

Parallel report on the 19<sup>th</sup>-22<sup>nd</sup> Report submitted by the Federal Republic of Germany to the UN Committee on the Elimination of Racial Discrimination (CERD) under Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (86th session):

**Institutional Racism as exemplified by the case of the terror group “National Socialist Underground” (NSU)**

**and necessary steps to protect individuals and groups against racial discrimination**

April 7<sup>th</sup>, 2015  
Berlin, Germany

Art. 1 of ICERD states that “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” constitutes racial discrimination.

The 19th - 22nd state report of the Federal Republic of Germany includes many measures to counter racism, anti-Semitism and xenophobia, but fails to identify and to report urgent need for action: There are structural defects within the security apparatus which cause racial discrimination and give rise to concerns of 'institutional racism'. Even though the report submitted by the Federal Republic of Germany discusses the “NSU”, it fails to address or even comprehend the broad picture of racial discrimination which this case exemplifies.<sup>1</sup> A critical assessment of these defects on the part of the Federal Republic of Germany is indispensable for the full compliance with its obligations pursuant to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

The “NSU”-complex highlights problems in the implementation of state obligations under ICERD concerning:

Article 2: Measures to be taken to eliminate racial discrimination

Article 4: Prohibition of racial incitement

Article 5: Equality in the enjoyment of rights

Article 6: Remedies for racial discrimination

Article 7: Education (concerning state authorities)

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<sup>1</sup> See CERD/C/DEU/19-22, D. Article 4, d, pp: 17-20.

## **I. Institutional racism as exemplified by the series of murders and bomb attacks committed by the NSU**

The Federal Republic of Germany claims to decisively prosecute racially motivated criminal offences. It also asserts that this includes the recurrent critical assessment of the investigation methods applied by the various agencies and the review of their collaborative investigation efforts. In this context, the Federal Republic of Germany claims that the discovery of the right-wing terror group "*Nationalsozialistischer Untergrund*" (National Socialist Underground / NSU) in November 2011 had entailed a critical evaluation of the previous investigations in this matter. In our opinion, this is not the case. This becomes apparent through the circumstances that led to the formation of the NSU, the way the police investigated the offences committed by the group and also through the insufficient manner in which the state subsequently reacted to these events and circumstances.

1. The racist and extremist right-wing terror group "National Socialist Underground" (NSU), which consisted of at least three members, is accused of having committed at least ten murders (nine of the victims had migration backgrounds and one murder victim was a policewoman without migration background) and three bombings. The first target was a restaurant managed by a proprietor with a Turkish migration background, the second was a grocery store owned by a person with an Iranian migration background, and, in the third attack, a nail bomb was detonated in a lively shopping street with many shops run by people with Turkish family biographies. The murders were committed between 2000 and 2007. The terror group funded itself by, for example, distributing an anti-Semitic board game, receiving donations from extreme right-wing circles and by committing at least 15 bank robberies. Also, state-funded neo-Nazi-informers working for the domestic intelligence agencies (*Verfassungsschutz*) supported the members of the terror group with money while they were living underground. The NSU revealed itself after a failed bank robbery on November 4<sup>th</sup> 2011. Two NSU-members, Uwe Böhnhardt and Uwe Mundlos, died immediately after the failed robbery, and the alleged third member, Beate Zschäpe, sent a video in which the group claimed responsibility for the crimes to various institutions (e.g. media, Islamic cultural centre). The video provides evidence for the perpetrators' racist motivation. Denoting the first nine victims as Turks, their very right to live was denied. The targeted execution of individuals and the bombings were intended to terrorise immigrants and to implement the Nazi-inspired, *völkisch*-racist ideas of the NSU. The NSU was able to carry out its actions during the period from 1998 to 2011 without law enforcement agencies even seriously investigating the option that neo-Nazis could be the perpetrators, and without having to fear any risk of being apprehended.

Together with four other defendants accused of having aided the organisation, Beate Zschäpe is currently on trial as the main defendant and has been indicted for the formation of a terrorist organisation, the murders and the bomb attacks. The security agencies claim that they were neither aware of the existence of the NSU, nor that they suspected racist motives for the crimes before the NSU revealed itself on 4th

November 2011. It was merely established as a fact that the nine migrants were murdered with the same weapon, a Česká 83, and that these murders thus constituted a series. However, none of the investigation agencies made a connection between the three bombings and the murder of a police officer and the (simultaneously) attempted murder of a second police officer. Furthermore, the 15 bank robberies were not identified as an additional series linked to the other crimes.

2. In its report, the Federal Republic of Germany claims that "the right-wing extremist background to the criminal offences did not become evident until after the NSU had been uncovered and the investigations previously pursued all possible indications [...]".<sup>2</sup> This claim is not correct. Corresponding indications prior to the NSU revealing itself had been ignored by the law enforcement agencies (cf. 3c) as they had been pursuing investigation approaches which had been strongly shaped by structural racism (cf. 3b - d).

On the basis of the measures that were implemented in the wake of the discovery of the NSU, the Federal Government of Germany also gives the impression that the only problematic aspects of the investigations were that the police and *Verfassungsschutz* agencies had not proceeded in a coordinated manner, that the exchange of data between these authorities concerning the right-wing scene had been deficient and that the insights into the right-wing scene had not been sufficient; accordingly, many measures which have been implemented in these areas as a reaction to the NSU are cited in the report (cf. 3e).

This account of the circumstances conceals institutional racism as a significant cause for the investigations into the individual actions of the NSU systematically being pursued in a false direction and for investigations being carried out against the victims and their families (cf. 3a).

The account of the circumstances expressed in the report not only contradicts the known facts as presented under 3), but also the findings of the 2<sup>nd</sup> NSU Investigation Committee of the German Federal Parliament (2. *Parlamentarischer Untersuchungsausschuss des Deutschen Bundestages zum Nationalsozialistischen Untergrund*). Even though it did not expressly state institutional racism as a cause, it did find that the investigations of the murders and of the bombings were not pursued in all directions. The summarising assessment of the police investigations is as follows: "Based on the available files, the committee has gained the impression that most of the investigators of the "Česká" murder series and of the bombings in Cologne not only focused the direction of the investigation on "organised crime", but also continued to maintain this focus when lead after lead in this direction failed to yield any results (...) In this case, an unbiased look at all of the victims in their entirety would certainly have merited investigations in the direction of a possible right-wing terrorist or racist background. The committee views the resistance with which the circle of investigators

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<sup>2</sup> Nineteenth - Twenty-second Report Submitted by the Federal Republic of Germany Under Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), page 18.

reacted to approaches to broaden the perspective and to realign the priorities of the investigation very critically because there were certainly grounds for pursuing other investigation approaches and for deferring the hypothesis "organised crime". The leads in this direction had been exhaustively investigated. The few features actually shared by all victims - profession, age, gender, foreign origin - did not put them in conflict with any known criminal organisation. Only a racist motivation for the crimes actually applied to all victims."<sup>3</sup>

3. The murder investigations concerning the ten murders and the three bombings were, in substantial parts, determined by institutional racism rather than neutral considerations on the basis of police tactics.

a) The NSU selected and murdered nine of its ten victims according to racist criteria. These murder victims were indeed part of German society, but were viewed as "foreign", and executed as "Turks".

Institutional or structural racism becomes apparent where institutions themselves adopt these racist attributions and cause systematic disadvantages to those people to whom these labels have been attributed. Institutional racism does not mean that each person working for this institution is personally pursuing racist intentions. Instead, racism has been integrated into routines and regulations that create this discrimination without the involved persons necessarily being aware of it. It thus constitutes "the collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin"<sup>4</sup>.

b) In their investigations of all nine murders committed against migrants as well as in the three bombings, the investigation agencies consistently investigated hypotheses according to which the victims became perpetrators because the investigators assumed that the perpetrators were also migrants who - just as the victims - were involved in organised crime and were active either respectively in drug dealing, gambling, the Mafia or a hitherto unknown criminal organisation. Before the seventh murder, racism was never considered by the individual murder divisions conducting investigations in various states (*Bundesländer*). In the wake of the eighth and ninth murder, a new operative case analysis (*operative Fallanalyse (OFA)*) concluded that, in addition to organised crime, "an attitude of hatred towards Turks" might also be a motive. However, this investigation hypothesis was only seriously pursued for few months<sup>5</sup>. On the day when the operative case analysis which had arrived at the conclusion that "hatred of Turks" is a conceivable motive was presented, a further case analysis was requested from the State Office of Criminal Investigation Baden-Württemberg due to

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<sup>3</sup> BT-Drs. 17/14600 (Federal Parliament - Printed Issue 17/14600), page 891.

<sup>4</sup> The Stephen Lawrence Inquiry, Report of an inquiry by Sir William MacPherson of Cluny (The MacPherson Report): Chapter 6.34 (Source: <https://www.gov.uk/government/publications/the-stephen-lawrence-inquiry>).

<sup>5</sup> Second operative case analysis (Zweite Operative Fallanalyse) of the LKA Bavaria of 9 May 2006, cf.: Beschlussempfehlung und Bericht des 2. Untersuchungsausschusses des Bundestages v. 22.08.2013, Drucksache 17/14600 (Decision Recommendation and Report of the 2<sup>nd</sup> Investigation Committee of the German Federal Parliament of 22 August 2013, Printed Issue 17/14600), page 560.

the discontent with this result<sup>6</sup>; in September 2006, this case analysis concluded that the motive was exclusively to be sought in organised crime<sup>7</sup>. Romani people were suspected as the perpetrators of the tenth murder in 2007. Employing substantial efforts, the investigations were conducted almost exclusively in this direction, but a racist motive was never considered and indications of possible connections to the nine murders committed against migrants were ignored. Therefore, assumptions generated by structural racism obstructed the view of the law enforcement authorities and prevented all-encompassing investigations.

c) While multiple leads indicating a racist motive were ignored, the investigations focused almost exclusively on the thesis that the perpetrators were migrants, or belonged to a minority group, and were to be found in organised crime.

In the course of the investigations, several victims and their relatives, as documented by the records, expressed the suspicion that the crimes may have had a racist motive.<sup>8</sup> These statements were made expressly, but they were either ignored, or the persons were even dissuaded without any attempt by the investigating murder division to examine this approach. Instead, the victims' families were subject to intensive criminal investigations. Relatives of the victims were accused in police interviews and in public of withholding information. The media strategy of the police included the repeated reiteration that the investigators had supposedly encountered a wall of silence in the victims' families, which was interpreted as an indication that they lived in a parallel society with a strong omerta-like code of silence.

Furthermore, witnesses at almost every crime scene described the alleged murderers as having a more "German" appearance, and provided descriptions which matched the alleged perpetrators Mundlos and Bönhardt. Nevertheless, these statements were either not pursued at all, or only pursued in a very superficial manner<sup>9</sup>. Conversely, any indication - even when they originated from unreliable informants - pointing towards perpetrators with a migrant background, Sinti and Roma or towards organised crime were pursued with vigour. For instance, for two years the police searched for a travelling "phantom-woman" on the basis of a false DNA-lead. In this context, the authorities informed the media about "investigations in the gypsy milieu". This alleged "hottest lead" pointed towards suspected "Sinti clans" and members of "mobile social groups such as Sinti and Roma, who are elusive".

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<sup>6</sup> Beschlussempfehlung und Bericht des 2. Untersuchungsausschusses des Bundestages v. 22.08.2013, Drucksache 17/14600, page 575.

<sup>7</sup> Operative case analysis of the Landeskriminalamt Baden-Württemberg of 30 January 2007.

<sup>8</sup> Operative case analysis of the Landeskriminalamt Baden-Württemberg of 30 January 2007, page 163, footnote 13.

<sup>9</sup> For example, in the case of the murder of Mehmet Kubasik on 4 April 2006, the most important witness consistently described the perpetrators as "Nazis" or "junkies", but the subsequent investigation reports only included "junkies". However, "Nazis" remained unmentioned in the reports, and this line of investigation was not pursued.

Notifications by investigating officers and witnesses concerning similarities between the perpetrators of the murders and the nail bomb attack in Cologne<sup>10</sup> as observed by witnesses also remained un-investigated due to the fact that these parallels did not match the thesis that these murders had been committed by migrant members of organised crime.

The abbreviation "NSU" was already used in the neo-Nazi scene in 2001 - that is almost ten years before the NSU revealed itself - when the "NSU" was thanked in a neo-Nazi publication for its donation.<sup>11</sup> Additionally, in 2010, the song "Döner Killer" by the music group "Gigi und die braunen Stadtmusikanten" celebrates the nine murders of migrants. Therefore, the neo-Nazi scene identified the murders as racist murders when the security agencies were still accusing the victims and their families instead of deploying their efforts to the search for neo-Nazis.

Apart from made-up suspicions there was no evidence for the thesis that the murders were connected to organised crime. Nevertheless, the migrant victims of the NSU were repeatedly accused of such an allegiance. Not only did this lead to the social stigmatisation of the victims and their families, it also prevented a comprehensive and conclusive investigation into the crimes.

Leads were not pursued because the racist motives of the perpetrators were systematically and impermissibly dismissed from the very beginning. Following up on the many witness statements describing Mundlos and Böhnhardt could have stopped the murder series at an earlier stage and could have saved human lives.

d) Institutional racism is also indicated by the fact that an external police assessment arrived at the correct conclusion concerning the racist motives behind the murders. Upon the request of the German investigation agencies, the FBI also compiled a profile of the perpetrator of the Ceská murder series in 2007. On the basis of the data provided by the German authorities, the FBI investigators concluded the following: "The offender is a disciplined, mature individual who is shooting the victims because they are of Turkish ethnic origin or appear to be Turkish. The offender has a personal, deep rooted animosity towards people of Turkish origin."<sup>12</sup> While the German police agencies were focusing on a criminal involvement of the victims, the American

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<sup>10</sup> In the murder case of Ismail Yaşar, a witness recognised in a film recording taken on the day of the bombing of the Keupstraße in Cologne one of the men whom she had seen in the proximity of the crime scene shortly before Ismail Yaşar was murdered. Even though the witness stated that the men had had a fair skin complexion, the officers apparently exclusively showed her photographs of suspects with a darker skin complexion. Cf. Abschlussbericht des "Untersuchungsausschuss Rechtsterrorismus in Bayern – NSU" (Final Report of the "Investigation Committee Right-Wing Terrorism in Bavaria – NSU"), page 141 ff., Drs. 16/17740 (Printed Issue 16/17740), [http://www.bayern.landtag.de/images/content/NEU\\_Drs\\_16-17740\\_NSU\\_FINAL\\_18072013.pdf](http://www.bayern.landtag.de/images/content/NEU_Drs_16-17740_NSU_FINAL_18072013.pdf)

<sup>11</sup> Cf. BT-Drs. 17/14600, page 274.

<sup>12</sup> Beschlussempfehlung und Bericht des 2. Untersuchungsausschusses des Bundestages v. 22.08.2013, Drucksache 17/14600, page 578.

investigators pointed in the right direction although the same information for the compilation of the profile was available to both sides.<sup>13</sup>

e) Racist thoughts were expressed openly in the NSU investigation. For example, an operative case analysis of the State Criminal Investigation Office of Baden-Württemberg of 30 January 2007 regarding the characterisation of the perpetrators of the murder series stated: "In light of the fact that homicide is placed under a strong taboo in our cultural sphere, it can be deduced that, with regard to his behaviour system, the perpetrator is situated far outside of the local system of norms and values."<sup>14</sup> A multiplicity of racist stereotypes and labelling is also found in the preliminary investigation proceedings of the murdered policewoman. For instance, an assessment of a psychologist is affirmatively reiterated in a report of the State Criminal Investigation Office of Baden-Württemberg in which a (falsely) suspected Roma is described as a "typical member of his ethnos", allegedly meaning "the lie is a central part of his socialisation".<sup>15</sup>

f) As opposed to the statements in the Federal Government's report, the criminal proceedings against Beate Zschäpe, among others, and the investigation committees did show that it was not the insufficient coordination between the *Verfassungsschutz* and the police, or the lack of insight into the right-wing scene that were causative to failing to detect the motive behind the murders and the bombings. Due to the fact that the clues indicating extremist right-wing perpetrators or racist motives were not pursued or were actively suppressed, it is not apparent how a more sophisticated form of coordination or an improved exchange could have prevented this situation. Moreover, the aftermath of the NSU-complex has indeed shown that the cooperation among the police agencies themselves and the coordination with the *Verfassungsschutz* agencies functioned very well when the issue at hand was not racism or right-wing extremism but the investigations into the domain of organised crime or into the domain which the *Verfassungsschutz* termed "foreigner extremism" ("*Ausländerextremismus*")<sup>16</sup>.

4. These aspects of the thought and operation structures which the investigators employed have not yet been expressly described by any of the parliamentary investigation committees as examples of open and structural racism, which in turn means that they have not yet been assessed and remedied<sup>17</sup>.

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<sup>13</sup> See reports in the German media, e.g. Spiegel Online, 23 April 2012:

<http://www.spiegel.de/panorama/justiz/ceska-morde-des-nsu-fbi-ging-von-auslaenderhass-als-motiv-aus-a-829270.html>. (03.04.2015).

<sup>14</sup> Report of the Landeskriminalamt Baden-Württemberg of 30 January 2007, page 162 f.; cf.: Beschlussempfehlung und Bericht des 2. Untersuchungsausschusses des Bundestages v. 22.08.2013, Drucksache 17/14600, page 575.

<sup>15</sup> Preliminary investigation proceedings of the murder of Michele Kiesewetter, StA (Public Prosecutor) Heilbronn, AZ. (File No.) 16 UJs 1068/07, Band (Volume) 2, Bl. (page) 14.

<sup>16</sup> BT-Drs. 17/14600, S. 994.

<sup>17</sup> On this matter, cf. the press release of co-plaintiffs (*Nebenklage* representatives) of 22 August 2013 concerning the publication of the "Beschlussempfehlung und Bericht des 2. Untersuchungsausschusses des Bundestages v. 22.08.2013". Source: <http://www.nsu-nebenklage.de/blog/tag/presseerklaerung/> (03.04.2015)).

Therefore, there is no indication to believe that the investigation agencies, to this date, are not carrying out one-sided investigations in other cases. On the contrary, an official report of the Baden-Württemberg State Ministry of the Interior of 31 January 2014 justifies the previously mentioned police report of 2007: "According to our status of knowledge and also from a retrograde perspective, the overall analysis in large parts, and despite the narrow data basis, realistically reconstructed the murders and arrived at the correct conclusions, for example, concerning the perpetrator's conduct". Even three years after the self-exposure of the NSU, the police apparatus of the State of Baden-Württemberg proves unable to exercise self-criticism. Subsequently, no official statement of regret was issued for the misguided investigations against Sinti and Roma in spite of the fact that the public prosecutor's office responsible for the investigations against the suspects finally closed the proceedings expressly on the grounds of their misguided nature. Nevertheless, the publicly stigmatised minority has not yet been rehabilitated, even though the Central Council of Sinti and Roma in Germany demanded a clear public statement. Additionally, the accusations according to which the victims were involved in organised crime have not been recanted. None of the dozens of police officers who have testified as witnesses in the NSU-trial in Munich since its inception in May 2013 have critically reflected upon their previous conduct. Instead, they have justified it despite the fact that the NSU was detected due to it revealing itself.

The suspicions against the victims and their relatives, the insinuation that they were involved in the murders or in organised crime were humiliating and hurtful, and have significantly damaged confidence in German authorities. Until now, too little consideration is attributed to the significance that the racist selection of the murder victims had for the victims, their relatives and the group with which the victims were associated. The fact that the investigation efforts were guided by prejudices and that the institutional racism of the state authorities remains unresolved hurts the victims, their relatives as well as the groups with which the victims were identified and which were at the focus of the prejudiced investigations (migrants, in particular Turkish migrants, and minorities such as Sinti and Romani) is yet to be acknowledged and remedied. Due to the fact that racism and institutional racism are not thematised, these people are left with the impression that the state does not sufficiently implement the rule of law for their protection. Therefore, the NSU-complex constitutes a caesura in the personal sense of well-being for many people.

We consider the misguided investigations and the absence of a critical assessment of the shortcomings on the part of the police agencies, the prosecutors, the *Verfassungsschutz* agencies and the ministries of the interior as a caesura in the history of law enforcement in the Federal Republic of Germany.

Focusing on the aspect of institutional racism in the context of the NSU, this report does not address the role of the *Verfassungsschutz*, which, as a consequence of its many informants, had the potential to detect the NSU.



## II. Necessary steps to protect individuals and groups against racial discrimination

Thematising institutional racism in the context of investigations of racist offences is crucial for addressing the state's problems in dealing with racism, in particular racist violence. Racism must be named as such and must be publicly condemned. Racism must not be reduced to politically organised right-wing extremism. In Germany, the standard categorisation of racism, and also racist violence, as right-wing extremism constitutes a central problem in dealing with this issue. Frequently, this dominant concept prevents the perception of racism; and even more so, it prevents a constructive and targeted approach to address and resolve the problem. The Federal Republic of Germany must critically examine the statutory framework governing public service regarding discriminating thought patterns and the values which these thus convey to society. The findings yielded by this assessment must be translated into active measures in order to guarantee equal protection to all through efficient law enforcement. Corresponding with the exposure of institutional racism, specific measures are to be developed and to be implemented in state institutions, in particular in investigation and security agencies. They include the following:

-There have been repeated reports that the handling of cases of racist police conduct are unsatisfactory due to the absence of an independent investigation committee<sup>18</sup>. Independent ombudsperson services must be established on the state and federal level for the counselling of victims and their relatives. The Federal Republic of Germany must put into force mandatory statutory regulations for its state security apparatus on the federal and the state level which impose the obligation to diligently examine a potentially racist background in cases where the victim has a migration background. The implementation of independent complaint committees for police misconduct have already been demanded from various parties such as the European Commission against Racism and Intolerance (ECRI), UN Working Groups and the Commissioner for Human Rights of the Council of Europe, and in Germany, inter alia, by three (of five) political parties participating in the "NSU"-investigation committee at the German federal parliament (*Bundestag*) as well as the German Institute for Human Rights (*Deutsches Institut für Menschenrechte*).<sup>19</sup>

- Reports of international human rights organisations have repeatedly notified Germany of police discrimination against minorities.<sup>20</sup> According to ECRI and Human Rights Watch, minority groups have the impression that they cannot rely on the police.<sup>21</sup> Discrimination of Muslims<sup>22</sup>, a negative attitude within the police towards

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<sup>18</sup> ECRI-Report 2009, page 11.

<sup>19</sup> Cf. Töpfer, Eric, with participation of Julia von Normann (2015): Unabhängige Polizei-Beschwerdestellen. Eckpunkte für ihre Ausgestaltung. Policy Paper No. 27. German Institute for Human Rights [http://www.institut-fuermenschenrechte.de/publikationen/detailansicht.html?tx\\_commerce\\_pi1%5BshowUid%5D=567&cHash=4c34edc668873c141a30e83065518c53](http://www.institut-fuermenschenrechte.de/publikationen/detailansicht.html?tx_commerce_pi1%5BshowUid%5D=567&cHash=4c34edc668873c141a30e83065518c53) (03.04.2015).

<sup>20</sup> ECRI-Report 1998, page 11 No. 16; ECRI-Report 2004, page 25 No. 69; ECRI-Report 2009, page 36 No. 96, 40 No. 111, 51 No. 159, 39 No. 108; CERD, Concluding Observations 2001, Section 11.

<sup>21</sup> ECRI-Report 1998, page 11 No. 16., Human Rights Watch (12/2011): Reaktionen des Staates auf

Romani<sup>23</sup>, a reluctant stance towards black people when they ask for police assistance in the event of racist assaults, and a general suspicion of black victims or inadequacies in the pursuit of the perpetrators<sup>24</sup> have been noted. Furthermore, the UN Committee on the Elimination of Racial Discrimination has expressed its concern regarding recurring reports about racist incidents at police stations and the abuse of force against foreigners, including asylum seekers, and German citizens of foreign origin committed by law enforcement officers.<sup>25</sup> These abuses are not mentioned in the state report of the Federal Republic of Germany, which gives rise to the assumption that the Federal Republic of Germany has repeatedly failed to address and remedy these problems.

- In its state report, the Federal Republic of Germany does mention that the police have introduced additional training measures for intercultural competence (sections 103 - 105, page 25), but it does not address the topic of "racism" and discrimination. This does indeed pose the risk that "intercultural" training establishes or enforces ethnicising or culturalist prejudices. It requires additional training measures for the civil service - not only limited to the police - in order to change the selection processes and to create a sensitised awareness for these problematic issues.

- The UN-"Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance" is requested to compile a report about the NSU-complex and to examine the issue of individual and institutional racism as it concerns the investigations and the work of the *Verfassungsschutz* agencies. The report is to address the following questions: Has the Federal Republic of Germany done everything to provide a full investigation of all aspects concerning the formation and the development of the NSU as well as the offences committed by the NSU? Questions concerning the support provided to the NSU's associated scene by the state through various *Verfassungsschutz* agencies are to be answered. Furthermore, it is to be established if institutional racism played a role - and if so, which role - in the unsuccessful investigations into the NSU murders and the concomitant criminalisation of the victims with a migration background. Additionally, it is to be examined which measures the Federal Republic of Germany has implemented in order to prevent renewed failure on the part of the state as encountered in its reaction to the crimes of the NSU. The option to include the Special Rapporteur is provided for by the resolutions of the UN Commission on Human Rights. At its forty-ninth session, the Commission on Human Rights appointed, in resolution 1993/20, a Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance. By its resolution 1994/64 of 9 February 1994, the Commission on Human Rights further defined the mandate of the Special Rapporteur. In the discharge of his mandate the Special Rapporteur transmits urgent appeals and communications to States on alleged violations regarding contemporary forms of racism, discrimination based on race, xenophobia and related intolerance to the State concerned, in order to

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„Hasskriminalität in Deutschland“. New York/Berlin.

<sup>22</sup> ECRI- Report 2009, page 36 No 96.

<sup>23</sup> ECRI- Report 2009, page 40 No. 111.

<sup>24</sup> ECRI- Report 2009, page 39 No. 108; page 50 No. 158.

<sup>25</sup> CERD, Concluding Observations 2001, Section 11.

induce the national authority to undertake the necessary investigations of all the incidents or individual cases reported. The Special Rapporteur undertakes fact-finding country visits and submits annual reports on the activities foreseen by the mandate to the Human Rights Council and the General Assembly. He also investigates the efficiency of the measures taken by Governments to remedy the situation of victims of racism, racial discrimination, xenophobia and related intolerance.

**III. This Parallel Report is a collective project** of lawyers acting as co-plaintiffs (*Nebenkläger*) in the NSU-trial at the Higher Regional Court in Munich, civil society organisations and academic scholars from all parts of Germany. Innumerable individuals support this project and are represented by those mentioned here:

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Markus Löning, Former High Commissioner for Human Rights, Federal Republic of Germany

Cornelia Schmalz-Jacobsen, Former High Commisioner of Immigration of the Federal Republic of Germany, Chairwoman Humanity in Action Germany

### 3) NGOs

AG Arsch huh – Zäng Ussenander e.V. (a broad social initiative against racism and no based in Cologne)

Amadeu-Antonio Stiftung (Amadeu-Antonio Foundation)

Bundesarbeitsgemeinschaft Demokratieentwicklung e.V., BAGD (National Association for the development of democracy)

Bundesarbeitsgemeinschaft Kirche und Rechtsextremismus, BAG K+R (National Association Church and Right-wing Extremism)

Bundesverband der Beratungsstellen für Betroffene rechter, rassistischer und antisemitischer Gewalt e.V. (Federal association of the advisory offices for persons affected by righ-wing, racist and antisemitic violence)

Generation ADEFRA – Schwarze Frauen in Deutschland e.V. (Black Women in Germany)

Gesicht zeigen! e.V. (Show your true colours!)

Humanity in Action Germany e.V.

Initiative Schwarzer Deutscher e.V. (ISD-Bund e.V.) (Action group of Black Germans)

Institute for the Study of Radical Movements (ISRM)

Landesverband der kommunalen Migrantenvertretungen in Baden-Württemberg (State association of the municipal migrant representations of Baden-Wuerttemberg)

Liberaler Türkisch-Deutscher Vereinigung (Liberal Turkish-German Union)

Miteinander - Netzwerk für Demokratie und Weltoffenheit in Sachsen-Anhalt e.V.,  
Magdeburg (Together – Network for Democracy and openness in Saxony-Anhalt)

NAVEND - Zentrum für Kurdische Studien e.V. (NAVEND – Centre for Kurdish  
Studies)

Netzwerk Rassismuskritische Migrationspädagogik Baden-Württemberg (Network of  
critical anti-racist pedagogic of migration Baden-Wuerttemberg)

NSU-Watch (this is a watchdog focused on the terror group „National Socialist  
Underground“ and related state activities)

RAV – Republikanischer Anwältinnen- und Anwaltsverein e.V. (Federal Association  
of Republican Lawyers)

Stiftung für die Internationalen Wochen gegen Rassismus (Foundation for the  
International Weeks against Racism)

TAVAK - Stiftung für Türkisch-Europäische Wissenschaft und Bildung (Foundation  
for Turkish-European Scholarship and Education)

Türkischer Bund in Berlin-Brandenburg (TBB) (Turkish Union in Berlin-  
Brandenburg)

Türkische Gemeinde in Deutschland (TGD) (Turkish Community in Germany)

Zentralrat Deutscher Sinti und Roma (Central Council of German Sinti and Roma)

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Prof. Dr. Renate Bitzan, Technical University Nuremberg

Prof. Dr. Elmar Brähler, University of Leipzig

Prof. Leah Carola Czollek, Institute Social Justice and Diversity and Alice Salomon  
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