

Germany

Head of state **Christian Wulff (replaced Horst Köhler in July)**

Head of government **Angela Merkel**

Death penalty **abolitionist for all crimes**

Population **82.1 million**

Life expectancy **80.2 years**

Under-5 mortality (m/f) **5/5 per 1,000**

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Responses to allegations of ill-treatment remained inadequate. Several federal states continued to forcibly return Roma to Kosovo despite their need for international protection.

International scrutiny

In February, the UN Special Rapporteur on racism recommended strengthening the mandate and increasing the resources of the Federal Anti-Discrimination Agency; including an explicit reference to racism as an aggravating circumstance in the criminal code; developing specific training for police officers, prosecutors and judges on the identification of hate crimes; and adopting special measures to ensure adequate representation of people with a migration background in state institutions.

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Torture and other ill-treatment

The authorities' failure to ensure that allegations of human rights violations by the police were adequately investigated, insufficient information about procedures to file criminal complaints, and difficulties in the identification of police officers may have led to impunity for the perpetrators and jeopardized victims' access to justice and redress.

Allegations of ill-treatment continued and independent police complaints bodies mandated to investigate allegations of human rights violations by law enforcement officials were not established. Only a few federal states provided information on their websites about how to complain about police misconduct.

- On 3 March, the Public Prosecutor's General Office terminated investigations in the alleged ill-treatment by police officers of a photojournalist during the 2007 Rostock G8 summit, claiming that it was impossible to identify them with sufficient certainty. Berlin was the only federal state to introduce compulsory individual identification for uniformed police – to be implemented in January 2011. No obligation for police officers to wear identity badges was in place in the rest of the country.
- In the criminal proceedings into the death of Oury Jalloh, who died in 2005 of heat inhalation following a fire in his cell while in police custody in Dessau, the Federal Court of Justice overruled the acquittal of one police officer on 7 January and ordered a retrial. The first instance proceedings, concluded in 2008, had highlighted serious shortcomings in the thoroughness of the early stage of the investigations.
- According to protesters, the police, deployed to protect a large infrastructure project in Stuttgart, used excessive force during a demonstration on 30 September. On 27 October, the regional parliament of Baden-Württemberg set up a commission of inquiry into the police operation. The Public Prosecutor was investigating the allegations at the end of the year.

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Refugees and asylum-seekers

Several federal states continued to forcibly return Roma, Ashkali and Egyptians to Kosovo despite the risk of persecution, and discrimination resulting in lack of access to education, health care, housing and social benefits on their return. However, North Rhine-Westphalia issued a decree on 21 September requiring an individual risk assessment to precede forcible returns of Roma, Ashkali and Egyptians to Kosovo and on 1 December introduced a four-month moratorium on forced returns due to the cold of the Kosovan winter.

During the year, 55 asylum-seekers were transferred to Greece under the Dublin II Regulation, despite the lack of a functioning asylum system in that country. In several cases the Constitutional Court suspended transfers, pending a final decision.

On 15 July, the government informed the UN Secretary-General that it had withdrawn its reservations on the UN Convention on the Rights of the Child, insisting that no changes were required in its asylum legislation. As a result, children aged 16 and 17 continued to go through asylum procedures as adults, without the assistance of a guardian.

- Khaled Kenjo, a Syrian Kurd who was forcibly returned to Syria in 2009 and subsequently detained and sentenced to a short prison term for “spreading abroad false information that could harm the reputation of the [Syrian] state”, was allowed to return to Germany in July and was granted refugee status.
- Eritrean nationals Yonas Haile Mehari and Petros Aforiki Mulugeta, who had been forcibly returned to Eritrea in 2008, returned to Germany in April and June respectively after they had been granted refugee status in 2009 in their absence.

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Counter-terror and security

In February, a UN study on secret detention concluded that Germany was complicit in the secret detention of German-Syrian national Muhammad Zammar, who was unlawfully transferred to Syria in December 2001. Evidence before a parliamentary inquiry held from 2006 to 2009 confirmed that German agents had interrogated him in Syria in November 2002 and had also sent questions to the Syrian authorities for use in his interrogation. However, the June 2009 parliamentary inquiry report concluded that the German authorities were not complicit in any human rights violations related to this case. The authorities have since refused to commit to a new investigation into their role in renditions.

The government confirmed that it would continue to rely on “diplomatic assurances” to allegedly mitigate the danger of torture and other ill-treatment when returning people to their country of origin.

- In May, the High Administrative Court in North Rhine-Westphalia confirmed the 2009 decision of the Administrative Court in Düsseldorf that, in the case of a Tunisian national suspected of terrorism-related activities, the use of “diplomatic assurances” undermined the absolute ban on torture. As a result, his forcible return to Tunisia was not allowed.
- On 16 September, a stateless Palestinian and a Syrian national, both released from Guantánamo Bay, received protection in the Hamburg and the Rhineland-Palatinate federal states respectively. The Federal Minister of the Interior announced that no more former detainees from Guantánamo Bay would be given protection by Germany.
- On 7 December, the Cologne Administrative Court dismissed a case brought by German national Khaled El-Masri. He had called on Germany to reconsider its decision not to pursue the extradition of 13 US nationals suspected of transferring him illegally to Afghanistan in 2004. The Court argued that the government acted lawfully, since Khaled El-Masri’s request was assessed against Germany’s national security and foreign policy interests. Khaled El-Masri appealed against the verdict.

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