 9:50 p.m.³² However, they were not able to approach the building because they were attacked by the rioters. The police did not intervene to protect the firefighters, and the firefighters withdrew after approximately ten to fifteen minutes.

During this time, those trapped in the building made repeated attempts to reach the Rostock police, but the line was always either busy or out-of-order. Finally, Thomas Euting called his wife in Berlin. At 9:59 p.m., Mrs. Euting reached the Berlin police who then contacted the Rostock police department.

The Vietnamese guestworkers, the television crew and several others, including the Commissioner for Foreigners for Rostock, were trapped in the smoke-filled building. As the skinheads fought their way up through the building, those trapped inside fled to higher and higher floors. They made their way out onto the roof and gradually were able to climb down over fences and balconies to safety. Dr. Wolfgang Richter, the Commissioner for Foreigners in Rostock, brought the women and children to safety in a neighboring building. At 10:30 p.m., Dr. Richter made an emergency call to the Fire Department. His call was recorded by the Fire Department:

Pay attention, I will explain it to you very calmly. Mecklenburger Allee 19, the home of the Vietnamese. There are 150 people, 150 Vietnamese, there. The police have withdrawn. The rioters have set the house on fire. The gases are already rising, and they are fighting up through the building floor by floor. I already informed Police Inspector Witten-Klein [forty-

five minutes ago. But nothing is happening. The Fire Department must come immediately, and very many police. The people are about to die.

By 11:10 p.m., all of those trapped in the building had made their way to safety. The police moved in at 11:20 p.m.

Interviews conducted by the ZDF (Zweites Deutsches Fernsehen) team after the events revealed that the police had been ordered to arrive at the scene of the violence at approximately 5:30 p.m. and that between 500-600 police had been on the scene from that time on. As Thomas Euting told Helsinki Watch:

I asked one of the policemen why they had not intervened. Surely, he had seen what was happening. He told me that he had personally seen everything, the fire, the people attacking the building. But there had been no order to move in.

There were local police, as well as federal border guards (Bundesgrenzschutz), in Lichtenhagen during the violence. According to Thomas Euting:

The BGS were excellently equipped. They had all the up-to-date riot gear. But the local police were very poorly equipped, with thick shields that they could not see through. That these police were so poorly protected even after three days of rioting, that is the domestic political scandal.

Two investigations are now under way to determine why neither the local nor the federal police responded in Rostock.³³ As of September 11, the Prosecutor's Office in Rostock had received thirty-two complaints from Vietnamese and German citizens regarding the police and Minister of Interior's response.

The state parliament for Mecklenburg-Vorpommern set up a special committee to investigate the events in Rostock. Mr. Euting was not optimistic that this committee would prove satisfactory:

Such committees rarely name those responsible. There are too many political interests involved. This was made especially clear to me when the federal parliament called the ZDF crew to Bonn on August 31 to report on what we had seen in Rostock. I thought they would want to hear from us regarding the details of what we saw and that they would want to demonstrate the chain of responsibility. Instead, the members of parliament had lost interest in the violence and were already focused on the asylum debate.

The state government of Mecklenburg-Vorpommern responded poorly to the crisis. Although government officials had been warned by Dr. Richter of the likelihood of violence against foreigners long before the first attacks occurred, the government did not respond.³⁴ Still, it is difficult to explain how anyone could have been surprised by the violence in Lichtenhagen after two days of rioting there. Instead of taking a firm stand against the extremists, Minister President Bernd Seite defended the Rostock rioters saying, "they are in no way anti-foreigner, but they are not prepared to accept the abuse of the right to asylum."³⁵

The Minister of the Interior, Lothar Kupfer, added:

When two hundred asylum seekers have to live together [with Germans] in a very tight

space, this unleashes aggression in the German neighbors. Most of them have long forgotten how they stood in the harbor and looked longingly after the ferry: distant lands, wide oceans, dark-skinned women. When one day [these people] camp in front of an overfilled shelter, take care of personal needs behind the wild rose bushes, and throw their garbage on the rotting playground and then beg on top of it, the longing for foreign lands is over.³⁶

What is more, the state government did not seem prepared to admit that terrible mistakes had been made. Interior Minister Kupfer claimed that the police should be thanked for the fact that no asylum seeker was harmed in the violence in Lichtenhagen, completely ignoring that 150 Vietnamese guestworkers had been trapped in the house. Dr. Richter angrily stated:

I asked Kupfer how he could talk like that. How could he claim that the police fulfilled their duty to protect life, when everyone knew that there were Vietnamese living in the house [next to the shelter]. After that we talked for over an hour and a half. At the end, he said he thanked me for the discussion because he had learned things that he had never really known before. And then this person appeared before the parliament on Friday and never mentioned one word about the Vietnamese. He was clearly lying.

Since the events in Rostock, attacks against foreigners have been carried out on an almost nightly basis and have reached a new intensity. In many of these attacks, the police have been accused of not intervening to protect the foreigners under attack.

The Failure to Investigate

Helsinki Watch has also received reports of improper police conduct in the investigation and documentation of crimes against foreigners. Numerous reports indicate that the police do not take seriously complaints by foreigners who have been crime victims. Allegations of police misconduct range from refusing to file a complaint on behalf of a foreigner, failing to inform victims of their rights, to failing to interview witnesses and conduct a thorough investigation of the crime.

Attack on Nguyen Hwa Ngi

Helsinki Watch interviewed a thirty-four year old Vietnamese worker who was severely injured by skinheads in Dresden. Nguyen Hwa Ngi was waiting for a streetcar at approximately 11 p.m. on June 4, 1990. Mr. Nguyen told Helsinki Watch:

I wasn't paying attention to the others standing around me, but I noticed a group of skinheads coming up. Suddenly, one hit me in the face. I was shocked and couldn't see. I felt the others hitting me with their fists and kicking me. I fell down and fainted. . . . The next thing I remember was waking up in the hospital.

Nguyen Hwa Ngi suffered ruptured intestines and a fractured skull. He spent eight months in the hospital. Almost two year after the attack, he cannot carry anything heavy and is malnourished because he has difficulty eating.

The police visited him on three or four occasions while he was in the hospital. However, they

apparently never conducted an investigation into the crime. When the Commissioner for Foreigners for the city of Dresden, Maria Schifferdecker-Adolf, contacted the police about six months after the crime, she was led to believe that the police officers had prepared a file of the case. Almost a year later, she was informed that there had been no investigation because Mr. Nguyen had not filed a complaint. Further inquiry revealed that the police had failed to tell Mr. Nguyen that he had the right to make a complaint. According to Mr. Nguyen, "The police came again and again. They asked me why I was beaten and how. But they never mentioned the need to file a complaint."³⁷

On April 10, 1992, Mr. Nguyen filed a complaint with the police. When he received no word from the police, Ms. Schifferdecker-Adolf contacted the police and was informed that they could not find his complaint. In the meantime, research by the prosecutor's office revealed that the police had never filed a report of the case, making it even more difficult to conduct an investigation. Without the police report which should have been taken immediately after the attack, Mr. Nguyen had little hope that the case would ever be solved. In addition, Ms. Schifferdecker-Adolf stated, "The police failed quite clearly. They did not give Mr. Nguyen any instructions. They did not question any witnesses from the area. Quite simply, they failed him."

Death of Jorge Gomondai

Jorge Gomondai, a 28-year-old from Mozambique, was thrown from a moving streetcar in Dresden by a group of skinheads on the night of Easter Sunday, April 28, 1991. He died a week later of his injuries.

Two women who were passing by in a taxi were eyewitnesses to the crime. While the taxi driver called the police, these two women provided first aid. The police, however, failed to note the identities of the two eyewitnesses or of the skinheads who were still sitting in the streetcar some distance from the scene of the crime. Although the witnesses pointed out the skinheads, the police did not think it important to take any information regarding their identities because they thought Mr. Gomondai was drunk.

Only after Mr. Gomondai died a week later did the police begin to make efforts to find the witnesses to the crime. Ultimately, an advertisement was placed in the newspaper and the two women came forward. The police were severely criticized in the press for their failure to quickly and thoroughly investigate the crime, making it more difficult to identify the assailants.

Ms. Schifferdecker-Adolf agreed:

The police response was shameful. This is an example of a case that probably could have been prosecuted quickly. But the police failure has resulted in the case still not being brought to trial. Nevertheless, an investigation by the police department concluded that the police officers did not breach their duty.

Attack on Chernobyl Children

Forty Soviet children suffering from radiation illness related to the Chernobyl accident were sent to the town of Zittau for several weeks of vacation. Shortly after their arrival, on May 10, 1991, a group of skinheads shouting "Foreigners Out!" and throwing stones, stormed the house. The Soviet chaperon was

injured and windows were broken. The children were saved by soldiers from a nearby army barrack who heard the cries for help.

The police arrived half an hour later, but they did not arrest the perpetrators who were still at the scene. The police felt it unnecessary to make any arrests because the situation had returned to normal and the Soviet chaperon did not file a complaint. The police also failed to take the statements of eyewitnesses.

Several days later, the Prosecutor's Office, which had learned about the incident from the local newspaper, began an investigation. Prosecutor Jürgen Schär stated that the police had not responded in a suitable or prompt manner. Nevertheless, no police officer has been disciplined.

*** * ***

As is clear from the discussion above, the failure of police officers to investigate such crimes makes it difficult to find the perpetrators and to prosecute them effectively. Without the careful investigation and documentation by police officers at the scene of the crime, many cases are almost impossible to prosecute.

The failure of the police to properly conduct an investigation also gives many foreigners the impression that the police are not interested. Because of the growing suspicion of the police among foreigners, it is increasingly difficult to determine the real number of attacks on foreigners, unless they result in serious injury. Many of those interviewed by Helsinki Watch expressed little confidence in the local police and a preference for not going to the police unless they had sustained serious injuries. As a Vietnamese woman from Leipzig explained:

I don't trust the police anymore. We make complaints and there is no result. I feel that they are indifferent when foreigners are the victims and it is a waste of our time. Among my friends and colleagues, someone is attacked almost every day. We don't even think about it much unless someone is really seriously injured.

Similarly, a Vietnamese man from Berlin stated:

I was chased by a gang of skinheads with chains and clubs. I tried to enter a bus, but the driver wouldn't open the door. Five of the skinheads knocked me down and took my money. .. I didn't file a complaint. So many Vietnamese have been attacked and the police didn't do anything. I didn't believe they would help, so it seemed like a waste of time.

This growing impression that the police do not support the foreigners or provide them any protection is especially unfortunate given that many foreigners are reluctant to file a complaint against a German under any circumstances. Many foreigners in the former GDR expressed a sense of insecurity about their status in Germany, fear for their futures, and a desire not to draw attention to themselves. Some foreigners also expressed the concern that making a criminal complaint is a sign of disrespect for the host country where they are guests.

Police Discrimination and Unequal Treatment

Helsinki Watch also received reports that police officers are likely to suspect foreigners of having committed a crime, or having instigated the crimes committed against them. For example, a young Indian living in Schwerin reported that he was severely beaten by five teenagers after leaving a party. He told Helsinki Watch:

They said, "You dirty foreigner. Get out." Then one pushed me from behind and I fell. All I remember is everyone beating me, kicking me. Then I was unconscious. When I woke all my belongings were gone and I was bleeding severely. All in all, I lost about four liters of blood. . . . The police took me to the station and asked me many questions. I was bleeding very badly and told them I needed to see a doctor. They called a doctor, but he came to check how much I had been drinking. I sat there for two hours without medical assistance. . . . Later I found out that the police had made up answers to the report. They thought I was drunk because I cannot speak very good German. . . . I later submitted an additional statement in German. The problem is how police think about foreigners. From my experience, I don't think that police care much about a case where a refugee is the victim.

Police Brutality

Helsinki Watch received several complaints of police brutality toward foreigners.³⁸ For example, two Vietnamese who were sleeping in the bedroom of their home in Leipzig reported that their door was kicked in by two policemen who had been called to their home to investigate a brawl between other foreigners living in the building.

Two policemen . . . pulled us out of the bed and dragged us into the hallway of the building, where they hit us on the back with rubber clubs. Then they ordered us to stand against the wall with our hands raised. Again we were hit with rubber clubs. We were forced to stand on broken glass and injured ourselves on our feet.³⁹

Factors Influencing Police Response

Local police forces in the former GDR are confronted with a host of new and complex problems that affect their performance. They are burdened by the legacy of the communist regime, its structures and laws, and are still coming to terms with the new West German laws, as well as with the changed political situation. They have been subjected to a review process regarding their professional and political integrity that many view as humiliating. Frequently, the police are left on the frontline of the battle against right-wing extremism without the training, equipment or political support that they need to do their job. And they undoubtedly share many of the fears and resentments of their friends and neighbors who grew up in the German Democratic Republic.

All former GDR police officers have been undergoing reviews for their political and professional integrity. In some states, these reviews are still under way. Those officers found to have been politically compromised and closely connected to the former communist government are fired. This review process introduces an element of uncertainty and insecurity into the lives of East German police officers. As Mr. Christofferie, the Deputy Chief of Police for Leipzig, told Helsinki Watch:

Every policeman is uncertain. They are still under review and have not been officially given [civil servant status]. Many simply haven't heard one way or other about the result of

their review. We haven't had an employment contract since April 5, 1991. All of this, and much more, produces much professional and social uncertainty for individual policemen.

In some states, however, most of the former East German police officers have been absorbed into the newly-organized police force. For example, in Rostock, reports indicate that some ninety percent of the force is from the former GDR forces. In any case, the East German police force is a discredited institution closely associated with the former regime. As such, it has little support from the population.

Currently, East German police officers earn only sixty percent of the salary earned by their West German colleagues. This also tends to produce a great deal of resentment and poor motivation on the part of the police.

The former East German police are poorly trained compared to their West German counterparts. They are especially inexperienced in the area of crowd and riot control because such activities were not common in the former GDR. Furthermore, any surveillance and efforts to fight extremist groups would have been the responsibility of the Ministry for State Security ("Stasi"). A representative of the German Police Union (Deutsche Polizei Gewerkschaft) in Göppingen told Helsinki Watch:

the East German police are still undergoing the most basic training. We plan to begin training for responding to calls such as those in Rostock, but I think it could be two to three years before the police in the East are really prepared for such events. It is a total outrage how the police are not educated and not paid enough. They are totally overwhelmed.

The police in the East are also poorly equipped. Many foreigners reported that the police in their area had no working short-wave radios, proper protective gear for wearing during riots, or properly-functioning transportation. Over the last year, many departments have received new equipment, transportation and uniforms. Nevertheless, as was the case in Rostock, many police officers are still lacking the most up-to-date equipment. In Rostock, eyewitnesses reported that the local police were equipped with heavy shields that were not see-through, while the federal troops were equipped with the most modern riot gear. As the representative from the DPG told Helsinki Watch:

a large majority of the police who were injured during the Rostock riots were the local police. So many police got hurt because of inadequate protection. Some police officers have filed suit against the state government and the Minister of Interior for exposing them to physical harm.

Since unification, police training programs have been underway in East Germany. Each state in the East has an exchange arrangement with the police force of a western state. So, for example, the chiefs-of-police in many departments are temporarily from the West. Furthermore, many East German police are being sent for extended training programs to West German police departments. Most police officers are still trying to familiarize themselves with the new, formerly West German, laws.

Due to training programs that require that police officers work in the West for a period of time, as well as to the review process and the resulting firings or resignations, many police departments in the East are severely understaffed. In Mecklenburg-Vorpommern, there are still seven hundred unfilled positions for police, and in Sachsen there are three thousand. Similarly, reports indicate that, at the time of the

attacks in Rostock, the police department was understaffed. The force was supposed to have 5,300 officers, but six hundred were away at training courses in western Germany and seven hundred slots have gone unfilled for budget reasons."⁴⁰

Although it is difficult to quantify, there is surely a degree of sympathy among the police for right-wing extremists. Many Germans argue that none of the factors discussed above should stop any police officer standing in front of a burning building where 150 people are trapped from taking proper actions.

Some also question the portrayal of police as incapable of responding, pointing to the very aggressive police response to leftist demonstrations against racism. For example, thousands of people demonstrated in Rostock against Neo-Nazi violence on the Saturday following the firebombing of the refugee shelter. Police conducted a massive pre-demonstration search of cars and buses. Over 1,000 demonstrators were reportedly held up for hours "by strict police checks on the Autobahn leading to Rostock, delaying the protest march for about four hours."⁴¹ Over three thousand police were on duty, "backed up by helicopters, water cannons and armored personnel carriers. . . . At least sixty-five people were arrested during the morning checks, police said. Weapons, including molotov cocktails and knives, were seized from the buses of the left-wingers."⁴² These efforts were intended to prevent outbreaks of violence between leftist and rightist demonstrators. However, some wondered why similar searches had not been conducted during the previous weekend when hundreds of right-wing youths travelled to Rostock to demonstrate.

It is not surprising that some police officers share the values and xenophobia of their neighbors. Similarly, it is not surprising that the police, as members of the community in which they work, are reluctant to risk their lives for foreigners who are only in the area for a short time. As Mr. Christofferie said:

I won't exclude the possibility that some police are racist. Given the heated discussion about asylum, everyone is surely thinking about all these foreigners who are arriving. It was not smart or reasonable to send them here so soon. Police are not against every foreigner, but only certain ones like the Sint/Roma and black Africans.

The police force's failure to respond gives right-wing youths the impression that the police department does not pose an obstacle to their plans. Mr. Godemann, a supervisor in an East Berlin shelter, reported that "I saw a young Vietnamese woman attacked by some boys. After they stole her handbag, I followed them and started up a conversation. They made clear that they believe the police are on their side." Barbara John, the Commissioner for Foreigners for the Senate of Berlin, stated:

We have heard that the police hesitate and that sometimes they even sympathize with the violent youths. At the moment, the police have no authority or respect. The situation would improve tremendously if these right-wing extremists knew that the police had no weaknesses and could be counted on to respond promptly.

Some Germans suspect that the repeated failure of top state government officials to take appropriate action during right-wing attacks on foreigners is a political maneuver. A state constitutional court judge told Helsinki Watch:

The explanation for why the police didn't respond, and for why the chief of police didn't order the police to respond, and for why the Minister of the Interior has supported the

chief of police in this matter, can only be explained by their not wanting foreigners. This was their way of saying to the federal government, "if you send us these foreigners, this is what will happen." There is no interest on their part in protecting foreigners.

Dr. Richter, the Commissioner for Foreigners in Rostock, also suspects that the violence was not the result of negligence but of intentional misconduct.

If one looks clearly at the [police's] intervention from today's perspective and considers all the factors, one has to reach the conclusion that this many mistakes could not have occurred through carelessness alone. It looks as though it had to be intentional. . . I know that what I am saying is frightful. I am afraid of it myself. I am afraid to think this through to its logical conclusion. I avoid it, in part, because otherwise I would have to give up my work in this public office.⁴³

Despite the many problems facing the East German police, it is difficult to assess to what extent the police are capable of responding appropriately to violent attacks against foreigners when they are not given the necessary orders to do so. In several cases reported to Helsinki Watch (e.g., Rostock), the police were never given orders to move in. In such cases, the responsibility must go to the top leadership who fail to make clear what the police officers' objectives are and what means are permitted in dealing with crisis situations.

EFFORTS TO PROSECUTE VIOLENCE AGAINST FOREIGNERS

Many right-wing extremists convicted of crimes against foreigners have received surprisingly light sentences considering the serious nature of the crimes committed. Some Germans monitoring the response of the judiciary have criticized the courts for applying a double-standard to political crimes committed by right-wing and left-wing extremists. In some cases, judges have exhibited a great deal of understanding for the social and economic factors that may motivate right-wing defendants, while disregarding the political background of the cases.

The mild treatment of right-wing defendants by the courts has a special tradition in Germany. During the Weimar Republic, defendants convicted of the murders of leftists such as Rosa Luxemburg often received the minimum sentence. Similarly, Hitler and his accomplices were given the minimum sentence of five years confinement for their attempted beer hall putsch in November 1923. Hitler was paroled after serving only six months of his sentence. Germany's historical experience underscores the importance of dealing firmly and even-handedly with politically motivated crimes and the dangers of failing to present an adequate deterrence for right-wing extremists.

Many of the cases that have been brought to trial result in what appear to be very light sentences.

- **Five of the defendants in the murder of Amadeu Antonio,⁴⁴ were given sentences of two to four years. The maximum sentence that they could have received was ten years. The sixth defendant, considered to have been the leader, will be tried separately. The Commissioner for Foreigners for the state of Brandenburg, Almuth Berger, criticized the sentences as "clearly too light." He said he was worried they might be interpreted as encouragement for attacks against foreigners."⁴⁵**

In most of the cases, however, the sentence is suspended with probation.

- **Ten right-wing skinheads who brutally beat a pregnant Vietnamese woman⁴⁶ were sentenced to between five months and two years. The majority of the sentences were suspended with probation.**
- **Three people accused of assault during the violence in Hoyerswerda⁴⁷ were given suspended sentences for their role in the violence. "Judge Heinz Jockers described the men's behavior as brutal, but ruled their crime was a common one rather than one with political overtones. 'It is not our job to judge the political dimension of what happened,' the judge said."⁴⁸**
- **Four skinheads between the ages of nineteen and thirty-seven were given up to a maximum sentence of two-years for the assault on two Algerians on August 30, 1991, in the eastern part of Berlin. The four skinheads were convicted of robbery and dangerous bodily injury. The judge suspended their sentences and put them on probation.**

In many cases, the sentences appear to be quite low considering the serious nature of the crimes for which the defendants have been convicted. Eberhard Seidel-Pielen, who recently published a book on right-wing extremism in Germany, stated in a recent article:

The balance sheet in the last months on court decisions against the right-wing perpetrators from Hoyerswerda, Bremen, Frankfurt on the Oder, and elsewhere show . . . much understanding for the perpetrators, little for the situation of the victim. A much repeated justification for the many suspended sentences with probation goes like this, "We are dealing with spontaneous, drunken youthful first-time offenders who turn to violence because of the absence of leisure activities and the general lack of hope." One thing that is not considered is the ideological underpinnings of the terrorist attacks, in other words, the connection between the xenophobia that is encouraged by politicians and the type of victim juveniles choose. In the face of escalating right-wing violence, the justice system has made a remarkable about face. While cases of disturbing the peace and squatting in the 1970s and 1980s were interpreted as crimes of terrorist organizations and part of a worldwide conspiracy, these days great sensitivity is exhibited to individuals' psychological state, even when the connection with organized right-wing extremist organizations is obvious.⁴⁹

Nevertheless, some lawyers interviewed by Helsinki Watch were hesitant to condemn the sentences as too low. They emphasized that most of the defendants are below the age of twenty-one, and therefore fall within the juvenile justice system. The juvenile justice system shifts the focus from the victim to the defendant, and its primary goal is reeducation. During such trials, the judge focuses on the family lives of the defendants, whether they are employed or not, and how they view their future prospects. Another factor is the fact that many of the defendants are first-time offenders.

The majority of the defendants are found to have been under the influence of alcohol at the time the violence occurred. As lawyer Reinhard Jäger told Helsinki Watch, "Being under the influence of alcohol is considered grounds for reducing the sentence in Germany." It is clear in many of the decisions that the defendants' alcohol intake was considered by the court during the sentencing process.

* * *

Since the attacks in Rostock, new calls have been made for stronger sentencing guidelines to assist judges in cases of right-wing extremism. Others have called for quicker investigation and prosecution of these crimes. In addition, the Federal Minister of Justice, Sabine Leutheusser-Schnarrenberger, stated that she will consider legal action against bystanders who supported the mob.⁵⁰

THE GOVERNMENT'S RESPONSE

While the police have failed on numerous occasions to provide adequate protection for foreigners, much of the responsibility for their repeated failure lies with the German government.

The government failed to recognize the serious danger posed to foreigners in the former GDR. It must share the responsibility for having transferred asylum seekers to the East in the first place. As discussed earlier, many Germans were already protesting against the provisions of the Unification Treaty that required the former GDR to accept twenty percent of all asylum seekers. Furthermore, the government has been slow to acknowledge the growing crisis in right-wing violence against foreigners in the East, choosing instead to focus on ways to reduce the number of foreigners in the country as a whole.

Asylum seekers were sent to the East too soon, long before their security could be guaranteed. According to Dr. Beate Winkler, a representative in the Federal Commission for Foreigners (Ausländerbeauftragte der Bundesregierung), the German government also contributed to a rise in xenophobia because:

Refugees were sent to the East far too early. The whole GDR was falling apart at that point and then came the foreigners. Too much was being expected of the people of the GDR.

And yet the German government insisted on this solution, in part, because of the political benefits of reducing the number of asylum seekers being sent to the western states.

The government clearly failed to make a realistic assessment of the capability of the East German police to provide adequate protection for those foreigners sent to the former GDR. Furthermore, the government, both state and federal, has failed to give clear and unwavering support for the protection of foreigners, and on occasion government officials have indicated that they understand the many reasons Germans might have for such violence. The signals sent to the police forces in these towns and cities have been ambiguous. In talking about the police failure to respond to a skinhead attack in the city of Magdeburg in May 1991, Hans-Jochen Tschiche, a speaker for the Green Party/Alliance 90 in Sachsen-Anhalt, stated:

Police officers are servants of the democratic state and must be supported by the politicians so that they can fulfill their duties. The politicians have created a climate that cannot be improved solely by police measures.

The state must show that it is determined and prepared to prevent criminals from committing violent acts, and to criminally prosecute them. Whoever beats people to the

point of hospitalization and beats people to death, belongs behind bars. I am absolutely unable to understand that the police failed to respond promptly to this skinhead attack. I have to accuse the Minister of the Interior Perschau that he did not prepare the police psychologically or politically for the situation and had down played the situation for months. Sometimes one has the suspicion that the police have been given the impression that they are dealing with misdemeanors by unorganized youths.⁵¹

The Asylum Debate

Until the dramatic events in Hoyerswerda in October 1991, the federal government had taken few steps to address the growing problem of xenophobia in Germany. Even after Hoyerswerda, the government's first response was to call a special closed meeting of government representatives to discuss an amendment to the German constitution guaranteeing the right to political asylum. Although the federal and state governments have condemned violence against foreigners, this condemnation occurs in the context of calls for restricting the number of asylum seekers in Germany. By linking these two issues, the government fails to acknowledge the severity of the crimes being committed against foreigners by German citizens. Instead it subtly shifts the focus and the blame to the foreigners themselves.

The demand for a constitutional amendment diverts attention from the social, economic and political costs of the unification process and embodies the promise that all will be well if fewer foreigners are allowed into Germany. By so doing, the government does not distance itself clearly from the goals of the extremists. Instead, the government gives the impression that it is caving in to the extremists' demands. Dr. Gregor Gysi, on behalf of the Party for Democratic Socialism (PDS), issued a statement on August 26, 1992, condemning the violence in Rostock and stating:

Whoever constantly speaks of a "refugee flood" and of "asylum abuse"; whoever pushes for the expedition of deportations and the amputation of the right to asylum gives the neo-Nazi terrorists the impression that he pursues the same goal -- only the means differ.

Many Germans believe that the government's constant focus on the asylum issue in fact contributes to the increase in xenophobia in Germany. For example, Dr. Beate Winkler stated:

There is no doubt that the government has contributed to the heated atmosphere by irresponsibly using the issue of asylum for political purposes. Generally speaking, politicians use the asylum debate to avoid looking at their own political failures.⁵²

Germany's asylum law is considered among the most liberal in Europe. Article 16(2) of the German Constitution (Grundgesetz) states that "Persons persecuted on political grounds shall enjoy the right of asylum." This provision was made part of the 1949 constitution, in part, as Germany's penitence for World War II.

Article 16 has long been the focus of a national debate. However, since the fall of the communist regimes in Eastern Europe resulted in a dramatic increase in the number of individuals applying for asylum in Germany, the debate has grown extremely heated. In 1991, 256,000 persons applied for political asylum in Germany. In 1992, the figure has already reached over 280,000, and is expected to rise to nearly 500,000 by the end of the year.

Social Democrats have long opposed an amendment to Article 16. However, after the events in Rostock, the SPD leadership indicated their willingness to amend the constitution, which they will debate at their party conference in November. This decision leaves open the possibility that there will be a constitutional amendment as early as the end of 1992.

The federal government has also failed to take steps to defuse the tense situation by reducing the backlog of over 360,000 asylum cases that are not being processed at the moment due to understaffing at the responsible federal agency.

Measures Taken by the Government

On October 17, 1991, in response to the violence in Hoyerswerda and thereafter, a joint conference of the Ministers of the Interior and Justice for the states, as well as the Federal Ministers of the Interior and Justice, was held to discuss a package of new measures. The Ministers agreed to, among other things:

Strengthen police measures for the protection of homes for foreigners and German emigrants (returning to Germany), intensify the exchange of information between the security forces and improve the sources of information by using the officials from the Office for the Protection of the Constitution. In addition, to prevent further crimes in this area, there will be a higher risk for the perpetrator through the consequent and prompt handling of the crime and, thereby, the deterrent effect will be increased.⁵³

The Working Group for Internal Security within the Ministry of Interior recommended to the state and federal governments that the following additional steps be taken to combat right-wing criminality: a) establishing a special commission/group for investigating such crimes; b) keeping back-up police forces prepared for response; c) starting a police information campaign for the public; and d) improving the material security of the shelters.

The federal government also devoted additional financial resources to combat racism and xenophobia among German youth. For example, the Federal Ministry for Women and Youths devoted twenty million Deutsch Marks for the years 1992 to 1994 to combat xenophobia. For 1992, the federal budget includes 50 million DM for a special political education project for East German youth.⁵⁴

*** * ***

While the government has initiated several important measures to address the growing violence, it is too little and too late. Further measures are required to protect the life and security of foreigners living in Germany.

The Committee for Domestic Affairs of the German parliament held a special session on August 31, 1992, to discuss the recent violence in Rostock and other cities. However, the parliamentarians were unable to reach agreement about additional measures needed to prevent further violence and ended the session without making recommendations.

Chancellor Helmut Kohl's administration did state on September 19th that it would increase the

police presence in the East and send federal troops to back up local police departments. The government also indicated that it would establish a special hotline for reporting anti-foreigner violence.⁵⁵

The Ministry of the Interior announced on September 17, 1992, that it had concluded a treaty with Romania that will speed the deportation of Romanians whose asylum applications have been rejected.⁵⁶ This step was widely viewed as targeting the Romanian Gypsy population which comprises sixty percent of all Romanian asylum seekers.⁵⁷ "Chancellor Helmut Kohl's Government, in its initial comments to the press, is presenting the plan as an important step toward ending the current outbreak of violence against foreigners."⁵⁸

This most recent effort by the German government to shift the blame to the victims of the violence and to single out a group of foreigners that is especially hated and misunderstood is a clearly discriminatory measure that violates Germany's obligations under international law.⁵⁹ Furthermore, it achieves exactly what the right-wing extremists were fighting for, and gives the impression that the government is caving in to right-wing demands for a "foreigner-free Germany." **THE LEGAL STANDARD**

Germany has international obligations to protect all inhabitants from violence, including a specific obligation to protect minorities from violence due to racial or ethnic identity:

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone without distinction as to race, color, or national origin, to equality before the law, notably in the enjoyment of . . .

The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group, or institution...⁶⁰

The participating States...commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property....⁶¹

Similarly, these fundamental rights are recognized in the German Constitution (Grundgesetz):

The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.⁶²

Everyone shall have the right to life and to physical liberty.⁶³

All persons shall be equal before the law. . . . No one may be disadvantaged or favored because of his sex, his parentage, his race, his language, his homeland and origin, his faith, or his religious or political opinions.⁶⁴

When fundamental rights are violated, the state is obligated to provide an effective remedy.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.⁶⁵

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violates his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.⁶⁶

The conduct of police officers is prescribed by international standards:

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.⁶⁷

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.⁶⁸

The government has a responsibility to guarantee that police officers have the proper training and equipment to fulfill their obligations. Specifically, the government has an obligation to make clear to police officers which means may be used to prevent the commission of a crime, and the circumstances under which particular means are appropriate. In an effort to avoid the use of lethal force:

Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations . . . [I]t should also be possible for law enforcement officials to be equipped with self-defensive equipment such as

shields, helmets, bulletproof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.⁶⁹

Governments should make human rights and civil rights training a part of any police training program:

In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behavior, and the methods of persuasion, negotiation and mediation, as well as to technical means. with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programs and operational procedures in the light of particular incidents.⁷⁰

In cases where allegations are made of police misconduct, it is the duty of the responsible authorities to conduct an investigation and carry out the appropriate disciplinary measures.

Every law enforcement agency ... should be held to the duty of disciplining itself ... and the actions of law enforcement officials should be responsive to public scrutiny.⁷¹

The legal duty owed to foreigners seeking political asylum in Germany is regulated, not only by Article 16 of the German Constitution, but also by Germany's obligations under international law:

Everyone has the right to seek and to enjoy in other countries asylum from persecution.⁷²

No discrimination of any kind is allowed to interfere with the right to seek asylum.⁷³

CONCLUSIONS

Germany is facing an emergency situation. It is the government's duty to find the means for protecting all individuals, regardless of their race or national origin. Helsinki Watch recognizes that the fall of the GDR and the rapid reunification process have confronted the states of East Germany, as well as the federal government, with a host of new and difficult problems. Helsinki Watch also recognizes the difficulties faced by the East German police, the lack of training, experience and resources.

There is, however, no justification for forcing foreigners seeking political asylum to go to East Germany, and then failing to intervene on their behalf when they become the target of right-wing violence. Rostock is only the most recent and vivid in a long history of violence and brutality that has occurred in Germany since the end of 1989. The German government cannot claim that it did not have prior notice.

The responsibility for the police failure ultimately rests with the highest levels of the state and federal government. Germany has the economic resources. It has the technology and know-how to respond to violent outbreaks such as in Rostock. What appears to be lacking is the political will.

The violence in Germany and the inability of the government to respond effectively should be troubling for all Germans. Right-wing extremism poses serious threats, not only for foreigners who are the current victims, but for the rule of law and democratic principles on which the Federal Republic of Germany has been based. The increasing violence in Germany jeopardizes stability and democratic freedoms that could have negative consequences for the civil rights of all those living in Germany.

Helsinki Watch calls on the German government to use all the resources at its disposal to protect the safety and security of foreigners living in the country. The German government must find the political courage to adopt the necessary measures for the protection of foreigners even if such measures are unpopular with some segments of the German population.

The government must seek creative solutions to the crisis that are in compliance with its obligations under international law. These solutions must strengthen the democratic process and respect for human rights and civil liberties, instead of jeopardizing the important gains that Germans have made over the last decades.

RECOMMENDATIONS

Helsinki Watch urges the German government to:

- **Guarantee the security of all persons from violence or bodily harm whether inflicted by government officials or by any individual or group.**
- **Investigate the failure of the local and state authorities to intervene to protect foreigners under attack. Make the findings of this investigation public, including the names of any individuals who failed to give orders or to carry out orders to protect individuals threatened or under attack.**
- **Review current procedures for accountability to ensure that accountability is through well-defined channels that are vigorous and publicly recognized, and that do not tend to intimidate complainants.**
- **Conduct a thorough investigation regarding the capabilities of the local East German police to respond promptly to protect the homes of asylum seekers. Should it be determined that local authorities are not currently capable of guaranteeing the safety of all foreigners, the German government should:**
 - a) Provide backup police assistance from other states and/or federal troops,**
 - b) Halt all assignments of asylum seekers to the eastern states until such time as their safety can be guaranteed,**
 - c) Provide additional training in riot control for local police officials,**
 - d) Expedite the allocation of additional riot gear, communications equipment and protection gear for the eastern police.**
- **Prosecute to the fullest extent of the law all parties to crimes against foreigners, including those who incited violent action or were accomplices in the perpetration of crimes.**
- **Create special prosecutorial units trained in the prosecution of hate crimes.**
- **Create a special centralized documentation center for violent attacks motivated by xenophobia.**
- **Provide special sensitivity training for police in dealing with foreigners, including educational programs about the local conditions and political persecution faced by many asylum seekers in their home countries.**
- **Encourage police officers to have closer contact with refugee organizations, staff of asylum shelters and the refugee population, to share ideas about ways to protect the foreign population.**
- **Review sentencing guidelines related to violent attacks on foreigners.**
- **Make increasing efforts to recruit police officers from different ethnic and national backgrounds.**

- **Adopt specific anti-discrimination legislation to protect those foreigners living in Germany from discrimination based on, among other things, race, ethnicity, or national origin.**

1. The terms "East Germany," "eastern states," as well as "the former GDR" are used interchangeably to refer to the geographical area that was formerly the German Democratic Republic.

2. Statistisches Bundesamt nach Angaben des (DDR-) Ministeriums des Innern; reported in "Ausländerfeindlichkeit in der Ehemaligen DDR," Research project headed by Dr. Wilhelm Breuer (Cologne, December 31, 1990), p. 8.

3. *Ibid.*, p. 3. Of the five countries, 60,000 Vietnamese (31 percent of all foreigners) and 52,000 Poles (27 percent) represented the two largest groups.

4. Unification Treaty, Appendix I, Chapter II, (A) (II) (1) (b).

5. The following table sets out the percentage of asylum seekers each state is required to accept.

State	Quota post-unification	Quota pre-unification
Baden-Württemberg	12.16%	(15.2%)
Bayern	13.92%	(17.4%)
Berlin	2.16%	(2.7%)
Brandenburg	3.56%	(0 %)
Bremen	1.04%	(1.3%)
Hamburg	2.64%	(3.3%)
Hessen	7.44%	(9.3%)
Mecklenburg-Vorpommern	2.76%	(0 %)
Niedersachsen	9.28%	(11.6%)
Nordrhein-Westfalen	22.40%	(28.0%)
Rheinland-Pfalz	4.72%	(5.9%)
Saarland	1.44%	(1.8%)
Saxony	6.44%	(0 %)
Saxony-Anhalt	3.94%	(0 %)
Schleswig-Holstein	2.80%	(3.5%)
Thüringen	3.30%	(0 %)
	100.00%	(100.00%)

Documentation from the Frankfurter Refugee Board (Frankfurter Flüchtlingsbeirat), April 1991, p. 6.

6. "Flüchtlinge Auf Der Flucht Von Sachsen-Anhalt Nach Hessen," Pro Asyl press release, December 20, 1990.

7. Sworn statement by Mohamud dated January 3, 1991. Reported in the Documentation from the Frankfurt Refugee Board, p. 10.
8. Statement by the Frankfurt Refugee Board, dated March 1, 1991.
9. Letter to Interior Minister Wolfgang Schäuble from the Berlin Refugee Board, dated February 6, 1991.
10. See section on case studies below.
11. Steve Vogel and Kara Swisher, "Germany's Neo-Nazis Have to Take to Road," *The Washington Post*, August 16, 1992.
12. The comparable figure for 1990 is 32,300. This figure does not include membership statistics for East Germany.
13. It should be noted that, while most right-wing extremists who are considered violent are identified as skinheads, not all skinheads are violent or against foreigners. Especially in West Germany, some skinheads have formed groups against racism. The BfV statistic of 4,200 skinheads refers only to Neo-nazi skinheads.
14. "Anfang der Todesspur," *Der Spiegel*, Number 38/1992, pp. 30-1.
15. "Wachsende Anhaltspunkte für zunehmende organisatorische Ansätze in der gewaltbereiten Szene," Reuters-Germany news agency, August 28, 1992.
16. *Der Spiegel*, Number 38/1992, p. 31.
17. The respected research institute Infas reported a dramatic increase in the number of those willing to elect a party right of the CDU/CSU. Between March and August, when the Bonn asylum debate was being waged, those willing to vote for a party to the right of the CDU/CSU had increased from eight to twelve percent in the East, and from twelve to nineteen percent in the West. "Sinti und Roma nach Bonn," *Der Spiegel*, Number 37/1992, p. 33.
18. Results from an "Infas" opinion poll broadcast on September 4, 1992 on ARD television's morning show "Politogramm." Cited in Agence France Press, September 11, 1992.
19. "Ausländerfeindlichkeit in der Ehemaligen DDR," p. 57.
20. Eberhard Seidel-Pielen, "Marschiert die Jugend nach Rechts?" distributed by the Alliance 90/Green Party in the state parliament of Sachsen-Anhalt, June 1991, p. 24.

21. *Ibid.*, p. 27.

22. A note about statistics used in this report: It is difficult to compare the figures on crimes against foreigners given by different government agencies. For example, the BKA reports that there were 2,370 crimes motivated by anti-foreigner sentiment in 1991, while the Federal Office for Protection of the Constitution reports that there were 1,483 violent attacks by right-wing extremists during 1991, almost all against foreigners. These two agencies have different points of reference in studying crimes against foreigners, and they do not measure exactly the same phenomenon. What is more, these statistics change from week to week, even for previous months, because crimes are redefined based on new information that becomes available.

23. This definition was provided by representatives of the BKA during a meeting with Helsinki Watch on June 19, 1992. Although the definition focuses on "crimes against persons," statistics also include crimes against property.

24. The three deaths reported by government officials in 1991 are as follows:

Victim's Name	Country	Place of Death	Date
Jorge Gomondai	Mozambique	Dresden	March 31
Unknown	Angola	Friedrichshafen	June 15
Samuel Yeboah	Ghana	Saarlouis	September 19

Some foreigners, as well as members of the press, estimate that the number of attacks against foreigners and the number of deaths is much higher than reported by government officials. For example, *Die Tageszeitung* reported that there were an estimated thirty deaths of foreigners in Germany between the summer of 1990 and the summer of 1991. (*Die Tageszeitung*, November 9, 1991. See also, Bahman Nirumand, ed., *Angst vor den Deutschen*, Rowohlt Verlag, January 1992, p. 7.) The discrepancy in estimates apparently is attributable, at least in part, to different assessments of the perpetrators' motives for the crime. In addition, the BKA only reports on cases where a complaint has been filed with the police.

25. See interview with Ernst Uhrlau, head of the Hamburg Office for Protection of the Constitution, in "Anfang der Todesspur," *Der Spiegel*, Number 38/1992, p. 30.

26. The statistics on arson and physical attacks for the individual states are as follows:

State	Arson	Physical Attacks	
Baden-Württemberg	29	22	
Bayern	15	7	
Berlin**	4	0	
Brandenburg*	14	11	
Bremen	8	2	
Hamburg	3	2	
Hessen	22	16	
Mecklenburg-Vorpommern*	22	6	
Niedersachsen	41	16	
Nordrhein-Westfalen		100	53
Rheinland-Pfalz	9	9	
Saarland	3	5	
Sachsen*	32	20	
Sachsen-Anhalt*	17	27	
Schleswig-Holstein	13	10	
Thüringen*	6	13	

* States that were formerly in the German Democratic Republic.

**Berlin includes both the eastern and western sectors of the city.

27. Klaus Farin and Eberhard Seidel-Pielen, *Rechtsruck: Rassismus im Neuen Deutschland*, Rotbuch Verlag, Berlin, 1992, p. 43.

28. Marc Fisher, "Violence Against Foreign Refugees in Germany Shows No Sign of Abating," *The Washington Post*, September 15, 1992, p. A11.

29. Christoph Dieckmann, ". . . die ganzen Neger in der Stadt," *Die Zeit*, Number 29, July 17, 1992.

30. *Ibid.* See also the section concerning efforts to prosecute violence against foreigners for a discussion of the verdict in this trial.

31. See section on case studies.

32. This information is taken from a chronology prepared the same evening of the attack by Thomas Euting and two other members of the television team, who were also eyewitnesses to these events.

33. Helsinki Watch protested against the violence in Rostock and called on Minister of the Interior Rudolf Seiters to conduct an investigation of the police department's response to the events in Rostock. See letter attached as Appendix A.

34. Three weeks prior to the attack in Lichtenhagen, more than one hundred asylum seekers and Bosnian refugees had to be evacuated

from another shelter in Mecklenburg-Vorpommern because their shelter had been under attack for days by Neo-nazis and other sympathetic youths. *Die Zeit*, Number 36, September 4, 1992.

35. *Ibid.*

36. *Ibid.*

37. Helsinki Watch discussed this case with several lawyers who reported that the police have an obligation to investigate cases where a serious crime is committed, the crime is committed by two or more perpetrators, or where there is a public interest in having the crime solved. In other cases, the normal practice is to inform the victim that he or she has the right to file a complaint. These lawyers agreed that Mr. Nguyen's case should have been investigated with or without a complaint, and that, in any case, he should have been told that he had the right to file a complaint.

38. Police brutality is not solely a problem in the former GDR. Helsinki Watch has also received several reports regarding police brutality, especially against Africans, in such cities as Frankfurt am Main, Bremen and West Berlin. Furthermore, Amnesty International reported on June 11, 1992, that it had received reports that police officers in the West German town of Bremen "subjected detainees to: kicking; beatings, including with batons; and electric shocks, using a form of 'gun' which was applied to various parts of the body - including the face, back, stomach and genitals." That case is currently under investigation. ("Germany: Amnesty International Concerned at Reports of Torture of Asylum Seekers," EUR 23/WU 01/92, June 11, 1992.)

39. Torsten Rupprich, "Dein Freund und Helfer," *Die Tageszeitung*, April 17, 1991.

40. Stephen Kinzer, "German Unrest Expected to Bring Tightening of Law on Immigration," *The New York Times*, September 2, 1992.

41. Steve Vogel, "13,000 Germans Demonstrate Against Right Wing Violence," *The Washington Post*, August 30, 1992.

42. "Thousands Protest German Neo-Nazi Raids," *The New York Times*, August 30, 1992.

43. Stephan Lebert, "Die ohnmächtige Wut der Sünderböcke," *Sächsische Zeitung*, September 22, 1992.

44. See section on police failure to intervene.

45. Stephen Kinzer, "Light Sentences Against Germans Who Killed Foreigner Stir Debate," *The New York Times*, September 16, 1992.
46. See section on case studies.
47. See section on police failure to intervene.
48. Stephen Kinzer, "Germany Judge Frees Three in an Attack on Foreigners," *The New York Times*, March 1, 1992.
49. Eberhard Seidel-Pielen, "Täter wiegen mehr als Opfer," *Die Tageszeitung*, May 27, 1992.
50. Helsinki Watch strongly supports efforts to more adequately and effectively prosecute violent attacks against foreigners. However, Helsinki Watch distinguishes between acts that constitute a crime, and expression which falls short of incitement to illegal action. Helsinki Watch has adopted a formal policy on hate speech which, *inter alia*, states:
- Any restriction on the content of expression must be based on direct and immediate incitement of acts of violence, discrimination or hostility against an individual or clearly defined group of persons in circumstances in which such violence, discrimination or hostility is imminent and alternative measures to prevent such conduct are not reasonably available. For this purpose, "violence" refers to physical attack; "Discrimination" refers to the actual deprivation of a benefit to which similarly situated people are entitled or the imposition of a penalty or sanction not imposed on other similarly situated people; and "hostility" refers to criminal harassment and criminal intimidation.
51. "Marschiert die Jugend nach Rechts?" pp. 2-3.
52. Interviewed by Helsinki Watch representatives in Bonn on June 16, 1992.
53. Antwort der Bundesregierung auf der Kleine Anfrage der Abgeordneten Ulla Jelpke und der Gruppe der PDS/Linke Liste, Drucksache 12/1531, December 6, 1991, p. 2.
54. *Ibid.*, p. 12.
55. "Germany to Increase Anti-Riot Police in Eastern Cities," Reuters news agency, September 19, 1992.

56. For a discussion of the discrimination and persecution faced by Gypsies in Romania, see *Destroying Ethnic Identity: The Persecution of Gypsies in Romania*, Helsinki Watch, September 1991.
57. For example, see Stephen Kinzer, "Germany Cracks Down; Gypsies Come First," *The New York Times*, September 17, 1992; Ferdinand Protzman, "Germany Reaches Deal to Deport Thousands of Gypsies to Romania," *The New York Times*, September 19, 1992.
58. Ferdinand Protzman, "German Reaches Deal to Deport Thousands of Gypsies to Romania," *The New York Times*, September 19, 1992.
59. Helsinki Watch protested against this decision in letters addressed to both Chancellor Helmut Kohl of Germany and President Ion Iliescu of Romania. See letters attached as Appendices B and C.
60. United Nations International Convention on the Elimination of All Forms of Racial Discrimination, 1966, Article 5(b), signed by the Federal Republic of Germany on February 2, 1967 and ratified on May 16, 1969. See also the International Covenant on Civil and Political Rights (ICCPR), 1966, Articles 2 and 9, signed by the Federal Republic of Germany on October 9, 1968, and ratified on December 17, 1973.
61. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990), Paragraph 40.2, signed by
62. Grundgesetz 1949, Article 1(1).
63. *Ibid.*, Article 2(1).
64. *Ibid.*, Article 3(1) and (3).
65. The Universal Declaration of Human Rights, Article 8. See also ICCPR, Article 3.
66. Convention on the Elimination of Discrimination, Article 6. See also ICCPR, Article 26.
67. Code of Conduct for Law Enforcement Officials, Article 1.
68. *Ibid.*, Article 2.
69. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 2.

70. *Ibid.*, Article 20.

71. Preamble to the United Nations Code of Conduct for Law Enforcement Officials.

72. The Universal Declaration of Human Rights, Article 14(1).

73. *Ibid.*, Article 2.