



# Protection of Minority Rights

France • Germany

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## FRANCE

France does not have any law comparable to the U. S. Civil Rights Act. The French, regardless of sex, religion, or race, are considered to have the same rights. Accordingly, article 1 of the French Declaration of the Rights of Man and Citizen, dated August 26, 1789, states: "Men are born and remain free and equal in rights."<sup>1</sup>

The Preamble of the Constitution of 1946 also incorporated the Declaration of the Rights of Man and Citizen of 1789 in the present constitution and provides that "any human being without distinction of race, religion, belief, possesses inalienable and shared rights" and that "the law guarantees to women, in all the fields, the same rights as men."<sup>2</sup>

Although there are French citizens of African or Asian ancestry and French citizens, men and women, who are ethnic Indians from the French West Indies, they do not have any particular status according to French law.

Prepared by M. Tahar Ahmedouamar  
Acting Assistant Chief  
European Law Division  
Law Library of Congress  
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<sup>1</sup> M. Duverger, *Constitutions et documents politiques* 3 (Paris, PUF, 1968).

<sup>2</sup> *Id.* at 138.

## GERMANY

In Germany, minority rights are primarily protected by the German Constitution of 1949<sup>1</sup> and by the European Human Rights Convention of 1950 (EHRC).<sup>2</sup> The Constitution contains a catalog of human rights that includes the guarantee of equality before the law and a non-discrimination clause,<sup>3</sup> and violations of these rights is actionable through a complaint before the Federal Constitutional Court. The EHRC mandates that the member states provide certain fundamental rights and freedoms without any discrimination on religious, ethnic, or racial grounds. A violation of these guarantees in any of the member states gives the individual the possibility to petition the European Human Rights Commission and ultimately the European Human Rights Court. The individual, however, must have exhausted the remedies available in the particular country.

Germany does not have legislation similar to the U.S. Civil Rights Act of 1964. After World War II, no such legislation was needed in West Germany because there were no sizeable ethnic minorities. Moreover, efforts were made to educate young people about the persecution of minorities during the Third Reich and to instill in them an appreciation of democratic values. This effort was largely successful until recently. The small Jewish and Gypsy populations that exist in Germany today have generally not been the victims of discrimination in voting rights, employment, or access to public facilities.

The only minority problem in Germany is of more recent vintage and it involves foreign workers and asylum seekers. Since the 1970s, Germany has had a sizable population of guest workers, largely from Turkey and other Mediterranean countries. By the 1980s, it was apparent that these foreigners intended to stay permanently in Germany.<sup>4</sup> At the same time, Germany's very generous asylum laws caused the influx of many refugees from Eastern Europe and third world countries. After the economic difficulties caused by the unification of the two Germanies, popular opinion turned against the large foreign presence and acts of violence were committed by extremists.

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<sup>1</sup> Grundgesetz für die Bundesrepublik Deutschland May 23, 1949, *Bundesgesetzblatt* (BGBl., official law gazette of the Federal Republic of Germany) p. 1.

<sup>2</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, signed Nov. 4, 1950, *European Treaty Series*, No. 5.

<sup>3</sup> Article 3 of the Constitution translates as follows:

Article 3 (Equality before the law)

- (1) All persons shall be equal before the law.
- (2) Men and women shall have equal rights.
- (3) 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.

<sup>4</sup> R. Nyrop, *Federal Republic of Germany -- a Country Study* 108 (Washington, D.C. 1982).

The problems caused by the recent waves of immigration calls for solutions in citizenship and immigration law. A law reform of June 1993 streamlined the asylum proceedings, made it easier to turn away economic refugees, and made it easier for aliens to become German citizens.<sup>5</sup>

German labor law does not discriminate against foreigners. The Works Council Law specifically prohibits any discrimination on account of race, religion, citizenship, etc., in the work place.<sup>6</sup> Nevertheless, many foreign workers have taken jobs that Germans are no longer willing to take.

Problems also exist with regard to the schooling of the children of guest workers. Even though various government programs have attempted to ensure a quality education for the foreign children, these programs have not been entirely successful; and the children of guest workers have not experienced upward mobility on a large scale.<sup>7</sup>

Prepared by Edith Palmer  
Senior Legal Specialist  
European Law Division  
Law Library of Congress  
October 1993

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<sup>5</sup> Gesetz zur Änderung Asylverfahrens, ausländer- und staatsangehörigkeitsrechtlicher Vorschriften, June 30, 1993, BGBI. I, p. 1062.

<sup>6</sup> Betriebsverfassungsgesetz, Jan, 15, 1972, as repromulgated Dec. 23, 1988, BGBI. 1989 I, p. 1, § 75.

<sup>7</sup> *Id.*