

# The Situation of Roma in Germany

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## 1. EXECUTIVE SUMMARY

In recent years the German Government has taken a number of positive steps towards the recognition of past injustices against Sinti and Roma. However, historical persecution as well as the continued existence and consequences of “anti-Gypsyism” (*Antiziganismus*) have not yet been fully confronted.

The collection of ethnic data is prohibited, and no informal alternatives to gathering such data in cooperation with minorities are being explored.<sup>1</sup> The absence of reliable ethnic statistics poses serious challenges to establishing the scale and scope of discrimination against minority groups, to actively combating discrimination, and to developing targeted policies to improve the situation of Sinti and Roma.

### *Discrimination*

Germany has ratified the major international human rights instruments against discrimination and for the protection of minority rights. However, legislation does not provide comprehensive protection against discrimination, and courts rarely apply existing provisions to vindicate ethnic or racial discrimination claims.<sup>2</sup> Despite allegedly frequent instances of racially motivated discrimination, including against Sinti and Roma,<sup>3</sup> there is a virtual absence of relevant case-law. As of August 2002, little progress had been made to transpose the EU Race Equality Directive into domestic law.

Sinti and Roma children face serious disadvantages in access to education. It is widely reported that these children are over-represented in “special schools” for underachievers, and drop out of school at a disproportionately high rate; only a handful attain a higher education. Different factors contribute to this situation, including lack of pre-schooling, insufficient knowledge of German, and high levels of poverty. In the view of Romani leaders discrimination in the school system is also a key factor. Individual German states (*Länder*) have taken initiatives to overcome these disadvantages. However, as yet there has been no systematic evaluation of their effectiveness with a view towards developing a

<sup>1</sup> See Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 9. Information from the Federal Ministry of the Interior, 29 July 2002.

<sup>2</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 9. For full report, see: <<http://www.eumc.eu.int>>, (accessed 31 August 2002).

<sup>3</sup> ECRI noted that “(m)embers of Roma and Sinti communities face serious social disadvantages and are confronted with prejudice and discrimination in such fields as employment, housing and education.” See ECRI Country by Country Approach: Second Report on Germany, 2000, p. 14 (hereafter “ECRI Report 2000”). For full report, see: <<http://www.coe.int/ecri>>, (accessed 2 June 2002).

comprehensive and sustained policy to ensure that Sinti and Roma children enjoy equal access to educational opportunities.

Strong anti-Gypsyism can be noted in the labour market. The estimated unemployment rates among members of Sinti and Roma communities are grossly disproportionate, and appear to stem both from lack of education and discrimination in recruitment. Again, though some job-creation projects have been launched by state and local governments, there has been no evaluation or assessment of their effectiveness.

Sinti and Roma, along with other individuals belonging to “visible” minority groups, report widespread discrimination in gaining access to public goods and services including housing, and formidable obstacles to legally challenging discriminatory practices.<sup>4</sup> Often segregated and inadequate housing conditions are a combined result of long-term neglect by authorities and discrimination in access to commercial housing.

There is very little information about health-related concerns of Sinti and Roma. Accordingly, no Government programs exist and no resources have been allocated to deal with potentially serious health issues connected to large-scale unemployment, lower levels of education, and often inadequate living conditions and poverty among these communities.

Recent reports by international human rights organisations have highlighted a resurgence of violence against minorities and foreigners by private actors, as well as mistreatment by law enforcement officers.<sup>5</sup> Minority leaders assert that the response of law enforcement officials to cases of extremist violence against members of their communities is often unsatisfactory. Moreover, lawyers who deal with cases of minorities and foreigners and human rights monitoring bodies criticise official lenience with regard to infractions committed by law enforcement personnel.

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<sup>4</sup> See, OPAS – Open Access to Private Services for Members of Ethnic Minorities, Migrants and Refugees/Final Report, Commissioner for Foreigners’ Affairs, Brandenburg, February 2001 (hereafter, “OPAS Final Report”).

<sup>5</sup> For example, International Helsinki Federation Report 2002, see: <<http://www.ihf-hr.org/reports/AR2002/country%20links/Gernamy.htm>>, (accessed 31 August 2002), and Amnesty International Report 2002: Germany, see: <<http://www.amnesty.org>>, (accessed 12 July 2002).

*Minority rights*

Although recognised as a national minority, Sinti and Roma face serious obstacles to enjoying minority rights in practice.<sup>6</sup> At present, only five of 16 states have adopted legislative provisions regarding minorities; none mentions Sinti and Roma.

Attempts to secure linguistic and educational rights often meet with resistance on the part of responsible state authorities. Very few pilot projects have been developed to provide instruction in Romanes; school curricula do not as yet provide adequate information about Romani history and culture, and very limited support has been provided for developing minority media. Overall, State support for the Sinti and Roma minority has been limited to the cultural sphere, without adequate regard to enhancing their legal and political rights.

Lack of citizenship prevents access to minority rights for as many as half of all Roma living in Germany, diminishing incentives for political parties and leaders to take their concerns into consideration.

*Institutions*

There is no Government programme on Sinti and Roma, nor a specific body in charge of minority issues. State support for Sinti and Roma is inadequate compared with support for other recognised minority groups, and mechanisms for provision of public funding are selective, overly bureaucratic and insufficiently transparent,<sup>7</sup> encouraging competition rather than cooperation among Romani organisations. Governmental engagement with the broad spectrum of existing Sinti and Roma organisations would facilitate efforts to ensure equality and respect for minority rights of Sinti and Roma.

**2. BACKGROUND**

The situation of Sinti and Roma in Germany today can best be understood in the context of the historical treatment of “Gypsies.” Certain anti-Romani attitudes and behaviours, ranging from low levels of public acceptance to various forms of

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<sup>6</sup> “Noch immer vergessene Minderheit” (Still Ever-Forgotten Minority), *Husumer Nachrichten*, 18 May 2000. Also, OSI Roundtable Meeting, Hamburg, 8 April 2002. *Explanatory note: OSI held a roundtable meeting in Germany in April 2002 to invite critique of the present report in draft form. Experts present included representatives of the local government, Sinti and Roma representatives, civil society organisations, and lawyers.*

<sup>7</sup> See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, paras. 26 and 76.

discrimination and exclusion to occasional physical violence, have their roots in the past. In recent years the Government has taken a number of positive steps towards the recognition of past injustices against Sinti and Roma. However, in contrast to anti-Semitism, which has been the focus of a process of intensive self-examination and self-criticism in the period since World War II, the continued existence – and consequences – of “anti-Gypsyism” (*Antiziganismus*) have not yet been fully recognised or confronted.

There are no reliable figures regarding the size of the Sinti<sup>8</sup> and Roma citizen population. Estimates vary widely: the Government recently estimated “up to 70,000” German Sinti and Roma,<sup>9</sup> while some Romani leaders put the number between 150,000 and 200,000.<sup>10</sup> Current estimates also indicate that up to 100,000 non-citizen Roma reside in Germany. Among these, the majority are Romani refugees from southeastern Europe, very few of whom have been awarded citizenship or permanent resident status. The total Sinti and Roma population constitutes only a small percent of the total population of approximately 82 million.<sup>11</sup>

### *Historical treatment of Sinti and Roma*

Sinti and Roma – who were long referred to and dealt with by authorities collectively as “Gypsies” (a designation they strongly reject) – became the target of official policies of persecution and expulsion soon after their arrival in Germany in the early 15th

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<sup>8</sup> “Sinti” is the name of a Romani group that settled in Germany about 600 years ago. Sinti speak a dialect of Romanes influenced by centuries of close contact with German. In recent years, and possibly out of fear of being associated with immigrant and foreign Roma, some Sinti have chosen to emphasise that they are “Sinti” and not “Roma;” hence, publications concerning Romani groups frequently use the term “Sinti and Roma.” This report will also refer to both “Sinti and Roma,” as many of the issues they face are similar.

<sup>9</sup> Report submitted by the German Government to the Advisory Committee on Implementation of the Framework Convention on National Minorities, 1999, p. 10 (hereafter “State FCNM Report”). For full report, see: <<http://www.coe.int>>, (accessed 2 June 2002).

<sup>10</sup> However, Romani leaders generally do not distinguish between various legal categories of Sinti and Roma (e.g. citizens, long-term residents without citizenship, and stateless persons and refugees), and commonly refer to a total Sinti and Roma population of 250,000–300,000.

<sup>11</sup> Federal Bureau of Statistics, see: <<http://www.destatis.de>>, (accessed 25 May 2001).

century.<sup>12</sup> From the 16<sup>th</sup>-18<sup>th</sup> centuries, a succession of laws and regulations made it acceptable to expel and even kill “Gypsies.”<sup>13</sup> Starting in the late 19<sup>th</sup> century, State policies began to distinguish between Sinti/Roma citizens and non-citizens; those who did not have citizenship were denied trade-permits, and were often subject to immediate expulsion.<sup>14</sup> Growing State centralisation in the 20<sup>th</sup> century led to a tighter net of official regulations and policies to “fight against the Gypsy menace;”<sup>15</sup> increasingly, these policies tended to criminalise their very existence.<sup>16</sup>

<sup>12</sup> The presence of Sinti and Roma in German-speaking territory had been mentioned in historical chronicles by the year 1419. By the end of the 15<sup>th</sup> century, “Gypsies” had been outlawed by most municipalities; see, I. Hancock, “Gypsy History in Germany and Neighbouring Lands: A Chronology Leading to the Holocaust and Beyond,” in D. M. Crowe, and J. Kolsti, eds., *The Gypsies of Eastern Europe*, Armonk, NY: M.E. Sharpe, 1991, pp. 395–396. Over 120 specific “anti-Gypsy” laws were passed between 1551 and 1751; see S. Tebbutt, ed., *Sinti and Roma: Gypsies in German-Speaking Society and Literature*, Oxford: Berghahn Books, 1998, p. 2. State FCNM Report (p. 9) recounts: “Again and again, in the course of history, Sinti and Roma suffered discrimination, were crowded out from various trades and driven out of towns or regions. In instances, even into this century, attempts made by Sinti to settle in their home region were thwarted.”

<sup>13</sup> For example, John George II of Saxony in 1661 “imposed death penalty for any “Gypsy” found in his territory, a practice which today would be described as ‘ethnic cleansing.’” S. Tebbutt, p. 2. Friedrich Wilhelm I of Prussia on 5 October 1725 issued an edict specifying that all “Gypsies” above the age of 18 should be hanged immediately, without a trial. See I. Hancock in Crowe and Kolsti, p. 397.

<sup>14</sup> The Berlin chancellery issued an instruction in 1871 that “Gypsies” who were “recent arrivals” should be denied trade permits, and that resident “Gypsies” should be granted permits only with great difficulty.” See, J. S. Hohmann, *Geschichte der Zigeunerverfolgung in Deutschland* (History of Gypsy Persecution in Germany), Frankfurt: Campus, 1988, p. 72. Otto von Bismarck issued a memorandum to the states of the second German Reich on 1 July 1886 which instructed officials to expel “Gypsies” without citizenship from their territories, using force if necessary; StAHH, Senat CL.I Lit. T Nr.1 Vol. 20c, p. 5.

<sup>15</sup> Such laws, decrees and regulations were particularly well-defined in the era of the Weimar Republic – in violation of its Constitution guaranteeing equal rights to all – in Baden, Prussia, and Bavaria. For example, the state of Bavaria issued a law to “fight Gypsies, tramps and shirkers” on 5 August 1926; the states of Baden (in 1922) and Prussia (in 1927) introduced requirements to have all “Gypsies” fingerprinted and photographed. See I. Hancock in Crowe and Kolsti, p. 399. Hesse issued a “law to fight the Gypsy menace” on 3 April 1929. See R. Hehemann, pp. 226–300.

<sup>16</sup> After 12 April 1928 all “Gypsies” were placed under permanent police surveillance. See I. Hancock in Crowe and Kolsti, p. 400.

Anti-Gypsy policies were pursued to extremes during the Nazi era, when Sinti and Roma, along with Jews, were the principal targets of extermination policies on racial grounds.<sup>17</sup> By some estimates, as many as 500,000 European Sinti and Roma were killed during the Holocaust,<sup>18</sup> after having been robbed of their possessions, deported to concentration camps, and in many instances sterilised or subjected to inhuman medical experimentation. The traumatic experiences of Sinti and Roma during the Nazi era and the subsequent failure of post-war Governments to recognise and rectify those injustices have had the effect of sowing an enduring fear and distrust for State institutions.<sup>19</sup>

### *Sinti and Roma in the post-WWII era*

It is estimated that well over half of German Sinti and Roma were killed during the war.<sup>20</sup> Those who survived were subjected to continued harassment and humiliation at the hands of the police and other authorities,<sup>21</sup> as a number of pre-war anti-Gypsy laws

<sup>17</sup> On the Holocaust of Sinti and Roma, see I. Hancock in Crowe and Kolsti, above; D. Kenrick and G. Puxton, *Gypsies under Swastika*, Hatfield: University of Hertfordshire Press, 1995; R. Rose, ed., *The Nazi Genocide of the Sinti and Roma*, Heidelberg: Documentation and Cultural Centre, 1995; S. Milton, "Holocaust: The Gypsies" in W. S. Parsons, I. Charny and S. Totten, eds. *Genocide in the Twentieth Century*, New York, London: Garland Publishing, 1995, pp. 209–264.

<sup>18</sup> The actual number of Romani victims of the Holocaust is a matter of debate. By earlier estimates, 220,000 were killed; see Kenrick and Puxton, above. Zimmermann has put the number of actual victims at 90,000; see M. Zimmermann, *Rassenutopie und Genozid. Die Nationalsozialistische Lösung der Zigeunerfrage* (Racial Utopia and Genocide: The National-Socialist Solution of Gypsy Question), Hamburg: Forschungsstelle für die Geschichte des Nationalsozialismus, 1986. Hancock, however, stated that the figure may be as high as 1.5 million; see I. Hancock in Crowe and Kolsti, p. 405. The figure currently supported by Sinti and Roma organisations is 500,000. See, for example, R. Rose, p. 9.

<sup>19</sup> See State FCNM Report, p. 10.

<sup>20</sup> "Of the 40,000 officially registered German and Austrian Sinti and Roma, more than 25,000 were murdered by May 1945." State FCNM Report, p. 10. See also R. Rose, p. 189, and R. Kawczynski, notes prepared for EUMAP, p. 5.

<sup>21</sup> Not infrequently, individuals who had actively participated in the persecution of Sinti and Roma before and during the war retained positions of authority. For example, Robert Ritter, one of the chief ideologists of the "final solution" of the "Gypsy question," was employed by the city of Frankfurt as a doctor until he died in 1951; Ritter's assistant Eva Justin remained an honorary member of the German Anthropological Society until her death; Leo Carstens, the head of the Berlin police department's "Gypsy Office," who was personally in charge of the deportation of Sinti and Roma, continued to be employed as a police officer in Ludwigshafen until his retirement. R. Kawczynski, notes prepared for EUMAP, p. 5.



and institutions remained in force.<sup>22</sup>

For example, the “Office for Fighting the Gypsy Menace” within the State Head Security Office (*Reichssicherheitshauptamt*) was closed after the war, but the “Land Traveller Head Office” in Bavaria continued to function as a chief authority for all questions concerning “Gypsies,” and continued to maintain an index of extensive personal information on individual Sinti and Roma.<sup>23</sup> The “Land Traveller” or “Vagrancy” departments within the police departments of individual states were maintained until the mid-1980s. From 1981 until the mid-1990s, the Federal Bureau of Criminal Investigation (BKA) maintained a special index of information on Roma and their motor vehicles.<sup>24</sup> During the 1990s most German states officially stopped racial profiling of Sinti and Roma, although the state of Bavaria officially continued the practice until October 2001 (see Section 3.1.5).

Many Sinti and Roma who returned to their hometowns or arrived as displaced persons from former German territories after the war were denied citizenship. Allegedly, hundreds of their descendants remain stateless today, and either are required to renew their residency permits every few years, or live unregistered. Moreover, there have been instances in which Sinti individuals whose families had historically resided in Germany have been stripped of citizenship, and have managed to regain it only with assistance from non-governmental organisations (NGOs).<sup>25</sup>

Although they were legally eligible to seek compensation along with other victims of the Nazi regime,<sup>26</sup> in practice support for reintegration and compensation was denied to Sinti and Roma on the grounds that their deportation had not constituted

<sup>22</sup> Although *Control Council Law No. 1* of the Allied powers ordered the repeal of the “laws of a political or discriminatory nature upon which the Nazi regime rested,” it did not specify which laws had to be repealed, and some anti-Gypsy laws of the NS-era remained in force or were reconfirmed. For example, the Cologne police department in 1949 “explicitly stipulated the validity of a 8 December 1938 directive issued by Heinrich Himmler for ‘Fighting the Gypsy Plague’” by issuing a circular giving instructions for *Bekämpfung des Zigeunerunwesens* (Combating the Gypsy Menace). S. Milton, “Persecuting the Survivors: The Continuity of ‘Anti-Gypsyism’ in Post-War Germany and Austria,” in S. Tebbutt, p. 36.

<sup>23</sup> The index contained information on the names, pictures, fingerprints, “characteristic features” (including numbers tattooed in concentration camps), record of cooperation with official authorities, placement of mobile homes, and individual possessions. Information was collected on standard forms. R. Kawczynski, notes prepared for EUMAP, p. 5.

<sup>24</sup> See R. Rose, *Bürgerrechte für Sinti und Roma* (Civil Rights for Sinti and Roma), Kassel: Central Council of German Sinti and Roma (Selbstverlag), 1980, p. 134.

<sup>25</sup> See *Pogrom*, periodical publication of the Society for Endangered Peoples (*Gesellschaft für die bedrohte Völker*); cited in C. Cahn, “Who is German?” in *SAIS Reports*, 5 August 1999.

<sup>26</sup> *Bundesentschädigungsgesetz* (Federal Compensation Law of 1953); hereafter, “BEG.”

persecution for racial reasons, but was a “criminal pre-emptive measure,” an argumentation confirmed by the Federal Supreme Court (*Bundesgerichtshof*) in 1956.<sup>27</sup> The decision was revised in 1963, but with some exceptions Sinti and Roma were excluded from compensation for decades.<sup>28</sup> As of 2002, many of the remaining German Sinti and Roma survivors of concentration camps have been compensated for deportation, but the issue of compensation for slave labour is ongoing and remains controversial.<sup>29</sup> There have been no cases of return or restitution of property confiscated from Sinti and Roma by the Nazi regime.

The genocide of Sinti and Roma was acknowledged officially in 1982. However even after that Sinti and Roma were frequently treated as “second-class victims.”<sup>30</sup> In 1985 the Mayor of Darmstadt declared that Sinti and Roma “insulted the honour” of the Holocaust “by wishing to be associated with it” during the commemoration of the anniversary of liberating the concentration camp in Bergen-Belsen.<sup>31</sup> Wilhelm Schmidt of the People’s Union Party publicly stated, in reference to the genocide of Sinti and Roma, that “it is a pity that only so few were killed.”<sup>32</sup> In 1999, the Berlin Senate denied permission to build a separate memorial for Sinti and Roma (after they had already been excluded from the Holocaust memorial for Jews);<sup>33</sup> the memorial later received the necessary approval, and as of August 2002 construction was pending a decision on its location. Günter Grass, a Nobel prize-winning author and the founder of the Roma Foundation, was one of few public figures to voice indignation about

<sup>27</sup> BGH 7.1.1956 – IV, ZR 211/55 (Koblenz).

<sup>28</sup> In individual states, those German Sinti and Roma who were denied compensation or did not file claims on time pursuant to the BEG could apply to the *Härtefonds* (Public Foundations). For example, exceptionally, the state of Hesse set up about 200 pensions of up to the minimum pension stipulated in the BEG. The Federal Government also set up *Härtefonds* of 80 million DM (c. €39 million), where German Sinti could file claims for one-time payments or pensions. This development came as the result of successful lobbying efforts by the Central Council and Associations of German Sinti and Roma. H. Heuss, notes prepared for EUMAP (part I), pp. 4–5.

<sup>29</sup> H. Heuss, notes prepared for EUMAP (Part II), p. 2.

<sup>30</sup> The leader of the Central Council of German Sinti and Roma reportedly stated in this respect that establishing separate memorials for different groups amounted to sorting the dead into “first and second class victims.” Cited in R. Kuder, *Recent Trends in German Ethnic Politics: the Roma*, MA thesis presented to the International Studies programme of the Graduate School of the University of Oregon, June 2000, p. 24.

<sup>31</sup> Cited in I. Hancock in Crowe and Kolsti, p. 407.

<sup>32</sup> Cited in I. Hancock in Crowe and Kolsti, p. 410. He was taken to court for racist speech, but was acquitted on appeal; R. Kawczynski, notes prepared for EUMAP, p. 9.

<sup>33</sup> *Deutsche Welle*, 7 July 1999, 20:00 UTC, cited in R. Kuder, *Recent Trends in German Ethnic Politics*, p. 24.

“this injustice [that] continues today,” stating that “one is forced to the conclusion that we have not rid ourselves of this vile exclusion: as though the Roma ... are still oppressed by our verdict that they belong to an inferior race.”<sup>34</sup>

The development of a Romani civil rights movement starting in the late 1970s has helped prompt a positive shift in governmental policies.<sup>35</sup> In 1982 the Central Council of German Sinti and Roma (hereafter, “Central Council”) was formed with support from the Federal Government.<sup>36</sup> In 1997 German Sinti and Roma were recognised as a national minority.<sup>37</sup> The Government has also stated repeatedly its commitment to improve social conditions and promote the integration of German Sinti and Roma.<sup>38</sup>

Nonetheless, Sinti and Roma leaders maintain that public attitudes as well as official policy continue to be marked by anti-Gypsyism and by a philosophy of “pre-emptive action” – by the perceived need to monitor, control and prevent “criminal tendencies.” Anti-Gypsyism makes itself felt in everyday life through the use of defamatory stereotypes and clichés in the media, lack of objective and comprehensive presentation of Sinti and Roma in history and school books, and the exclusion of Sinti and Roma from mainstream education, employment, housing and society in general. Long regarded as a police problem or a social problem, Sinti and Roma have often been made the object of official policies;<sup>39</sup> many maintain that a wide range of current projects and initiatives embody this approach rather than involving them as equal partners and participants in decision-making processes which concern them<sup>40</sup> (see Section 4.2).

### *Public opinion*

Surveys and opinion polls consistently indicate that public attitudes towards minorities and persons perceived as foreigners are generally marked by intolerance and low levels of acceptance. A recent survey conducted by the Migration Centre of North Rhine-Westphalia shows that about half of the population consider that “too many foreigners

<sup>34</sup> G. Grass, “Why the Roma?” See: <[http://www.oneworld.org/index\\_oc/498/grass.html](http://www.oneworld.org/index_oc/498/grass.html)>, (accessed 17 December 2001).

<sup>35</sup> Central Council of German Sinti and Roma is regarded by the Government as the main representative body of German Sinti and Roma (see Section 4). See also Y. Matras, “The Development of the Romani Civil Rights Movement in Germany 1945–1996” in S. Tebbutt, pp. 49–63.

<sup>36</sup> See Y. Matras, p. 56.

<sup>37</sup> “‘Appeal of Berlin’: Recognition and Compensation for All Victims of the National Socialist Regime,” see: <<http://www.romnews.com/a/6-98.html>>, (accessed 10 March 2002).

<sup>38</sup> See State FCNM Report (1999).

<sup>39</sup> H. Heuss, notes prepared for EUMAP (part II), pp. 1–2.

<sup>40</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

live in Germany,” and wonder “what they [foreigners] are doing here.”<sup>41</sup> In fact, Sinti and Roma are also generally perceived as foreigners, despite their 600-year history in the country.<sup>42</sup>

A poll conducted in 1992 by the Allensbach Demoscopic Institute indicated that 64 percent of Germans had an unfavourable opinion of Roma – a higher percentage than for any other racial, ethnic or religious group.<sup>43</sup> A survey conducted in 1994 by the EMNID Institute indicated that some 68 percent of Germans did not wish to have Sinti and Roma as neighbours.<sup>44</sup> A 1995 poll conducted in German schools indicated the presence of strong anti-Romani attitudes even among the younger generation: 38 percent of students in Western and 60.4 percent in Eastern Germany expressed negative attitudes towards Sinti and Roma.<sup>45</sup> A 2001 policy study conducted by the Berlin-based European Migration Centre (EMZ) indicated a pattern of continuing prejudice towards and exclusion of Sinti and Roma.<sup>46</sup>

The Government has acknowledged that societal attitudes are only “gradually evol[ing] towards acceptance of German Sinti and Roma,” and that “the process has undergone a positive development, but is not yet completed,” before concluding that “society must come to be understanding of the free decision of various groups within this minority to centre their community life around centuries-old standards ... rather than to adapt themselves to the majority population in each and every respect.”<sup>47</sup>

<sup>41</sup> See D. Clayton, *Antidiskriminierungsarbeit in Nordrhein-Westfalen* (Anti-Discrimination Work in North Rhine-Westphalia), Solingen: Centre for Migration of North Rhine-Westphalia, July 2001, p. 11. See: <<http://www.lzz-nrw.de>>, (accessed 10 March 2002).

<sup>42</sup> J. Delfeld, *Tradition und Zukunft des Rechtstextremismus* (The Tradition and Future of the Right-Wing Extremism), Landau: State Association of German Sinti of Rhineland-Palatinate, 1999, p. 5.

<sup>43</sup> 17 percent had an unfavourable opinion of Muslims; of Indians, 14 percent; of guest workers, 12 percent; of dark-skinned persons, 8 percent, and of Jews, 7 percent. Cited in G. Margalit, “Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?” See: <<http://sicsa.huji.ac.il/9gilad.htm>>, (accessed 9 April 2002).

<sup>44</sup> Cited in D. Strauss, “Anti-Gypsyism in German Society and Literature” in S. Tebbutt, p. 89.

<sup>45</sup> Information from Sebastijan Kurtisi of the Roma Union Grenzland, OSI Roundtable Meeting, Hamburg 8 April 2002. See also B. Orthmeyer, E. Peters, D. Strauss, *Antiziganismus – Geschichte und Gegenwart deutscher Sinti und Roma* (Anti-Gypsyism – History and Presence of German Sinti and Roma), Wiesbaden: HeLP, 1998.

<sup>46</sup> This study was a part of a project, financed by the European Commission, to assess the situation of Sinti and Roma in select EU member States (Germany, Italy and Spain) and to advise respective Governments on policy. Interim report is on file with EUMAP.

<sup>47</sup> State FCNM Report, pp. 26–27.

At the same time, there is a tendency at the official level to deny the existence of discrimination against minorities,<sup>48</sup> and to equate anti-minority with anti-foreigner or xenophobic attitudes (*Fremdenfeindlichkeit*), despite the fact that such attitudes are often directed against minority individuals in possession of a German passport. Thus, official institutions such as the Ministry of the Interior and the Commissions for Foreigners' Affairs handle minority and foreigners' issues as a joint competence (see Section 4.1).<sup>49</sup>

### *Minorities and media*

Media coverage reflects a strong anti-Romani bias. The Government has stated that "problems are encountered, in particular, in the context of reporting on criminal charges which sometimes – also on the basis of information provided by the police – contains mentions as to the ethnicity of an accused person, without such mention being required for understanding the reported incident."<sup>50</sup> In the period between 1997–2000, the Central Council filed 30 to 45 objections annually against press articles defaming or insulting Sinti and Roma.<sup>51</sup> In the period from 2001 through the first quarter of 2002, 37 such objections were recorded.<sup>52</sup>

The weekly media digest of the Katholische Zigeunerseelsorge, a Cologne-based church organisation, indicates that the majority of print articles concerning Sinti and Roma are either about crime and immigration problems allegedly connected to the influx of Roma into Germany, or about cultural events such as concerts and exhibitions.<sup>53</sup> In recent years, the topic of Holocaust compensation has received substantial coverage,

<sup>48</sup> "Alarmed by Intolerance: British Delegation Finds Germany a Hotbed of Arrogance and Prejudice," see: <<http://www.demon.co.uk/castle/audit/adhoc.html>>, (accessed 20 January 2002).

<sup>49</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 29. See also ECRI Report 2000, p. 16.

<sup>50</sup> State FCNM Report, p. 22.

<sup>51</sup> The Press Council "recognised one of third of them as complaints, and issued ... a total of three disapprovals and 17 [rectification recommendations]." See, Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 12. Information from the Federal Ministry of Interior, 29 July 2002.

<sup>52</sup> Information from Herbert Heuss, Chair of the Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Hamburg, 8 April 2002. See also "Presserat-Rüge für den 'Stern'" (Reprimand of 'Stern' by the Press Council), *Medien*, a publication of the Press Council, 3 March 2002.

<sup>53</sup> *Infoblatt – Latscho Diwes* (weekly digest of the media on Sinti and Roma) from 2000 to 2002; digest available on request from <<http://www.kath-zigeunerseelsorge.de>>, (accessed 1 August 2002).

but only a small number of articles address daily discrimination and other contemporary issues.

In recent years, the Press Council has undertaken a commitment to promote more responsible reporting. For example, the Press Council established that “nobody may be discriminated against on account of his/her sex or his/her belonging to a racial, ethnic, religious, social or national group” in press releases,<sup>54</sup> and adopted a Directive on Protection from Discrimination which stipulates, *inter alia*, that:

In reports on criminal offences, the fact that a suspect or offender belongs to a religious, ethnic or other minority shall be mentioned only if there is a reasonable need for such information, without which the reported incident would not be properly understood. Special attention should be paid to the fact that such mention might foment prejudices against groups requiring protection.<sup>55</sup>

However, in the view of the Central Council of German Sinti and Roma, voluntary self-regulation has proven ineffective in stopping defamation of Sinti and Roma in the media.<sup>56</sup> The Central Council has attempted to secure Sinti and Roma representation on supervisory media boards, similar to the representation enjoyed by the Central Council of Jews. These attempts failed after a 1998 ruling of the Federal Constitutional Court, which held that there is no guaranteed “right of any socially relevant group – including, for instance, a national minority – to be represented on supervisory bodies,”<sup>57</sup> and that failure to include Sinti and Roma on the media board, while other minority groups are represented, does not constitute an act of discrimination.<sup>58</sup>

Most recently, the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereafter, “FCNM”) found that “self-regulation in the German media does not seem to prevent ... mentioning suspects’ ethnic origin when they belong to the Roma/Sinti community” and recommended that the authorities should “encourage the media to follow their own rules of professional ethics to the letter” in order to respect the rights of minorities in practice.<sup>59</sup>

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<sup>54</sup> The Press Code, Rule 12.

<sup>55</sup> State FCNM report, p. 23.

<sup>56</sup> State FCNM Report, p. 23. Also, Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 79.

<sup>57</sup> State FCNM Report, p. 22.

<sup>58</sup> State FCNM Report, p. 64.

<sup>59</sup> Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 79.

### *Treatment of non-citizen Roma*

Germany recognises the existence of four minority groups, but restricts enjoyment of the minority rights accorded to these groups to those members who possess German citizenship.<sup>60</sup>

Generally speaking, the situation of Roma refugees (many of whom arrived from Romania and the former Yugoslavia in the late 1980s and early 1990s) is extremely precarious. In addition to the issues of discrimination and exclusion experienced by both citizen and non-citizen Sinti and Roma, refugees – even those who are long-term residents – often have problems obtaining the right to stay in the country. Many possess only “deferred deportation” status (*Duldung*), severely restricting their freedom of movement, access to employment and various forms of social protection (see Section 3.1), and live in constant danger of deportation.<sup>61</sup> International monitoring bodies have expressed concerns at the treatment of non-citizens, particularly refugees, and called for regularisation of their situation.<sup>62</sup>

Grave allegations have been made by some Romani leaders that in several instances refugees have been randomly assigned foreign citizenship and deported, following the

<sup>60</sup> Germany’s Declaration, available on the Council of Europe website, see: <<http://www.coe.int>>. It is worth noting that the OSCE High Commissioner on National Minorities has expressed concern with regard to intended restrictive application of minority protection in Estonia, and appealed to the Estonian authorities not to restrict the definition of minority to Estonian citizens in the State’s Declaration on the FCNM. See, Letter of the OSCE High Commissioner on National Minorities (HCNM) Mr. Max van der Stoep, to the Minister for Foreign Affairs of the Republic of Estonia, Mr. Siim Kallas.

<sup>61</sup> “Fortress Europe – Refusing and Expelling Roma,” ERRC submission presented at the OSCE meeting on Roma, Bucharest, 9 September 2001. See, *Roma Rights*, Quarterly Journal of the European Roma Rights Centre, 2/2002.

<sup>62</sup> The UN Committee against Elimination of Racial Discrimination (hereafter, “CERD”) expressed concerns about absence of any protection accorded to populous *de facto* minority groups resident in Germany for longer periods of time; see CERD/C/338/Add.14, 10 August 2000. ECRI noted that around nine percent of the entire population (c. 7,000,000 persons) do not have German citizenship and called for regularisation of status of long-term foreign residents; see ECRI Report 2000, p. 9.

conclusion of bilateral repatriation agreements with Romania, Bulgaria, Poland and the Czech Republic.<sup>63</sup>

Most recently, a repatriation treaty has been concluded with Yugoslavia despite the efforts of the Society for Endangered Peoples, a Göttingen-based NGO, to highlight continuing persecution against Roma in Yugoslavia.<sup>64</sup> Moreover, as of June 2002 a proposal for a similar arrangement with Kosovo had been approved by the Federal and 16 state Ministers of Interior, notwithstanding the well-documented persecution Roma face in Kosovo.<sup>65</sup> If this agreement is effected, some 20,000 to 30,000 persons may be subject to “repatriation.”

Although this report focuses on the treatment of citizens, whose rights are recognised by the German State, it must be noted that most Germans do not appear to distinguish between Sinti and Roma (or between citizens and non-citizens) in their negative attitudes towards and treatment of “Gypsies” and “foreigners.” Treatment of non-citizen Roma further raises serious questions regarding the treatment of other racial, ethnic and religious minority groups which are composed of both citizens and non-citizens with long-term residency.

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<sup>63</sup> Allegedly, some individuals have been “repatriated” without adequate evidence that they indeed originated from that country. Some treaties such as with Poland (1993) and the Czech Republic (1994) regulate the admission of persons who are not nationals of these States but are in possession of a residence title or visa issued by these States or who illegally entered Germany from there; see: <<http://www.bmi.bund.de>>, (accessed 1 July 2002). The Treaty between Germany and Romania (1992) regulates the “transfer of refugees who are not in possession of valid documents” to Romania; according to the agreement it is sufficient that the German authorities “assume that the persons concerned are Romanian citizens” in order to effect deportation. Art. 2, Section 5 of the Treaty stipulates: “German authorities will consider allowing persons to return to Germany if the Romanian authorities deliver convincing proof that those persons are not and never have been Romanian citizens;” in other words, the Treaty allows for a substantial margin of error in deportation decisions. See <[http://www.romnews.com/3\\_9.html](http://www.romnews.com/3_9.html)>, (accessed 4 April 2002).

<sup>64</sup> Interview with Tilman Zülch, Society for Endangered Peoples, Göttingen, 13 May 2002.

<sup>65</sup> Society for Endangered Peoples, Press-release: “Antiziganismus der 17 deutschen Innenminister noch erschreckender als Müllemanns antisemitische Ausfälle” (Anti-Gypsyism of 17 German Ministers of Interior Is Even More Alarming Than Anti-Semitic Slurs of Müllemann); see: <<http://www.gfbv.de>>, (accessed 1 July 2002). See also recent OSCE Reports on the situation of Roma in Kosovo, <<http://www.osce.org>>, (accessed 12 July 2002).



### 3. MINORITY PROTECTION: LAW AND PRACTICE

Germany has ratified the major international human rights instruments that provide for protection against discrimination and safeguard minority rights, including the FCNM and the Charter on Regional or Minority Languages (CRML). Germany has signed but has not as yet ratified Protocol 12 to the European Convention for the Protection of Human Rights (ECHR). Most recently, on 30 August 2001, the authorities made a declaration under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), recognising the competence of the Committee on the Elimination of Racial Discrimination (CERD) to accept individual complaints.<sup>66</sup>

The Constitution (hereafter, “the Basic Law”) takes precedence over all other laws including the legislation of 16 constituent states (*Länder*).<sup>67</sup> International treaties become part of domestic law upon ratification by the Federal Parliament.<sup>68</sup>

#### 3.1 Protection from Discrimination

German legislation does not provide comprehensive protection against discrimination, particularly indirect discrimination, and in practice courts have seldom applied existing provisions to vindicate ethnic or racial discrimination claims.<sup>69</sup> Despite allegedly frequent instances of racially motivated discrimination, including against Sinti and Roma,<sup>70</sup> there is a virtual absence of relevant case-law.

<sup>66</sup> See: <[http://www.unhchr.ch/html/menu3/b/treaty2\\_asp.htm](http://www.unhchr.ch/html/menu3/b/treaty2_asp.htm)>, (accessed 30 March 2002).

<sup>67</sup> The German Basic Law (1949), hereafter, “Basic Law,” Art. 20, para. 3, and Art. 30.

<sup>68</sup> There is no express mention in the Basic Law of the effect of international law on the Constitution. Art. 24, para. 1, of the Basic Law states: “The Federation may by legislation transfer sovereign powers to international organisations.” Art. 25 states: “General rules of international law shall be an integral part of Federal law. They shall override laws and directly establish rights and obligations for the inhabitants of the Federal territory.” Art. 59, para. 2 states: “Treaties which regulate the political relations of the Federation or relate to matters of Federal legislation shall require the approval or participation of the appropriate Federal body in the form of a Federal law.” Nevertheless, the ECHR, the FCNM and CRML were incorporated into the statutes before coming into effect.

<sup>69</sup> See, OPAS Final Report, Attachment 6.3, p. 50.

<sup>70</sup> See ECRI Report 2000, p. 14. The UN ECOSOC also has criticised “continuing discrimination against Roma and Sinti, who are treated much less favourably than other citizens when it comes to education, employment and housing.” See: <<http://www.romnews.com/archive.html>>, (accessed 4 April 2002).

The Basic Law states that: “no person shall be prejudiced or favoured because of sex, birth, race, language, national or social origin, faith, religion or political opinions.”<sup>71</sup> Similar clauses are found in the Constitutions of individual states, such as Bavaria, Berlin, Brandenburg, Bremen, Rhineland-Palatinate, Saarland and Saxony.<sup>72</sup> Constitutional anti-discrimination provisions generally are directly applicable against public bodies, but there is only limited effect on private parties.<sup>73</sup>

Beyond the Basic Law, provisions addressing some forms of discrimination (primarily with regard to gender) can be found in a number of different laws of different legislative rank (e.g. the Criminal Code, Civil Code, Labour Code, Licensing Act, and Trading Regulations). However, none contains a definition of direct or indirect discrimination, racial harassment, incitement to discrimination, and other modes of discriminatory behaviour, or provides for the reversal of the burden of proof in cases of alleged racial/ethnic discrimination<sup>74</sup> as required by the EU’s Race Equality Directive.<sup>75</sup>

The CERD, International Helsinki Federation and ECRI have all recommended the adoption of specific anti-discrimination legislation,<sup>76</sup> and all EU member States are required to introduce and implement legislation transposing the EU Race Equality Directive by July 2003. In its 15<sup>th</sup> regular report under Article 9 of ICERD, the Government stated that it “continues to seriously consider the Committee’s proposal to adopt comprehensive anti-discrimination legislation.”<sup>77</sup> As of August 2002, little progress had been made to transpose the EU Race Directive into domestic law.

### *Lack of data*

The absence of reliable statistical data poses an additional challenge to establishing the scale and scope of ethnic and racial discrimination in general, and against recognised

<sup>71</sup> Basic Law, Art. 3, para. 3.

<sup>72</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 11.

<sup>73</sup> The State is in fact expected to be minimally intrusive into private sphere. See N. Foster, *German Legal System and Laws*, London: Blackstone Press Ltd., 1996. Also, see EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 10.

<sup>74</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, pp. 13–26.

<sup>75</sup> Council Directive 2000/43/EC, adopted by the Council of the European Union on 29 June 2000. OJ SOC 221 JAI 67 (hereafter, “the EU Race Directive”).

<sup>76</sup> CERD/C/338/Add.14, 10 August 2000; ECRI Report 2000; International Helsinki Federation Report 2001, see: <<http://www.ihf-hr.org/reports/ar01/Country%20issues/Countries/Germany.pdf>>, (accessed 14 December 2001).

<sup>77</sup> CERD/C/338/Add.14, 10 August 2000, para. 68.

minorities such as Sinti and Roma in particular. According to the Government, ethnic data are not gathered,<sup>78</sup> in line with a 1983 decision by the Federal Constitutional Court.<sup>79</sup> No such data is officially available.

The absence of ethnic data also presents an impediment to full implementation of the Race Equality Directive, which recommends the use of statistical evidence to establish instances of discrimination. International bodies such as ECRI have highlighted the effectiveness of “opinion polls involving members of the minority populations to ascertain how they perceive levels of discrimination and intolerance.”<sup>80</sup> The Government, however, has asserted that collection of such data “could only be achieved with disproportionate investments of time and effort,” and to date no such polls have been conducted or planned.<sup>81</sup>

The Advisory Committee on the FCNM recommended that “the authorities should seek means of obtaining more relevant statistical data on persons belonging to national minorities ... and in particular seek better to evaluate the socio-economic situation of the Roma/Sinti and, as appropriate, undertake measures in their favour to promote full and effective equality in the socio-economic field.”<sup>82</sup>

### 3.1.1 Education

Educational matters lie within the exclusive competence of individual states. Only a few states, such as Brandenburg, Hesse, Saxony and Thuringia, have adopted specific (though limited) provisions prohibiting discrimination in education.<sup>83</sup>

<sup>78</sup> See, e.g., the State FCNM Report.

<sup>79</sup> The Court decided that citizens could only be obliged to fill in detailed census questionnaires if the secrecy of the data could be assured, and found that existing statistics legislation did not provide a sufficient guarantee. See, BVerfGE 65, 1ff. However, the authorities occasionally produce ethnic data concerning foreign Roma, for example, for a recent listing of Roma refugees from Kosovo, see: <[http://www.bafl.de/bafl/template/index\\_statistiken.htm](http://www.bafl.de/bafl/template/index_statistiken.htm)>, (accessed 15 January 2002).

<sup>80</sup> ECRI Report 2000, p. 14.

<sup>81</sup> Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 9.

<sup>82</sup> Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 75.

<sup>83</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, pp. 17–18.

Sinti and Roma children face serious disadvantages in access to education. Although no official statistics are available, it is widely reported that Sinti and Roma children are over-represented in the system of special schools and that these children drop out of school at a disproportionately high rate. Only a handful attain a higher education.

This situation arises as a result of a number of different factors which may affect individual Sinti and Roma families, including lack of pre-schooling, insufficient knowledge of the German language, and high-levels of poverty, leading to living conditions which are not conducive to study. In the view of many Romani leaders, discrimination against Sinti and Roma children by teachers and school administrations is also a key factor.

### *Special schools*

Special schools (*Sonderschule*), also known as schools for the mentally-disabled (*Geistigbehinderteschule*), and “promoting schools” (*Förderschule*) are intended for children with consistently lower levels of academic achievement, or for children who come from difficult social backgrounds, manifest behavioural problems, or have difficulty coping in the school environment.

The conditions at special educational establishments<sup>84</sup> are not observably inferior to those in regular schools. Special schools generally have even better recreational facilities, more qualified staff and a smaller pupil-to-teacher ratio than regular schools. The interactive teaching methods utilised in special schools reportedly help children improve weak German language skills when needed.

However, children who enter such schools have little chance of re-integrating into the mainstream schooling system, since the curriculum of special schools focuses on preparing pupils for low-skilled labour, rather than for continuing or higher education; thus, graduation from special schools effectively bars children from better professional opportunities. A number of minority representatives express skepticism about the substance of education in special schools. For example, the President of the Rom and Cinti Union in Hamburg referred to special schools as “factories producing cheap and undemanding unskilled labour.”<sup>85</sup>

Referral to special schools is based on a child’s lower academic performance, assessed on the basis of tests and upon the recommendations of teachers. However, according to some German experts, the selective character of the school system, although not

<sup>84</sup> In this report, the term “special schools” refers to both schools for mentally-disabled and “promoting schools,” as their conditions and substance of education are not greatly different. According to some school authorities, “promoting schools are a new name to an old problem.” OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>85</sup> Interview with Rudko Kawczynski, the Rom and Cinti Union, Hamburg, 19 November 2001.

specifically biased against any particular minority group, in effect screens out those children who have weaker German language skills or come from different cultural or social backgrounds, together with those children who learn more slowly.<sup>86</sup> Thus, while the national average of children attending special schools is 1.2 percent, the average for “foreign”<sup>87</sup> children attending special schools is currently almost three times higher (3.3 percent).<sup>88</sup>

### *Disproportionate referral of Sinti and Roma to special schools*

In the absence of official statistics or comprehensive studies it is difficult accurately to ascertain the exact numbers or percentage of Sinti and Roma children attending special schools.<sup>89</sup> However, in the opinion of many Sinti and Roma representatives, the transfer of Sinti and Roma children to special schools occurs at a disproportionately high rate and often arbitrarily, these children allegedly being regarded by many teachers and school administrations as “a distraction to the normal educational process.”<sup>90</sup>

School administrations in principle have to advise the parents about a pending transfer. Reportedly, due to language problems or lack of education many Romani parents do not realise the implications of the measure and give their consent. Moreover, once one child is sent to a special school it is more likely that parents would agree to send their other children to the same school to avoid separating them; allegedly, in this way entire Sinti and Roma families and neighbourhoods end up attending special school.<sup>91</sup>

In Hamburg, according to research conducted in the mid-1980s, as many as 70 percent of Sinti and Roma children were attending special schools; by 2002 the situation had improved noticeably due to the efforts of local Romani organisations working in cooperation with school authorities.<sup>92</sup> Nevertheless, members of the

<sup>86</sup> H. Heuss, notes prepared for EUMAP (Part III), p.12.

<sup>87</sup> Again, “foreign” denotes children without German citizenship; many “foreign” children have been born and raised in Germany.

<sup>88</sup> Federal Bureau of Statistics, see: <<http://www.destatis.de>>, (accessed 10 July 2002).

<sup>89</sup> The Government asserts that there is “no reliable statistical evidence to suggest that this group has a lower rate of participation in education... However some Länder have reported that in isolated cases children of Sinti and Roma have a particularly high level of representation in general remedial schools.” Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 13.

<sup>90</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>91</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>92</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

Hamburg-based Rom and Cinti Union claim that Romani children are still several times more likely to be diverted to special schools than non-Romani children.<sup>93</sup>

A number of Romani organisations in North Rhine-Westphalia, such as the Rom e.V. and the Roma Union Grenzland, which work both with German and foreign Roma and Sinti, maintain that referrals of Romani children to special schools take place “so often as [to suggest] it’s automatic.”<sup>94</sup>

Several German teachers in predominantly “ethnic” neighborhoods of Berlin (Kreuzberg, Tiergarten, Schöneberg) stated in separate interviews that Romani children are not placed in schools for the mentally-handicapped, “like they do in Eastern Europe.” One, acknowledging that Sinti and Roma children, as children with “social problems,” are usually sent to “promoting schools,” added that these schools are not exclusively for Sinti and Roma, as “there are other minorities there, too.”<sup>95</sup>

Indeed, according to a recent study conducted by the European Migration Centre, a Berlin-based research institution, minority and foreign children are both severely under-represented in educational establishments beyond the elementary level and over-represented in special educational establishments in greater Berlin. While minorities and foreigners together constitute approximately 13 percent of the population of Berlin, the study showed that some 20 percent of the students in special schools were not ethnic Germans.<sup>96</sup> Keeping in mind that according to this study only slightly over half of minority and foreign children in Berlin attend school at all, this means that, with the existing trend of disproportionate referral to special schools, if 100 percent of minority and foreign children attended school, their percentage in special schools could double to over 40 percent – about three times more than their percentage in relation to the overall population.<sup>97</sup>

In the town of Ravensburg, Baden-Württemberg, the local primary school ran a project in the 1980s to support schooling for local Sinti children; reportedly, it was so

<sup>93</sup> Interviews with Rudko Kawczynski, Janina Janson, Marko Knudsen, and other members of the Rom and Cinti Union, Hamburg, 4 and 7 December 2001.

<sup>94</sup> Sebastijan Kurtisi of the Roma Union Grenzland, presentation made at OSI Roundtable Meeting, Hamburg, 8 April 2002. See also “Romakinder werden zu schnell in die Sonderschule überwiesen” (Romani Children are Transferred to Special Schools Too Quickly), *Roma-Nachrichten*, newsletter of the Cologne-based Rom e.V., July 2001.

<sup>95</sup> Interviews with school teachers in Berlin, 15-16 November 2001.

<sup>96</sup> See *Citizens Organise Networks Against Discrimination*, Edition Parabolis, 2000, p. 8; also interview with a researcher of the European Migration Centre, Berlin, 27 November 2001. Figures for Sinti and Roma who are German citizens are included in numbers shown for Germans in special schools.

<sup>97</sup> See *Citizens Organise Networks Against Discrimination*, Edition Parabolis, 2000, p. 8.

successful that only one Sinti child attended a special school at that time. However, in the late 1990s the Director and some other responsible staff of the school retired, and the programme has become less effective; today many Sinti children again attend special schools.<sup>98</sup> Most recently, following the closure of a lower intermediate school and several elementary schools Sinti children from the Ummenwinkel settlement in Ravensburg were transferred *en masse* to the only school which remained open in the vicinity – the “promoting school” St. Christina.<sup>99</sup>

### *Segregated schools*

Although there is no official data, school segregation appears to be a serious and growing problem. While all minorities (including long-term legal residents without citizenship) constitute not more than 12 to 14 percent of the entire population,<sup>100</sup> minority children reportedly constitute well over half – and sometimes as much as 90 percent – of the student body in many schools, especially those located in “ethnic districts.”<sup>101</sup> These are not necessarily special schools, but the concentration of minorities in certain schools is a factor working against their subsequent integration into the society.

There are no State-supported initiatives to address the growing tendency of ethnic segregation in schools, which often accompanies patterns of ethnic segregation in housing (see Section 3.1.3).

### *Bilingualism*

While Sinti and Roma representatives and parents point out that the performance of Romani children is often adversely affected by insufficient German language skills, interviews with officials, school authorities, and representatives of non-Romani organisations indicate that awareness of this problem may be low among the majority population (including teachers).<sup>102</sup> It is generally believed that German Sinti and Roma

<sup>98</sup> H. Heuss, notes prepared for EUMAP (Part I), p. 2.

<sup>99</sup> The schools were closed as a result of financial difficulties of the local government. See “Scheitert Projekt im Ummenwinkel am Geld?” (Will Money Stall Project in Ummenwinkel?), *Schwabische Zeitung*, 8 December 2001.

<sup>100</sup> Federal Bureau of Statistics, see: <<http://www.statistik-bund.de>>, (accessed 28 October 2001).

<sup>101</sup> For example, in schools of several “ethnic” districts of Berlin (Kreuzberg, Wedding, Tiergarten, Schöneberg and Neukölln). See *Citizens Organise Networks Against Discrimination*, Edition Parabolis, 2000, p. 12–13.

<sup>102</sup> Interviews were conducted by the reporter in twelve states visited during field research in the period November 2001-January 2002 and May-July 2002: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Lower Saxony, Mecklenburg-West Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saxony-Anhalt and Schleswig-Holstein.

are bilingual,<sup>103</sup> and only foreign Roma have weak language skills. In reality, German Sinti and Roma children often also enter school with poor language skills, and this may contribute to teachers' conclusions that they would be better off in a special school.

According to Jacques Delfeld, the leader of the Association of German Sinti of Rhineland-Palatinate, "Sinti and Roma children grow up bilingual. Achievement problems in school are often attributable to bilingualism. Teachers often do not take this into consideration, and children are referred to special schools due to weaker performance."<sup>104</sup> The leader of the Association of German Sinti and Roma of Schleswig-Holstein, Matthäus Weiss stated that bilingualism is a cause of frequent and often automatic referrals of Sinti children to special schools.<sup>105</sup> Members of the Association of German Sinti of Lower Saxony, and minority representatives in the state of Hesse also identified bilingualism as a cause of lower performance of Sinti and Roma in regular schools. Some school authorities concurred that bilingualism is often the biggest (though not the only) problem that affects school performance of Sinti and Roma children.<sup>106</sup>

CERD General Recommendation XXVII (2000) concerning measures in the field of education stresses the need "[t]o prevent and avoid as much as possible the segregation of Roma students, while keeping open the possibility for bilingual or mother tongue tuition."<sup>107</sup> The only state in Germany where instruction in the Romani language is offered in several state-run schools is Hamburg (see Section 3.3.3).

The ECRI Report 2000 specifically recommended that "measures should be taken to assist children with a mother tongue other than German to participate fully and successfully within the school system," and urged the Government to investigate and address issues of over-representation of minority and foreign children in "special schools for underachievers" and "corresponding under-representation in intermediate and grammar schools."<sup>108</sup>

<sup>103</sup> See State FCNM Report, p.112.

<sup>104</sup> Interview with Jacques Delfeld, the State Association of German Sinti of Rhineland-Palatinate, Landau, 9 January 2002.

<sup>105</sup> Interview with Matthäus Weiss, the leader of the Association of German Sinti and Roma of Schleswig-Holstein, cited in "Deutscher geht nicht" (Could Not Be More German), *Frankfurter Rundschau*, 2 January 2002.

<sup>106</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>107</sup> General Recommendation XXVII (Discrimination against Roma) adopted by the Committee on the Elimination of Racial Discrimination at its fifty-seventh session on 16 August 2000, see: <http://www.imadr.org/regional/roma1.html>, (accessed 25 May 2002).

<sup>108</sup> ECRI Report 2000, p. 11.



*Pre-school education*

Lack of pre-schooling is frequently identified as another chief cause of lower performance in school. Sinti and Roma children often do not attend pre-school institutions (kindergartens), and arrive at elementary schools unprepared. The poor living conditions of many school-age Sinti and Roma children afford them little space or opportunity to complete their homework. Many parents, who often have not received an education themselves (or in the case of some German Sinti and Roma and many foreign Roma are not proficient in German) are unable to provide their children with assistance.<sup>109</sup>

At the same time, children are assessed on the basis of standard tests which, in the opinion of Romani mediators and social pedagogues, do not assess intellectual potential so much as presuppose some prior training, such as at minimum the ability to use a pen or a pencil.<sup>110</sup> These tests tend to disproportionately disadvantage Romani children, who often lack such experience.

A social pedagogue in Cologne explained: "Romani children usually do not go to kindergarten, but spend early childhood with the family. They come to school and do not know basic things, such as how to draw, or the names of colours, or the days of the week. Some children do not even know German that well, since they mostly speak Romanes with their parents. When the teacher says: 'write this,' or 'draw that,' they do not understand what the teacher wants from them."<sup>111</sup>

Several international organisations have made specific recommendations regarding the importance of pre-schooling. Council of Europe Recommendation No R (2000) 4 states that: "in order to secure access to school for Roma/Gypsy children, pre-school education schemes should be widely developed and made accessible to them."<sup>112</sup> The OSCE High Commissioner on National Minorities has urged Governments to

<sup>109</sup> Although poverty and overcrowded conditions are said to characterise the living situation mostly of foreign Roma (particularly refugees), it appears that poverty and inadequate living conditions among German Sinti and Roma is also a serious problem; see Section 3.1.3 Interview with Annelore Hermes, the Society for Endangered Peoples, Göttingen, 16 November 2001; interview with members of the Rom e.V., Cologne, 10 December 2001; interviews with members of the Rom and Cinti Union, Hamburg, 4 and 7 December 2001.

<sup>110</sup> Letter from members of the Rom e.V., 31 January 2002; on file with EUMAP.

<sup>111</sup> Interview with Beata Burakowska, the Rom e.V., Cologne, 10 December 2001.

<sup>112</sup> Council of Europe Recommendation No R (2000) 4 of the Committee of Ministers to member States on the education of Roma/Gypsy children in Europe, see: <<http://www.coe.int>>, (accessed 2 January 2002).

“consider supporting pre-school programs that help prepare Romani children for primary school.”<sup>113</sup>

Projects conducted by Sinti and Roma organisations in cooperation with school authorities to provide pre-school preparation to Sinti and Roma children now exist in several states, and their success is said to be largely attributable to the fact that Sinti and Roma themselves are involved in work to ensure that their children enjoy access to educational opportunities.

“Schaworalle/Förderverein” project in Frankfurt (Main), in the state of Hesse, has been quoted by many Romani representatives as a positive example of providing necessary pre-school training to Romani children.<sup>114</sup> Most recently, the Association of German Sinti of Lower Saxony succeeded in receiving state support for establishing a kindergarten with instruction in Romanes, which would provide necessary pre-school training for Sinti and Roma children.<sup>115</sup>

### *Discriminatory treatment in schools*

Sinti and Roma representatives assert that anti-Gypsy attitudes lead to discriminatory treatment, rendering the school environment inhospitable to Sinti and Roma children.

Members of the Association of German Sinti of Rhineland-Palatinate claim that they are frequently confronted with clichéd attitudes, such as that “Sinti and Roma are ‘different’ and do not need academic education.”<sup>116</sup> In fact, during recent interviews, individual social workers and teachers claimed that Sinti and Roma children manifest “inherent learning difficulties,” a “characteristic inability to concentrate,” and that they “do not have the patience to sit through the lesson,” “are not meant for school,” and would “do better to learn some trade” in a “promoting school.”<sup>117</sup>

Representatives of the Association of German Sinti of Lower Saxony maintain that Sinti and Roma children are much more likely than non-Romani children to be

<sup>113</sup> Organisation of Security and Cooperation in Europe, High Commissioner on National Minorities, *Report on the Situation of Roma and Sinti in the OSCE Area*, 2000, p. 93.

<sup>114</sup> OSI Roundtable Meeting, 8 April 2002.

See also: <<http://www.foerdervereinroma.de/index.htm>>, (accessed 31 January 2002).

<sup>115</sup> “Bildungschancen für Sinti verbessern” (To Improve Educational Opportunities for Sinti), *Infoblatt – Latscho Diwes*, 7 February 2002.

<sup>116</sup> Information from the Association of German Sinti of Rhineland-Palatinate, Landau, 9 January 2002.

<sup>117</sup> Interviews were conducted by the reporter in twelve states during field research in the period November 2001-January 2002 and May-July 2002: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Lower Saxony, Meklenburg-West Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saxony-Anhalt and Schleswig-Holstein.

referred to special schools on the basis of alleged learning difficulties.<sup>118</sup> One member of the Association stated: “Generally, when children go to school they do not know how to read, write or calculate. This is why they go to school – to learn. However, when German children do not know something, they are taught. When Sinti or Roma children do not know something – they are sent to special schools.”<sup>119</sup>

The *Schaworalle/Förderverein* project in Frankfurt (Main), designed to promote progress at school among Romani children, relied on interviews with school administrations and teachers to assess the “typical” problems of Romani pupils (referring to foreign Roma). The list of typical characteristics of Romani children, in the view of teachers and school directors, was the following:

They often make mistakes; they are not punctual; they do not bring along school books; they do not do homework; they do not sit still; they do not participate in group exercises; they speak poor German; they speak up and answer directly without permission, they talk to each other in class notwithstanding teacher’s warnings; they are often ill; they become frustrated quickly; they provoke other students and respond aggressively to provocation by others; they have no respect; they do not accept the authority of the teacher, and they skip classes.<sup>120</sup>

Romani parents claim that verbal and at times even physical assaults against their children by their classmates are commonplace, and allege that teachers are sometimes indifferent to these assaults.<sup>121</sup> In an incident recorded in one of Hamburg’s “promoting schools” two Romani children were reportedly doused with cold water by a teacher for speaking Romanes among themselves.<sup>122</sup> Individual Sinti and Roma families in Cologne claimed that their children are frequently subjected to verbal harassment, such as the taunt: “Zigeuner – out!” or “Zigeuner – in gas!”<sup>123</sup>

A lawyer working with the Association of German Sinti of Lower Saxony has tried to bring to the attention of the Ministry of Education and Culture a pattern of teachers reportedly verbally insulting and allegedly even slapping Sinti and Roma children.

<sup>118</sup> The organisation claims to confront at least two referrals of Sinti and Roma children to special schools a month. Interviews with Siegfried Franz and Leo Oehle, the Association of German Sinti of Lower Saxony, Hanover, 15 January 2002.

<sup>119</sup> Interview with Siegfried Franz, the Association of German Sinti of Lower Saxony, Hanover, 15 January 2002.

<sup>120</sup> “Roma in Frankfurt,” see: <<http://www.foerdervereinroma.de/index.htm>>, (accessed 31 January 2002).

<sup>121</sup> Interview with Janina Janson, working as a moderator between Romani parents and school authorities, the Rom and Cinti Union, Hamburg, 7 December 2001.

<sup>122</sup> Information from Janina Janson, the Rom and Cinti Union, Hamburg, 4 December 2001.

<sup>123</sup> Interviews with members of the Rom e.V., Cologne, 10 December 2001.

However, as the lawyer acknowledged, “we usually have only the word of a child against the word of a teacher who says ‘I did not do it, the child is lying,’” and there has been no official reaction.<sup>124</sup>

Romani parents further claim that, while teachers tend to ignore complaints of harassment, disciplinary measures are often taken against Romani children, such as for example transferring Sinti and Roma children to special schools on the grounds of “behavioural problems,” “bad temper” and “aggressiveness.” Reportedly, some Sinti and Roma children react to such treatment by learning to hide their identity, both to complete school and to avoid jeopardising their opportunities to find work.

### *High drop-out rates*

Though no official statistics are available, existing research indicates that minority and foreign children frequently do not complete even basic education.<sup>125</sup> ECRI noted with concern “a higher than average drop-out rate amongst these groups of children.”<sup>126</sup> Sinti and Roma children appear to drop out of school more often and earlier than their peers.<sup>127</sup>

Several NGO projects seem to have been quite successful in addressing the problem of absenteeism and high drop-out rates among Sinti and Roma children. For example, the NGO Sinti Verein in Bremen, in cooperation with parents and with support from the state, has achieved regular attendance at school from most local Sinti children.<sup>128</sup> In Hamburg, the joint efforts of the Rom and Cinti Union and state education authorities have helped reduce drop-out rates among Romani children.<sup>129</sup> At the same time, the Government mentions that rates of absenteeism remain extremely high in many states.

<sup>124</sup> Interview with Leo Oehle, the Association of German Sinti of Lower Saxony, Hanover, 15 January 2002.

<sup>125</sup> A more detailed study is available for Berlin, see *Citizens Organise Networks Against Discrimination*, Edition Parabolis, 2000, pp. 8–9.

<sup>126</sup> ECRI Report 2000, p. 11.

<sup>127</sup> Petra Rosenberg, a leader of the Association of German Sinti and Roma of Berlin-Brandenburg, asserted that “Sinti and Roma children were better integrated in German schools before the NS-era than at present.” Cited in “Erschaft des Stolzes” (Heritage of Pride), *Der Tagesspiegel*, 18 December 2001.

<sup>128</sup> State FCNM Report, p. 100.

<sup>129</sup> Staff member of the Hamburg Institute for Furthering Education of Teachers, presentation at the conference “Roma Projects ‘Good practices’: Possibilities and Limits,” organised by the Roma National Congress/Rom and Cinti Union, Hamburg, 19–21 November 2001.

For example, the problem persists in the state of Schleswig-Holstein, despite the involvement of Sinti women as mediators.<sup>130</sup>

Sinti and Roma representatives as well as some school officials maintain that high drop-out rates are the result of a combination of the above-described factors, such as insufficiently intercultural school curricula and discrimination, which lead Sinti and Roma children to fear school.<sup>131</sup> Segregation in special schools also appears to contribute to high drop-out rates; as graduation from special schools limits subsequent professional opportunities in addition to contributing to stigmatisation and lowering children's self-esteem, the utility of school attendance may be questioned by some parents.

### *Government response*

The Government recognises the existence of the problems faced by Sinti and Roma in access to education, and has outlined the causes of “shortfalls” among Romani students as follows:

[O]n the one hand, the difficult transition from the traditional perception of the family being an all-embracing social community, to the concepts of modern society, with compulsory education and vocational training ... outside the family. On the other hand, defensive reactions on the part of the parents or grandparents *vis-à-vis* the publicly maintained school system also come into play; such defensive reactions stem from the marginalisation of these persons and from their negative experience during their school days, and from subsequently being denied all educational opportunities during the persecution suffered under the Nazi régime.<sup>132</sup>

The Government has advanced “promoting schools” as a means of equalising opportunities for Sinti and Roma children. The State FCNM Report mentions that: “Special possibilities ... exist for promoting the schooling progress of children of Sinti and Roma in some *Länder* of the Federal Republic of Germany,”<sup>133</sup> “in cases where

<sup>130</sup> The Government has suggested that “it is therefore necessary for the individual families of this group of pupils to make sure their children attend school regularly and that they make use of government facilities that are currently available in the educational system.” Comments of the Government of the Federal Republic of Germany to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, p. 13.

<sup>131</sup> Staff member of the Hamburg Institute for Furthering Education of Teachers, presentation at the conference “Roma Projects ‘Good practices’: Possibilities and Limits,” organised by the Roma National Congress/Rom and Cinti Union, Hamburg, 19-21 November 2001. The complete video recording of the conference is available from the organisers.

<sup>132</sup> State FCNM Report, p. 99.

<sup>133</sup> State FCNM Report, p. 97.

children of individual families of German Sinti and Roma do not fully meet the general attainment targets.”<sup>134</sup>

However, in the opinion of Sinti and Roma leaders, many of these “promotional opportunities” are imposed on Sinti and Roma children arbitrarily, as is attendance at other special schools (see above). Some school authorities acknowledge that “promoting schools” are merely “a new name for an old problem.”<sup>135</sup> For its part, the Government has acknowledged that “experience gained in this context has shown that, on a long-term basis, only those initiatives will be successful which are launched locally with the consent, will and participation, including shared responsibility, of the persons concerned.”<sup>136</sup>

A number of states provide support for NGO initiatives to overcome disadvantages faced by Sinti and Roma children in access to education. However, there has been no systematic evaluation of their effectiveness or assessment of “good practices” with a view towards sharing and exchanging these experiences. There is no comprehensive Government policy that commits adequate and sustained financial support to initiatives to ensure that Sinti and Roma children enjoy equal access to educational opportunities. NGO projects often run into financial and logistical difficulties, and can hardly cope with the scale of the problems described above. One Romani representative urged the Government to “give it a thought: without education, what kind of a future does a new generation of Sinti and Roma have?”<sup>137</sup>

### 3.1.2 Employment

There is no specific and comprehensive legislation prohibiting ethnic or racial discrimination in employment.<sup>138</sup> Select anti-discrimination provisions are scattered through legislation of differing status, covering some but not all forms of discrimination.

For example, Section 8.1 of the Federal Civil Services Code, Section 75 of the Working Conditions Act, and Section 67 of the Federal Staff Representation Act all forbid differentiated treatment of employees on the basis of religion, nationality and origin, *inter alia*, while the Labour Code prohibits arbitrary dismissal on discriminatory

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<sup>134</sup> State FCNM Report, p. 99.

<sup>135</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>136</sup> State CRML Report, p. 118.

<sup>137</sup> Sebastijan Kurtisi of the Roma Union Grenzland, OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>138</sup> Basic Law, Art. 3.

grounds. However, there are no provisions regarding discrimination in recruitment.<sup>139</sup> There are no legal provisions penalising instructions to discriminate, unless such instructions are accompanied by serious threats or violent coercion, which could trigger the application of the Criminal Code.<sup>140</sup>

It appears possible for courts to sanction discriminatory practices in employment on the basis of the Basic Law. For example, when in 1997 a radio-controlled taxi centre in Duisburg began offering its customers the option of requesting an ethnic German driver, several Turkish taxi drivers challenged the practice in court. The lower court found no legal violation,<sup>141</sup> but on 28 May 1999 the Düsseldorf Higher Regional Court issued a non-appealable decision that exclusion from jobs on an ethnic basis violated the principle of equal treatment under Article 3 of the Basic Law.<sup>142</sup> However, in the past ten years very few such cases have been recorded.<sup>143</sup>

### *Discrimination in recruitment*

Although there is little case-law, discrimination against minority groups (often perceived as “foreigners”) in recruitment appears to be strong. A study conducted in 1996 by the International Labour Organisation (ILO) indicated high levels of discrimination against “foreigners” on the German labour market. Discrimination was found to run particularly high (over 50 percent) in areas requiring higher qualifications.<sup>144</sup> More recent tests conducted in 2001 by the Solingen-based Migration Centre, in cooperation with the Aachen-based Educational Centre, and the Berlin-based research institute INFIS indicate that this trend continues. The findings show a pattern of structural discrimination, as well high levels of personal discrimination:

<sup>139</sup> *Betriebsverfassungsgesetz* (The Working Conditions Act), Section 118.1. The Act’s anti-discrimination provisions do not apply to organisations of political, coalitional, confessional, charitable, educational, academic, or artistic nature, as well as the media. This Act, besides, applies only to those private sector companies which have at minimum five permanent employees and a working council. EUMC, *Anti-discrimination Legislation in EU Member States – Germany*, Vienna, 2002, p. 20.

<sup>140</sup> That is, for “incitement of people” (*Völkerverhetzung*), Criminal Code (StGB), para. 30.

<sup>141</sup> EUMC, *Anti-discrimination Legislation in EU Member States – Germany*, Vienna, 2002, p. 22.

<sup>142</sup> U 238/98 – 14 – (ZIP 1999, 1357 ff.), 28 May 1999.

<sup>143</sup> Furthermore, this case was relatively unique in that it had attracted international attention and was being monitored by CERD. See, CERD/C/338/Add.14, 10 August 2000.

<sup>144</sup> See, A. Goldberg and D. Mourinho: “Empirical Proof of Discrimination against Foreign workers in Labour Market Access” in A. Goldberg, D. Mourinho and U. Kulke, *Labour Market Discrimination against Foreign Workers in Germany*, ILO, International Migration Papers No.7, Geneva 1996, pp. 3–53. The study focused on the situation of Turkish workers widely perceived in Germany as “foreigners.”

among job applicants with identical qualifications white applicants (with German names) have been clearly preferred by employers; in the case of telephone interviews, applicants without foreign accents have been preferred.<sup>145</sup>

There are no studies concerning discrimination in recruitment against Sinti and Roma. However, minority representatives assert that anti-Gypsyism and negative stereotypes about Sinti and Roma result in strong discrimination in the labour market against members of these communities.<sup>146</sup> The Advisory Committee on the FCNM further notes that although “authorities assume that, in principle, membership of a national minority has no impact on a person’s economic, social or cultural status,” “[evidently] members of the Roma/Sinti minority, in particular, find it significantly more difficult than the rest of the population to find work.”<sup>147</sup>

For many Sinti and Roma individuals access to a variety of jobs is often closed due to lack of formal education (see Section 3.1.1). Romani leaders at the same time maintain that in fact “a Sinto or Rom with education is in no better position on the labour market than a Sinto or Rom without education because of prejudices.”<sup>148</sup> For example, there have been many reports that Sinti and Roma are rejected (or are double- and triple-checked) when applying for work as a cashier or at shop or restaurant counters.<sup>149</sup> Sinti and Roma report that they commonly experience mistrust from prospective employers, and that many employers are reluctant to hire them.<sup>150</sup>

Fear of discrimination in recruitment and of arbitrary dismissals allegedly leads many Sinti and Roma to conceal their identity. Most German Sinti individuals with steady

<sup>145</sup> Jobless persons of foreign (e.g. Turkish) descent with varying degrees of foreign accent were invited to act as test persons. See, D. Clayton, *Antidiskriminierungsarbeit in Nordrhein-Westfalen*, pp. 10, 17–18.

<sup>146</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>147</sup> Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 24.

<sup>148</sup> Interview with Rudko Kawczynski, the Rom and Cinti Union, Hamburg, 4 December 2001.

<sup>149</sup> Information from members of the Association of German Sinti of Rhineland-Palatinate, Landau, 9 January 2002.

<sup>150</sup> Anecdotal evidence suggests that such allegations are not unfounded. A Romani salesperson in Cologne reported that, after having worked for several years without complaint, she was overheard by her supervisor speaking Romanes on the telephone, and five days later was asked to leave due to downsizing. Information from the Rom e.V., Cologne, 10 December 2001. A Sinti individual from Bavaria reported that after applying for a maid’s position at a hotel over the telephone and being called in for an interview, she was told “as soon as I walked in, very civilly, with a smile” that the position had just been filled. Interview with NN (anonymity requested), Munich, 18 January 2001.



jobs who were interviewed for this report, stated that they prefer “not to take chances,” and do not disclose their identity at work.<sup>151</sup>

There is no registration of ethnicity on employment forms or applications. However, employers are reportedly able to determine an applicant’s ethnicity by other means,<sup>152</sup> such as the applicant’s home address. Because Sinti and Roma are often settled in compact areas (see Section 3.1.3), these areas are known as “Gypsy” addresses. For example, according to a representative of the Eppelheim-based NGO “PAKIV,” when an employer sees the address “Industriestrasse” (“Industry street,” now renamed as “Henkel-Teroson-Strasse,” a street in greater Heidelberg where several Sinti families live), he or she knows who is applying. In this way, segregated housing facilitates profiling and discrimination by employers.<sup>153</sup> Similar issues have been reported in other cities where compact Sinti and Roma settlements exist.

Racial motivation behind refusals to hire Sinti and Roma or their sudden dismissals is reportedly never made explicit, which makes it difficult to mount a legal challenge, and there are no allegations of public advertisements specifically discouraging Sinti and Roma from applying for available jobs. Formal complaints and court cases are extremely rare; persons who feel they have been discriminated against by employers reportedly either lack concrete proof, or doubt their chances of winning the case, or simply are unaware of the procedures for filing a complaint.<sup>154</sup>

### *Unemployment*

The absence of an effective legal framework against discrimination may be at least partially responsible for higher than national average unemployment rates among

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<sup>151</sup> The interviews have been conducted by the reporter in twelve states visited during field research in the period November 2001-January 2002 and May-July 2002: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Lower Saxony, Meklenburg-West Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saxony-Anhalt and Schleswig-Holstein.

<sup>152</sup> Employers also often require a photograph to be enclosed with the job application.

<sup>153</sup> Interview with Herbert Heuss, Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Heidelberg, 7 January 2002. However, this has an impact also on individuals of lower economic strata, who live in poor neighbourhoods, regardless of their ethnic origin.

<sup>154</sup> Commentators note a discrepancy between the existence of possibilities to vindicate discrimination claims and “realities of the legal culture where these provisions do not play any positive role for the protection of [alleged victims].” Information provided by Minority Rights Group, Interrights and European Roma Rights Centre under the auspices of the joint project, ‘Implementing European Anti-Discrimination Law,’ July 2001.

“foreigners” (including long-term residents without German citizenship).<sup>155</sup> Official unemployment statistics for national minorities such as Sinti and Roma do not exist.<sup>156</sup>

Without official statistical data or studies it is difficult to determine unemployment figures among Sinti and Roma. However, minority representatives maintain that the rate of unemployment among Sinti and Roma communities is grossly disproportionate, with estimates ranging from 60 to 90 percent,<sup>157</sup> and allegedly stems from discrimination on the part of public and private employers in recruitment as well as lower levels of education. By comparison, the national unemployment average for the year 2001 was approximately nine percent, and shows signs of a slight decrease for the year 2002.<sup>158</sup>

Some experts have pointed out that high estimates of unemployment among Sinti and Roma may be a result of informal employment; that is self-employed individuals may be regarded by authorities as unemployed.<sup>159</sup> This form of occupation in practice often translates into limited social protection, such as health and pension insurance, unstable income, and dependence on the social welfare system.

### *Social protection*

The social protection system comprises a wide range of benefits, including unemployment benefits, payable to individuals who worked at one time but have lost their jobs, and social welfare, payable to individuals who have no employment history and require continuous social assistance. Unemployment benefits are higher than social welfare (which covers only basic minimum costs, e.g. food, accommodation, clothing, hygiene and heating); the amount of unemployment benefits is calculated on the basis of previous income.<sup>160</sup>

<sup>155</sup> Federal Ministry of Interior, see: <<http://www.bmi.bund.de>>, (accessed 30 June 2002).

<sup>156</sup> Advisory Committee finds that “the lack of good statistical data makes it difficult ... to ensure that the full and effective equality of national minorities is promoted effectively, including as concerns the situation of Roma/Sinti on the labour market.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 75.

<sup>157</sup> OSI Roundtable Meeting, 8 April 2002. Interview with Annelore Hermes, Roma and Sinti/Refugees Desk of the Society for Endangered Peoples, Göttingen, 16 November 2001. Interview with a researcher of the European Migration Centre, Berlin, 27 November 2001. Letter from a social worker in Düsseldorf commenting on an earlier draft of this report; on file with EUMAP.

<sup>158</sup> Federal Bureau of Statistics, see: <<http://www.destatis.de>>, (accessed 25 May 2002).

<sup>159</sup> Letter from a social worker in Düsseldorf commenting on an earlier draft of this report; on file with EUMAP. H. Heuss, notes prepared for EUMAP (Part III), p. 24.

<sup>160</sup> N. Foster, *German Legal System and Laws*, pp. 181–183.

Recent amendments to social protection legislation require unemployed persons to make regular job applications in order to maintain entitlement to unemployment benefits; for the long-term unemployed, benefits may be reduced and even cut. This measure does not take into account the possibility that members of certain minority groups may be unable to find work due to discrimination in recruitment.

Sinti and Roma leaders further point out that due to cultural taboos on certain types of activities, members of their communities sometimes cannot accept certain jobs, including jobs in hospitals and cemeteries (regarded as unclean places) or dealing with garbage. Allegedly, responsible employment offices are sometimes ignorant of or insensitive to these concerns.<sup>161</sup> For example, in Cologne, a 32-year-old German Sinto, registered as a gardener with the city's employment agency, was fired because he refused to accept work at the cemetery. He appealed his dismissal to the Labour court in Cologne, but lost.<sup>162</sup> In the absence of legislation that would protect minorities from indirect forms of discrimination the chances of winning such cases are minimal. At the same time, multiple refusals to accept job offers, even when the refusal constitutes a "conscientious objection," may cause an individual to lose access to benefits.

### *Government response*

Authorities in individual states have made attempts to reduce high levels of unemployment among Sinti and Roma through various job-creation projects; however, the effectiveness of these projects has been limited.

In Hamburg, education authorities waived certain qualification requirements to allow the employment of four Romani individuals as language instructors in schools (see Section 3.3). In Bremen two offices are publicly funded within the framework of job creation schemes for Sinti and Roma;<sup>163</sup> there is no data about the effectiveness of these projects.

As in the area of education, there has not been any large-scale evaluation or assessment of successful job-creation projects with a view towards exchanging experiences to identify positive practices. Doing so could support the development of more systematic policy measures to alleviate the disadvantages faced by Sinti and Roma on the labour market.<sup>164</sup>

<sup>161</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>162</sup> "Gärtner darf kein Totengräber sein: Gefeuert!" (Gardner Cannot Work at Graveyard: Fired!), *Express Köln*, 15 December 2001.

<sup>163</sup> State FCNM Report, p. 28.

<sup>164</sup> H. Heuss, notes prepared for EUMAP (Part I), p. 2.

*Romani refugees*

Barriers to gainful employment are particularly high for Roma refugees, even those who have lived in Germany for many years awaiting a decision on permission to stay or deportation. The recently-amended Asylum Law allows these individuals to apply for a work permit (a requirement for legal employment) after one year. However, in addition to the same barriers of discrimination faced by Sinti and Roma citizens or permanent residents, Roma refugees with work permits experience difficulties in finding employment due to the fact that “deferred deportation” status is usually extended only for three-month periods.

Moreover, in practice the procedure for obtaining a work permit is extremely bureaucratic and slow, and many refugees never obtain one. In the opinion of Romani leaders, authorities procrastinate on issuing work permits and other documents, in hopes that the situation in refugees’ countries of origin may improve, allowing their return.<sup>165</sup> At the same time, those who take up unauthorised employment are at risk of deportation for violation of the law. Those who remain unemployed are dependent on welfare,<sup>166</sup> the amount of which has been assessed by the International Helsinki Federation as falling below subsistence level.<sup>167</sup>

The ECRI Report 2000 warned that preventing access to employment for refugees while reducing their benefits leaves these individuals “in destitute condition,” and may “reinforce prejudices, stereotypes and hostility towards such individuals” in society.<sup>168</sup>

### 3.1.3 Housing and other public goods and services

There is no specific legislation that would prohibit discrimination in access to housing and other goods and services, aside from a generic provision in the Basic Law.<sup>169</sup> In the private sector especially, service providers enjoy a wide degree of contractual freedom.

<sup>165</sup> Interview with Rudko Kawczynski, the Rom and Cinti Union, Hamburg, 4 December 2001.

<sup>166</sup> *Asylbewerberleistungsgesetz* (The Asylum Law) stipulates that the needs for housing, food and clothing shall be provided in kind, in addition to a monthly allowance of €40 for an adult and €20 for each child. *AsylbLG*, para. 3.

<sup>167</sup> The amount of welfare payments has not been adjusted since 1993; it fails to reflect an increase in the cost of living. See Report by International Helsinki Federation (2001), <<http://www.ihf-hr.org/reports/ar01/Country%20issues/Countries/Germany.pdf>>, (accessed 3 August 2001).

<sup>168</sup> ECRI Report 2000, pp. 10–11.

<sup>169</sup> Basic Law, Art. 3.

Housing conditions of Sinti and Roma vary significantly. Some families live in conditions similar to those of other Germans. However, it appears that the living conditions of a majority of Sinti and Roma remain sub-standard, as a result of poverty and dependence on social welfare, long-term neglect by public authorities, and allegedly strong discrimination in access to commercial housing.

### *Public housing*

CERD has expressed concern about a pattern of ethnic segregation in housing.<sup>170</sup> The Government has responded that “(i)nsofar as foreign citizens in Germany live in self-contained communities in conurbations, they do this because this is what they want. These people frequently belong to the same ethnic group.”<sup>171</sup>

Authorities seem to assume that Sinti and Roma who are German citizens also prefer to settle together, although most of the so-called “Sinti settlements” were formed after the war, when German Sinti and Roma who returned to their hometowns from concentration camps were resettled in city and town slums, usually in the least attractive areas, in conditions which posed serious environmental and health risks. From the 1970s onward social offices began to deal with this problem, making significant improvements to many settlements. However, in many instances the authorities chose to rebuild already existing ghettos, replicating patterns of ethnic segregation.

In Düsseldorf, North Rhine-Westphalia, upon their return after the war Sinti were housed in dilapidated slums in an isolated settlement,<sup>172</sup> which public authorities reconstructed only in 1983. The reconstruction of the settlement is known as a local Act of Atonement.<sup>173</sup> Today approximately 160 German Sinti live in 27 houses in this settlement in relatively good conditions. According to a local social worker, the improvements are a result of support from the state and local government and the concerted efforts of several non-Romani organisations.<sup>174</sup>

The Sinti settlement of some 250 persons on the outskirts of Hamburg was built on a former garbage dump, about which residents reportedly were not informed.<sup>175</sup> The houses in the settlement are in relatively good condition, although the settlement itself

<sup>170</sup> CERD/C/338/Add.14, 10 August 2000.

<sup>171</sup> Here the Government refers to immigrants as “foreigners.” CERD/C/338/Add/1410, August 2000, para. 26.

<sup>172</sup> S. Milton, “Persecuting the Survivors: the Continuity of ‘Anti-Gypsyism’ in Post-War Germany and Austria” in S. Tebbutt, p. 37.

<sup>173</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>174</sup> Letter from a social worker in Düsseldorf, commenting on an earlier draft of this report; on file with EUMAP.

<sup>175</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

is isolated and not easily accessible by public transportation.<sup>176</sup> The new city dump is located close by. Both the land on which the settlement was built and its proximity to the dump present a constant health hazard.

Pursuant to a 1970s Sinti housing project in the city of Freiburg, Bavaria, the authorities built new homes, schools and a community centre in a compact area, on the assumption that Sinti wanted to stay together. Other residents gradually moved out of this area, leaving it ethnically segregated.<sup>177</sup>

The Kistnersgrund Sinti settlement in Bad Hersfeld, Hesse, was built in the 1970s on the outskirts of the city on the site of the garbage dump. After an outbreak of hepatitis in the early 1980s due to unsanitary conditions in the settlement, the authorities decided to move it.<sup>178</sup> However the new settlement, Haunewiese, was also located on the outskirts of the city; again, substandard housing was constructed: concrete walls with no insulation and no central heating. The residents used an outside heating oven, collecting wood in the nearby forest. In the past decades the heating system on the settlement has been improved, and now residents have central heating.<sup>179</sup>

In Munich, Bavaria, families of Sinti and occupational travellers had lived in an isolated settlement since the 1950s, being moved periodically “from one provisional housing [arrangement] to another,”<sup>180</sup> until the land they had been living on was purchased by a major car producer (BMW) in 1998. Reportedly, the barracks and provisional homes in which the families had lived for decades lacked insulation and provided little protection against cold temperatures and humidity; as a result of the combined humidity and lack of ventilation, the walls of some houses were covered in mould.<sup>181</sup> After BMW purchased the land on which the provisional homes were located from the government of Munich, the city government arranged for the resettlement of the residents.<sup>182</sup> The relocation of Sinti to new homes in another compact settlement took place in January 2002.

<sup>176</sup> Information gathered during site visit to the Sinti settlement, Hamburg, 16 May 2002.

<sup>177</sup> See, P. Widmann, *An den Rändern der Städte. Sinti und Jenische in der deutschen Kommunalpolitik* (On the Margins of Cities. Sinti and Jenishes in German Social Policy), Berlin: Metropol, 2001.

<sup>178</sup> Interview with Herbert Heuss, Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Heidelberg, 24 July 2002.

<sup>179</sup> Interview with Herbert Heuss, Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Heidelberg, 24 July 2002.

<sup>180</sup> “Neue Heimat für die Freimanner Sinti” (New Home for Sinti in Freimann), *Süddeutsche Zeitung*, 28 July 2002.

<sup>181</sup> Information gathered during site visit to the Sinti settlement, Munich, 10 January 2002.

<sup>182</sup> “Neue Heimat für die Freimanner Sinti” (New Home for Sinti in Freimann), *Süddeutsche Zeitung*, 28 July 2002.

Several German Sinti families live in a recently renovated settlement in the industrial area of Heidelberg, Baden-Württemberg, on a plot across from a large chemical company (Henkel-Teroson-Strasse), where the land is widely believed to be heavily polluted by chemicals.<sup>183</sup>

Desperate conditions are reported from the Sinti settlement of Ummenwinkel in Ravensburg, Baden-Württemberg. The settlement's wooden houses are in extremely bad repair, and the lack of sanitary facilities allegedly has caused serious health problems for children living there (see Section 3.1.4). The appeals of the leader of the local Association of German Sinti and Roma to the authorities to improve the situation by renovating settlement housing have so far been unsuccessful.<sup>184</sup>

### *Government response*

The Bundestag, in its Resolution of 26 June 1986, both acknowledged the need and confirmed the intention to improve the living conditions of Sinti and Roma and to promote their integration into society.<sup>185</sup> Responsibility for public housing and social services lies with individual states, but few have developed comprehensive measures to improve the quality of housing for Sinti and Roma on the basis of the resolution.

For example, in the state of Bavaria, Nuremberg city authorities support the "Action Group for improving the living conditions of Sinti" by paying the staff costs for a social worker.<sup>186</sup>

There have been success stories. For example, authorities in charge of a housing project in Straubing, Bavaria, settled Sinti among other residents in the city to avoid perpetuating ghettos. The Sinti residents were fully included in planning and decision-making by means of a permanent group which was organised by social workers for that purpose.<sup>187</sup> In Munich, Bavaria, the Sinti residents formed a standing committee of tenants, which was involved in consultation and planning for the recent resettlement.<sup>188</sup>

<sup>183</sup> Information gathered during site visit to the Sinti settlement and interview with Herbert Heuss, Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Heidelberg, 7 January 2002.

<sup>184</sup> "Steitert Projekt im Ummenwinkel am Geld?" (Will Money Stall the Ummenwinkel Project?), *Schwabische Zeitung*, 8 December 2001.

<sup>185</sup> State FCNM Report, p. 43.

<sup>186</sup> State FCNM Report, p. 29.

<sup>187</sup> See, P. Widmann, *An den Rändern der Städte. Sinti und Jenische in der deutschen Kommunalpolitik* (On the Margins of Cities. Sinti and Jenishes in German Social Policy), Berlin: Metropol, 2001.

<sup>188</sup> Information gathered during site visit to the Sinti settlement and interview with Herbert Heuss, Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Heidelberg, 24 July 2002.

However, many Sinti and Roma representatives have criticised paternalistic attitudes on the part of some social offices that “always know better what is good for Sinti [and Roma];” these representatives favour the development of a meaningful dialogue with the members of Sinti and Roma communities to avoid perpetuating ghettoisation under the pretext of complying with the assumption of a wish of Sinti and Roma to “stay together.”<sup>189</sup>

Minority representatives acknowledge the complexity of the issue: on the one hand, living in communities allows them to preserve and foster their language and culture. However, they insist that forced settlement – especially in less than adequate conditions – is an unacceptable solution.<sup>190</sup> The OSCE High Commissioner on National Minorities has reinforced the need for public authorities to strike a careful balance in developing and implementing housing policies: “While respecting the free choice of particular Romani communities to live with other Roma, Governments should ensure that housing policies do not foster segregation.”<sup>191</sup> To strike this balance, meaningful and ongoing dialogue with Roma representatives is necessary.

The ECRI Report 2000 has recommended that the Government should “initiate research into discriminatory practices and barriers or exclusionary mechanisms in public and private sector housing.”<sup>192</sup> As yet, there has been no response to this recommendation.

### *Commercial housing*

A study conducted by the Migration Centre of North Rhine-Westphalia in Dortmund and Düsseldorf indicates widespread discriminatory practices by owners of commercial housing. Persons perceived as “foreigners” – even if they are German citizens – are frequently subjected to means-testing and stricter background checks, and are required to produce references from previous landlords and neighbours, as well as from the

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<sup>189</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>190</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>191</sup> Organisation of Security and Cooperation in Europe, High Commissioner on National Minorities, *Report on the Situation of Roma and Sinti in the OSCE Area*, 2000, p. 126.

<sup>192</sup> ECRI Report 2000, p. 11.



police.<sup>193</sup> In the end, “foreigners” typically succeed in finding accommodation of a lower standard than is generally available on the market.<sup>194</sup>

In a 1994 survey conducted by the EMNID Institute, about 68 percent of Germans stated that they did not wish to have Sinti and Roma as neighbours.<sup>195</sup> Such attitudes sometimes have led to actions to bar Sinti and Roma from housing or camping facilities. Sinti and Roma claim that frequently when they arrive to view housing which was said to be available over the phone, it turns out to be “just rented.” Some of these cases have been challenged in courts, but they are extremely difficult to prove.<sup>196</sup> Allegedly, the majority of such cases go unreported and unpunished.<sup>197</sup>

In Bochum, North Rhine-Westphalia, after a flat-owner refused a lease contract to a Sinti family because they were “Gypsies,” the family filed a legal complaint. However, the District Court on 25 September 1996 ruled that the owner had the right to refuse the tenants: “Traditionally, this ethnic group is predominantly unsettled and ... is clearly so unrepresentative of the average suitable tenant, with a corresponding outlook for the future, that expectations of further fruitful negotiations were ... fully unfounded and untenable.”<sup>198</sup> The Central Council challenged this decision at the European Court for Human Rights, but the application was declared inadmissible *rationae personae*, because the applicants (the Central Council and its Chair) were not personally affected.<sup>199</sup>

In the village of Helsa, near Kassel, the owner of the Goldener-Adler agency recently chose to revoke an agreement to sell a house to a Sinti family, after receiving repeated

<sup>193</sup> D. Clayton, *Antidiskriminierungsarbeit in Nordrhein-Westfalen* (Anti-Discrimination Work in North Rhine-Westphalia), p. 18.

<sup>194</sup> Thus, in Berlin minorities are reportedly often offered apartment in “ethnic” (populated by ethnic non-Germans) districts, which Germans usually would not accept. Despite poor conditions, lessees are reportedly charged prices comparable to those for apartments in much better condition in other neighbourhoods of Berlin. Interview with a researcher of the European Migration Centre, Berlin, 27 November 2001.

<sup>195</sup> Cited in D. Strauss, “Anti-Gypsyism in German Society and Literature” in S. Tebbutt, p. 89.

<sup>196</sup> The interviews have been conducted by the reporter in twelve states visited during field research in the period November 2001-January 2002 and May-July 2002: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Lower Saxony, Meklenburg-West Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saxony-Anhalt and Schleswig-Holstein.

<sup>197</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>198</sup> Application No. 35208/97, *Zentralrat Deutscher Sinti und Roma and Romani Rose against Germany*, 27 May 1997.

<sup>199</sup> Application No. 35208/97, *Zentralrat Deutscher Sinti und Roma and Romani Rose against Germany*, 27 May 1997.

anonymous threats of violent retaliation if the sale of the house to “Gypsies” should be effected.<sup>200</sup>

There were many reports in July and August 2001 from Bad Hersfeld, Hesse, of flat-rental agencies refusing to let flats to Sinti and Roma. In the District Council a written notice stated that “rental contracts with Sinti will be concluded only when a flat previously used by another Sinti lessee becomes available.”<sup>201</sup> The leader of the Association of German Sinti and Roma of Hesse stated that the practice ran counter to the Basic Law, the ECHR, and data protection laws. However, the Mayor of Bad Hersfeld made a public statement that private rental agencies are free to conclude or not to conclude rental contracts. When asked how it would be possible for the District Council to single out Sinti, the Mayor reportedly answered, “We know our clients.”<sup>202</sup>

Allegedly, a number of private camping facilities in Frankfurt (Main), Cologne, Berlin and Brandenburg refuse entry to Roma.<sup>203</sup> An official in Brandenburg affirmed in an interview that when owners wish they are able to effectively bar Roma from their campgrounds without incurring legal difficulties. Moreover, local citizens reportedly made repeated calls to the local government and police demanding the removal of the caravans of Sinti and Roma – including those arriving to take up seasonal work in the period from April to October – from the area. The authorities in Brandenburg engaged an *ad hoc* mediator to encourage Romani migrant workers to leave, with the result that Roma “do not come anymore to Brandenburg.”<sup>204</sup>

Since 1995, the Berlin Senate has provided financial support for and managed the Drei Linden caravan facility for foreign Sinti and Roma annually travelling for seasonal work. The authorities acknowledged that “Sinti and Roma ... desire permanent parking places” but “(i)t has not yet been possible to make this intention reality because of political opposition and the ever-tighter budget situation.”<sup>205</sup> The Drei Linden facility is located along the highway on the outskirts of Berlin; infrastructure is minimal.<sup>206</sup> From May through August the settlement is provided with shower and

<sup>200</sup> “Besitzer: Kein Verkauf an Sinti” (The Owner: No Sale to Sinti), *Rundbrief*(2000), annual publication of the Association of German Sinti and Roma of Hesse.

<sup>201</sup> Cited in “Keiner Zigeuner in Freibad” (No Gypsies in the Pool), *Junge Welt*, 20 August 2001.

<sup>202</sup> Cited in “Keiner Zigeuner in Freibad” (No Gypsies in the Pool), *Junge Welt*, 20 August 2001.

<sup>203</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

<sup>204</sup> Interview with an employee of the Brandenburg Ministry for Labour, Social Affairs and Women, Potsdam, 15 November 2001.

<sup>205</sup> Berlin Senate website, see: <<http://www.sensjs.berlin.de>>, (accessed 1 January 2002).

<sup>206</sup> Information gathered during site visit to Drei Linden, Berlin, 25 November 2001.

toilet containers and washing machines, which are dismantled every year at the end of the season. Sinti and Roma that arrive earlier or leave later are forced to wait in parking spaces in Charlottenburg (Berlin) without any sanitary facilities.<sup>207</sup> Some Romani leaders have questioned the validity of the decision to establish a “Roma-only” campground, whose low quality is not commensurate with its cost (approximately €250,000 per year).<sup>208</sup>

### *Housing conditions for Roma refugees*

High rates of unemployment among refugees have led to high levels of dependence on subsidised social housing. The poor quality of social housing for Roma refugees has been criticised by many minority representatives.

Since Summer 2001 the city of Cologne, North Rhine-Westphalia, has been embroiled in a heated controversy over the transfer of Roma refugees from the former Yugoslavia (resident in Cologne since the early 1990s) into small wooden containers in a new, specially-designated refugee camp in Kalk.<sup>209</sup> In the 1960s Kalk was the site of a chemical plant. The plant was subsequently closed but not resettled, due to the fact that the site was officially designated as hazardous for human health;<sup>210</sup> moreover, recent soil tests confirmed the persistence of unacceptably high concentrations of arsenic, lead and other heavy metals.<sup>211</sup> Roma protested against the resettlement, but the Mayor of Cologne declared that there was no alternative to containers in Kalk.<sup>212</sup> With support from the Rom e.V., local Roma appealed to the city’s administrative court, which ordered a resettlement to a different location. The city authorities

<sup>207</sup> See, “District Wants to Build a Motel on the Sinti Place, but Senate Claims Extension for an ‘All Year Place,’” see: <<http://www.romnews.com/a/86-98.html>>, (accessed 31 January 2002).

<sup>208</sup> “District Wants to Build a Motel on the Sinti Place, but Senate Claims Extension for an ‘All Year Place,’” see: <<http://www.romnews.com/a/86-98.html>>, (accessed 31 January 2002). Also, interview with Rajko Djuric, the Romani Union, Berlin, 17 November 2001.

<sup>209</sup> The “containers” are sized approximately 14 sq. m. Photos of the containers on file with EUMAP, courtesy of the Rom e.V., which provided information on this case.

<sup>210</sup> “Langeweile, Frust und wenig Hoffnung” (Boredom, Frustration and Little Hope), *Kölnische Rundschau*, 16 November 2001.

<sup>211</sup> The concentration of lead (1700 mg per cubic m.) exceeds the Federal stipulated maximum for an adult by 4.25 times (400 mg per cubic m.) and for a child by 8.5 times (200 mg per cubic m.). The concentration of arsenic (69 mg per cubic m.) exceeds the Federal stipulated maximum by 1.5 times for an adult (50 mg per cubic m.) and almost three times for a child (25 mg per cubic m.). Copy of the laboratory test results on file with EUMAP, courtesy of the Rom e.V. in Cologne.

<sup>212</sup> “Keine Alternative zum Container” (No Alternatives to Containers), *Kölnische Rundschau*, 7 November 2001.

appealed,<sup>213</sup> and with court proceedings pending, 60 Romani families who were moved to Kalk in Fall 2001 were still living there as of August 2002.

The Cologne authorities in charge of dealing with Romani refugees have announced that the resettlement is a part of a new refugee policy.<sup>214</sup> According to the Rom e.V., “this is done not so refugees would like it but rather so they would dislike it; those who are unhappy with what Germany has to offer are always free to go back to their country.”<sup>215</sup>

The Rom e.V. has questioned the financial justification for the new policy. While normally maintaining a refugee family of four cost DM 1200 per month (c. €650), maintaining a family of four in the specially-built “container-land” in Kalk currently costs DM 5000 (c. €2700) – more than four times as expensive. According to the Rom e.V., “this proud figure leaves tax-payers sour, and refugees sick.”<sup>216</sup>

Romani leaders also point out that both refugee camps and “ethnic neighbourhoods” present an easy and convenient target for attacks by right-wing extremists. The problem is particularly acute in the “new federal territories,” i.e. East Germany (see Section 3.2).

### *Other goods and services*

Individuals belonging to “visible” minority groups<sup>217</sup> report widespread discrimination in gaining access to public goods and services, and formidable obstacles to legally challenging such practices.<sup>218</sup> A study conducted by the Brandenburg anti-discrimination bureau under the auspices of the project “Open Access to Services”

<sup>213</sup> “Köln streitet mit Roma” (Cologne Quarrels with Roma), *Aachener Zeitung*, 5 December 2001.

<sup>214</sup> Among other measures, the Cologne authorities started cutting cash payments to refugees. Instead, refugees are provided with food directly on the premises of refugee settlements. See “Fluchtlingerrat gegen Container” (Refugee Council against Containers), *Kölner Stadt-Anzeiger*, 1 October 2001.

<sup>215</sup> Interviews with members of the Rom e.V., Cologne, 10 December 2001.

<sup>216</sup> D. Schmitz, *Die Roma und ihre Diskriminierung durch die Politik und die Presse* (Roma and Their Discrimination in Politics and Press), unpublished. On file with EUMAP, courtesy of the Rom e.V. in Cologne.

<sup>217</sup> Groups which are easily identified as not ethnically German, regardless of citizenship.

<sup>218</sup> For example, in Potsdam, a private entrepreneur who explicitly stated that he would not lease his cars to foreigners, was supported by a member of Brandenburg Parliament who wrote a letter on 8 October 2002 to an officer of the local anti-discrimination bureau (which had filed a complaint against that businessman) that “fortunately, German entrepreneurs are legally free to conclude contracts with, and to provide services to, whomever they wish.” Copy of letter on file with EUMAP.

(OPAS) noted that “apart from insults, verbal abuse and humiliation of clients, the most severe form of discrimination is withholding of services.”<sup>219</sup>

According to tests conducted by the Brandenburg anti-discrimination bureau, about 30 percent of discothèque and bar/restaurant owners in Brandenburg employ discriminatory admissions policies, and do so “for the sake of white customers.”<sup>220</sup> During testing, persons of African, Middle-Eastern and Indian descent were refused entry under various pretexts, such as “we are full,” “tonight is a private party,” “a club-card is required,” or “there are skinheads here, and they may beat you up,” while freely admitting white guests.<sup>221</sup> The manager of the “Röhre” disco in Frankfurt (Oder) justified her instruction to bouncers not to let “foreigners” in as follows: “The problem is just ... and I’ll tell you the way things are – if I let these three young men in, as much as I regret the situation, other guests will begin to feel uncomfortable and leave.”<sup>222</sup>

One employee of the anti-discrimination bureau noted that in such clear cases, the bureau seeks the only enforceable sanction within private business regulations;<sup>223</sup> that is, withdrawal of a business license on the grounds of “unreliability” or “untrustworthiness.”<sup>224</sup> However, he went on to say that in practice it is extremely difficult to convince the courts to apply such a serious measure. One judge stated, in regard to discrimination complaints, that a “(l)egal action is a question of time, money and nerves, and success is never assured.”<sup>225</sup>

There are numerous allegations of discrimination specifically against Sinti and Roma in access to goods and services. The Association of German Sinti of Rhineland-Palatinate reported that Sinti and Roma experience particular problems in obtaining insurance and communications (telephone installation) services.<sup>226</sup> In August 2001, in the city of Offenbach, Hesse, Sinti and Roma were refused entry to the Rosenhoehe Einlass

<sup>219</sup> OPAS Final Report, Attachment 6.3, p. 60.

<sup>220</sup> OPAS Final Report, Attachment 6.3, p. 60.

<sup>221</sup> The testers were accompanied by a cameraman and an officer of the anti-discrimination bureau, and exchanges were recorded on video. OPAS Final Report, Attachment 6.3, p. 60.

<sup>222</sup> Video and transcript are available at: <<http://www.wdr.de/tv/monitor/archiv>>, key-word: “Diskotheken,” (accessed 2 January 2002).

<sup>223</sup> OPAS Final Report, Attachment 6.3, p. 60.

<sup>224</sup> “The license will not be granted or may be taken away if the applicant does not have required reliability.” The Licensing Code (1970) and Article 35 of the Trading Regulations. However, authorities and courts have utilised this provision only very rarely. EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002.

<sup>225</sup> OPAS Final Report, Attachment 6.3, p. 61.

<sup>226</sup> Cited in J. Delfeld, *Tradition und Zukunft des Rechtsextremismus* (The Tradition and Future of the Right-Wing Extremism), p. 7.

swimming pool; an employee of the facility declared: “we don’t want any more Gypsies in the swimming pool.”<sup>227</sup>

Many Sinti and Roma individuals allege that they are conspicuously followed in shops and stores by sales staff.<sup>228</sup> Such indirectly discriminatory and prejudicial behaviours tend to discourage minorities from attempting to access certain public goods and services. Many simply avoid unpleasant experiences by avoiding shops, restaurants, and other service locations.<sup>229</sup>

### 3.1.4 Healthcare

There is no legislation specifically prohibiting discrimination in healthcare. The healthcare system is said to function well in general, although there are allegations of discriminatory incidents involving Sinti and Roma as well as other minorities or foreigners.<sup>230</sup> However, under existing legislation it is extremely difficult to prove such allegations before courts, and there is little relevant case-law.<sup>231</sup>

#### *Health conditions*

In Germany, as throughout Europe, there is very little information about specific health-related concerns of Sinti and Roma;<sup>232</sup> there are neither official statistics nor research as to life expectancy, infant mortality rates, or other health issues. Accordingly, no specific Government programmes exist and no resources have been allocated to deal with potentially serious health issues connected to large-scale unemployment, lower levels of education, often inadequate living conditions and poverty among these communities.

<sup>227</sup> “Keine Zigeuner in Freibad” (No Gypsies in the Pool), *Junge Welt*, 20 August 2001.

<sup>228</sup> Interviews were conducted by the reporter in twelve states from November 2001-January 2002 and May-July 2002: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Lower Saxony, Meklenburg-West Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saxony-Anhalt and Schleswig-Holstein.

<sup>229</sup> OPAS Final Report, p. 50.

<sup>230</sup> Interviews with Janina Janson, the Rom and Cinti Union, Hamburg, 4 and 6 December 2001. Interviews with members of the Rom e.V., Cologne, 10 December 2001. Interview with Leo Oehle, a lawyer with the Association of German Sinti of Lower Saxony, Hanover, 15 January 2002.

<sup>231</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 9.

<sup>232</sup> Organisation of Security and Cooperation in Europe, High Commissioner on National Minorities, *Report on the Situation of Roma and Sinti in the OSCE Area*, 2000, p. 117.

Despite the lack of official information, anecdotal evidence of health risks faced by Sinti and Roma communities abounds. For example, high rates of illness have been reported among Sinti children in the Ummenwinkel settlement in the town of Ravensburg, Baden-Württemberg,<sup>233</sup> and are believed to be caused by the unsanitary conditions in the settlement (see Section 3.1.3). Another smaller Sinti settlement in Baden-Württemberg, located in the industrial zone of Heidelberg, is built on a plot of land across from a large chemical company (Henkel-Teroson-Strasse). The land and ground water are widely believed to be heavily polluted.<sup>234</sup> Though no information has been gathered, these hazardous conditions have almost certainly had an adverse impact on the health of its residents.

Members of the Rom and Cinti Union estimate that the top three health problems among Romani families in greater Hamburg are heart disease, asthma and rheumatism. Asthma and rheumatism are thought by Union workers to be directly linked to the living conditions in Romani ghettos; most buildings in Romani neighbourhoods are damp, poorly heated with coal or oil, lack proper ventilation, and are poorly maintained.<sup>235</sup> Comparable living conditions have been identified in other cities, and suggest that similar health problems are likely to exist, though there are no official sources to confirm or refute this possibility.

In light of the disastrous consequences of medical research on Sinti and Roma in Germany prior to and during World War II,<sup>236</sup> as well as subsequent discrimination by the healthcare bureaucracy,<sup>237</sup> members of Sinti and Roma communities reportedly manifest strong suspicion and distrust toward any scientific or medical inquiries into Romani health. There has been no systematic attempt on the part of health authorities to confront and overcome this suspicion and mistrust as a first step towards addressing potentially serious health-related issues among Sinti and Roma communities.

<sup>233</sup> "Scheitert Projekt im Ummenwinkel am Geld?" (Will Money Fail Ummenwinkel Project?), *Schwabische Zeitung*, 8 December 2001.

<sup>234</sup> Information gathered during site visit to the Sinti settlement and interview with Herbert Heuss, Project Bureau for the Promotion of Roma-Initiatives – PAKIV Germany e.V., Heidelberg, 7 January, 2002.

<sup>235</sup> Interview with Janina Janson, the Rom and Cinti Union, Hamburg, 4 and 7 December 2001.

<sup>236</sup> For a description of the racial hygiene research conducted by Dr. Ritter and the experiments on humans by Dr. Mengele in Auschwitz, see R. Rose, *The Nazi Genocide of the Sinti and Roma*, 1995.

<sup>237</sup> State FCNM Report, p. 10.

On occasion, medical personnel have cooperated with law enforcement authorities in incidents involving non-citizen Roma.<sup>238</sup> On 13 April 1995, 150 policemen raided a Romani refugee residence in Cologne in order to investigate a case of an abandoned baby who, according to a doctor, had “pigmentation common to Gypsies.”<sup>239</sup> About 40 women were forced to undergo blood tests, their pictures and fingerprints were taken, and four of them – including young unmarried girls – were forced to have a gynecological examination at the local University Hospital; the mother was not established notwithstanding these “special efforts.” Professor Gilad Margalit noted, “The issue of abandonment ... could have been handled gently by psychologists and social workers rather than the police. The German police, used to regarding Romanies as criminals even after 1945, probably could not free itself from these traditional patterns,” and further that “the brutality of the investigation, especially the uncritical cooperation of the medical staff with the police was for the Romanies reminiscent of the Nazi past.”<sup>240</sup>

### 3.1.5 Access to justice

The Basic Law guarantees everyone the right to inviolable human dignity,<sup>241</sup> and the right to redress against unjustified actions by a public authority.<sup>242</sup> However, there is no legislation specifically prohibiting discrimination in the justice system, aside from a generic provision of the Basic Law.<sup>243</sup> Romani leaders have claimed that the discriminatory treatment that members of their communities experience from some

<sup>238</sup> Such allegations have also been made by members of other minorities and foreigners. Most recently, Amnesty International reported a death of an asylum-seeker in police custody allegedly resulting from a forcibly administered emetic substance by the medical personnel. Amnesty International Report 2002: Germany, see: <<http://www.amnesty.org>>, (accessed 12 July 2002).

<sup>239</sup> ‘Wir hatten gehofft, dass es in Deutschland keinen Rassismus mehr gibt...’ Dokumentation zur Polizei-Razzia gegen Roma-Frauen am 14.04.95 in Köln (We Hoped that There Was No More Racism in Germany... Documentation on the Police Raid against Romani Women on 14 April 1995 in Cologne). Information from the Rom e.V. in Cologne.

<sup>240</sup> G. Margalit, “Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?” See: <<http://sicsa.huji.ac.il/9gilad.htm>>, (accessed 9 April 2002).

<sup>241</sup> Basic Law, Art. 1, para. 1.

<sup>242</sup> Basic Law, Art. 19, para. 4.

<sup>243</sup> Basic Law, Art. 3.



private citizens is exacerbated by humiliating treatment and discriminatory application of punitive measures by law enforcement authorities.<sup>244</sup>

In the absence of specific anti-discrimination legislation, victims of discrimination have little prospect of successful vindication of their rights through the courts, while the award of legal aid is based on the likelihood of a successful outcome.<sup>245</sup> The cost of legal proceedings combined with the low likelihood of success in practice appear to dissuade victims of discrimination from lodging complaints. At the same time, though legislation does not preclude human rights and other organisations from financially assisting in legal actions against discrimination, these organisations do not have *locus standi* to launch legal actions on behalf of alleged victims of ethnic and racial discrimination.<sup>246</sup>

CERD further has expressed concern over the fact that “with respect to Article 6 of the Convention ... certain groups of foreigners – including people without legal status or with temporary residence – do not have the right to call for redress for racially discriminating incidents.”<sup>247</sup>

### *Ethnic profiling*

The regulation and management of courts and police are matters within the competence of individual states. Although ethnic and racial profiling is officially forbidden,<sup>248</sup> exception may be made for the investigation and/or prevention of crime.<sup>249</sup>

Ethnic profiling of Sinti and Roma by law enforcement authorities officially continued in Bavaria (the last German state to abolish the practice) through October 2001.<sup>250</sup> While in all other states police forms contained four description columns to indicate a

<sup>244</sup> Interview with Rudko Kawczynski, Rom and Cinti Union, Hamburg, 26 June 2002. The Central Council of German Sinti and Roma further asserts that there is ongoing harassment by public authorities of members of the Sinti and Roma minority; see State FCNM Report, p. 22.

<sup>245</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 24.

<sup>246</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 25.

<sup>247</sup> CERD/C/338/Add.14, 10 August 2000, para. 18.

<sup>248</sup> Since the 1983 landmark decision by the German Constitutional Court, BVerfGE 65. See also Section 3.1.

<sup>249</sup> *Unterschiede der Erfassungssysteme “Kriminalpolizeilicher Meldedienst – Staatsschutz” KPMD-S und Definitionssystem “Politische motivierte Kriminalität.”* Information from the Alliance for Democracy and Tolerance, Berlin, 27 November 2001.

<sup>250</sup> Central Council German Sinti and Roma, Press-release of 28 July 1998. On file with EUMAP.

description of the suspect (North-European, Mediterranean, Asian, and African) in Bavaria police forms included a fifth column: “persons of Sinti and Roma type.” This term replaced a traditionally used designation “Gypsy-type person,” and was used interchangeably with other supposedly neutral designations of Sinti and Roma, such as “migrant people” and “frequently changing place of residence.”<sup>251</sup> The FCNM Advisory Committee has noted the use also of such details as “East Prussian,” “West Prussian,” “Negroid,” and physical descriptions such as “full breasted.”<sup>252</sup>

The police were trained to fill in forms on the basis of physical appearance, and suspects were not required either to identify themselves, or to give their consent to the police identification.<sup>253</sup> To justify the practice, the Bavarian police claimed that the data was collected on the basis of the “perceptions of average citizens” rather than prejudices.<sup>254</sup>

The practice provoked an international scandal,<sup>255</sup> and Sinti and Roma organisations challenged it at the Bavarian Constitutional Court.<sup>256</sup> In October 2001 the Bavarian authorities made a declaration that the practice would be discontinued.<sup>257</sup> The forms now reportedly indicate only four valid columns: North-European, Mediterranean, African and Asian, leaving the fifth column (“persons of Sinti and Roma type”) blank or crossed out.

Nevertheless, some representatives allege that the police continue to profile Sinti and Roma unofficially.<sup>258</sup> For example, in a recent announcement issued by the Bavarian police in connection with reported instances of fraud, the public was warned to take precautions when dealing with persons belonging to a “mobile ethnic minority with

<sup>251</sup> A. Dix, paper presented at the conference “Race/Ethnic Statistics and Data Protections” Organised by INDOK at the Central European University, Budapest, 15-17 December 2000.

<sup>252</sup> See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 19.

<sup>253</sup> See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 19.

<sup>254</sup> A. Dix, paper presented at the conference “Race/Ethnic Statistics and Data Protection,” organised by INDOK at the Central European University, Budapest, 15-17 December 2000.

<sup>255</sup> A petition to discontinue the racist practice was signed by over 40 prominent international figures and presented to the Bavarian authorities in April 1999; a copy of the petition is on file with EUMAP.

<sup>256</sup> The President of the Bavarian Constitutional Court reportedly personally addressed the Bavarian Minister of Interior in reference to the practice. Central Council German Sinti and Roma, Press-release of 12 October 2001; on file with EUMAP.

<sup>257</sup> Central Council of German Sinti and Roma, Press-release of 12 October 2001; on file with EUMAP.

<sup>258</sup> Criminal data recording techniques vary from state to state. See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 20.

Southern appearance.”<sup>259</sup> However, there have not been other documented instances of circumvention of the ban, and reportedly the police authorities in Bavaria have pledged to prevent the occurrence of similar incidents in future.<sup>260</sup>

In October 2001, the police in Cologne, North Rhine-Westphalia, collected mandatory DNA samples from persons living in the Roma settlement, allegedly for the purpose of establishing parenthood and preventing manipulation of the social security system by single mothers. According to one of the investigators, “these people are not officially registered, but marry according to their ‘odd ancient customs,’ which makes it very difficult to find out who the fathers of children are.”<sup>261</sup> According to the authorities, this makes it possible for Romani mothers to claim fraudulently that “the father is not known” as a means of obtaining benefits for single mothers. In the view of minority representatives, such measures are disproportionate and reveal a lack of cultural sensitivity.

### *Criminal justice*

Lawyers that deal frequently with minority cases have reported a number of discriminatory practices against “visually distinct” minorities by law enforcement authorities.<sup>262</sup> Amnesty International also noted a pattern of allegations that the law enforcement personnel tend to be verbally and even physically abusive with “non-Caucasian and foreign nationals”<sup>263</sup> (see Section 3.2).

In December 1996 in Nuremberg, Bavaria, the police came to the house of a 62-year-old Sinti woman looking for her son, who had defaulted on paying a traffic violation fine of DM 200 (c. €98). The police officers reportedly behaved in an aggressive and provocative manner, and called the woman a “dirty Gypsy sow,” whom “Hitler forgot to put to the gas.”<sup>264</sup> The woman attempted to prevent the police officers from entering the house, but the officers forced their way in, and her arm was broken during

<sup>259</sup> “Senioren als Opfer: Freche und fiese Täter – Angst vor Euro und Banken ausgenutzt” (Senior Citizens as Victims: Impudent Culprits – Exploiting Fear of Euro and Banks), *Nürnberger Nachrichten*, 24/25 November, 2001, p. 19.

<sup>260</sup> Letter from members of the Association of German Sinti and Roma of Bavaria, commenting on an earlier draft of this report; on file with EUMAP.

<sup>261</sup> “30 Verwandte müssen zum Speichertest” (30 Relatives Must Go Through DNA-Test), *Kölner Stadt-Anzeiger*, 17 October 2001.

<sup>262</sup> Interviews with lawyers in Berlin, 22 November 2001. Interviews with lawyers in Hamburg, 5 December 2001. Interviews with lawyers in Cologne, 10 December 2001. Interview with a lawyer in Hanover, 15 January 2002.

<sup>263</sup> Amnesty International Report 2001: Germany, see: <<http://www.amnesty.org>>, (accessed 25 October 2001).

<sup>264</sup> “Wer schlug zuerst zu?” (Who Hit Whom First?), *Nürnberger Nachrichten*, 30 June 1998.

the struggle. The woman filed charges against the police, but the judge ruled that they had committed no violation. The police officers subsequently brought a case against the Sinti woman for damaging a police uniform, and the court ordered her to pay DM 2700 DM (c. €1500) in damages. The judge took no notice of the allegations of racist speech by the police officers.<sup>265</sup>

On 11 October 2001, at six in the morning 15 police officers in full combat gear raided the house of a Sinti family in Niedererbach, Rhineland-Palatinate, on suspicion of robbery of a petrol station where the family had been seen the previous day. The 52-year-old I.L. and her 49-year-old husband G. L. were pulled out of bed, ordered to the ground, and held at gunpoint while officers searched the house. The incident was later acknowledged as an “embarrassing mistake.”<sup>266</sup>

In Cologne, lawyers reported that the police undress Romani children detained on charges of theft, and take pictures of underwear and limbs (e.g. feet) to demonstrate that Roma are not hygienic.<sup>267</sup> This evidence has been presented in courts to press charges against parents for not taking proper care of their children.<sup>268</sup> Such degrading practices are reportedly unheard of with regard to ethnic German children, regardless of their social background.

There have been reports from across Germany that young Romani suspects of non-German nationality (who have no papers) are routinely given X-ray tests as a means of establishing their age.<sup>269</sup> Minor offenders (under age 14) may not be criminally prosecuted, and police authorities claim that some apprehended suspects lie about their age to avoid criminal responsibility. However, the procedure reportedly is not commonly employed in relation to offenders from other ethnic groups, with or without papers.

There are allegations that the authorities disproportionately apply to Roma such punitive measures as taking away their children. In Cologne, a faction in the local government advanced a proposal that “criminal children” should be removed from their families and placed in closed correctional establishments “to protect them from their families and their environment, ... [and] from themselves.”<sup>270</sup> The proposal came

<sup>265</sup> “Vier Polizisten glaubwürdiger als zwei Sinti-Frauen” (Four Police Officers Are More Trustworthy Than Two Sinti Women), *Süddeutsche Zeitung*, 2 March 1998.

<sup>266</sup> “Sondereinheit der Polizei stürmt das Haus einer Sinti-Familie in Niedererbach” (Special Police Forces Storm the House of a Sinti Family in Niedererbach), *MNZ*, 13 October 2001.

<sup>267</sup> Information from lawyers in Cologne, 10 December 2001.

<sup>268</sup> Case of M. Photos and rulings are on file with EUMAP.

<sup>269</sup> X-raying of the wrist bone is considered an accurate means of establishing human age.

<sup>270</sup> “FDP: Kriminelle Kinder von Eltern trennen” (FDP: Separate Criminal Children from Parents), *Kölner Stadt-Anzeiger*, 6 April 2002.

as a reaction to police reports that crime rates had increased, allegedly due to crimes committed by refugees (mostly from ex-Yugoslavia) resident in Cologne.

### 3.2 Protection from Racially Motivated Violence

Despite levels of racially motivated violence that are already among the highest in the EU<sup>271</sup> and appear to be rising, existing legislation does not stipulate enhanced sentencing for crimes committed with a racial motivation.<sup>272</sup> Violence against minorities and foreigners by private actors as well as by law enforcement officers has been a recurring theme in reports and recommendations by international human rights organisations. The ECRI Report 2000 stated that:

Germany is a society in which serious instances of racially motivated violence occur. This means that issues of racism, anti-Semitism, xenophobia and intolerance are yet to be adequately acknowledged and confronted. The existing legal framework and policy measures have not proven to be sufficient to effectively deal with or solve these problems.<sup>273</sup>

The response of the Government contended that these statements were “much too sweeping and do not reflect the actual situation in Germany.”<sup>274</sup> However, CERD has also expressed concern that “the number of racist-related incidents, which had more or less stagnated during the 1990s, suddenly and dramatically increased during the year 2000,”<sup>275</sup> and Amnesty International Report noted a 50 percent increase in right-wing violence (also resulting in deaths) and harassment against minorities and foreigners from 10,000 cases in 1999 to 15,000 cases in 2000.<sup>276</sup> In December 2000, the Federal Criminal Bureau registered 854 racially motivated violent acts, with 37 persons injured,<sup>277</sup> and for the first half of 2001 the Ministry of Interior estimated a total of

<sup>271</sup> Greek Helsinki Monitor online, May 2001, see: <<http://www.greekhelsinki.gr>>, (accessed 25 May 2001).

<sup>272</sup> Article 224 of the Penal Code provides for higher sentences, if “the offender deliberately or knowingly causes certain consequences of a bodily injury, e.g. loss of sight.” However, no mention is made of racial motivation as an aggravating circumstance.

<sup>273</sup> ECRI Report 2000, p. 4.

<sup>274</sup> Annex to ECRI Report 2000, p. 27.

<sup>275</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Germany. 27/04/2001. CERD/C/304/Add.115.

<sup>276</sup> See, Amnesty International Report 2001: Germany, see: <<http://www.amnesty.org>>; International Helsinki Federation Report 2001, see: <<http://www.ihf-hr.org/reports/ar01/Country%20issues/Countries/Germany.pdf>>, (accessed 3 August 2002).

<sup>277</sup> APA, 5 February 2001.

7,729 cases of right-wing offences – both violent and non-violent – two-thirds of all politically motivated crime.<sup>278</sup>

The US State Department Human Rights Report on Germany released in March 2002 noted the continuation of the trend, though reporting no deaths.<sup>279</sup> The IHF Report 2002 (concerning events in 2001) notes: “Xenophobia and racial discrimination remained a serious problem in Germany in 2001. In the first six months of the year, the number of xenophobic and anti-Semitic offenses increased slightly.”<sup>280</sup>

With regard to protection from racially motivated violence, the State FCNM Report states that “[members of national minorities and ethnic groups] are entitled, under the Criminal Code (*StGB*), to the same protection of legal rights as everybody else.”<sup>281</sup> Moreover, in its 15<sup>th</sup> report under Article 9 of the ICERD (1999) the Government explained that Sections 86, 86(a), 130, 131 of the German Penal Code since 1994 “have proved themselves. There has been no need for further changes to the law.”<sup>282</sup>

Presently, Section 130(1) of the Criminal Code prohibits incitement of hatred,<sup>283</sup> and the Federal Supreme Court may regard racism as an aggravating circumstance in cases of murder under Section 211 of the Criminal Code.

In light of the rising incidence of violence against minority groups and foreigners, special legislative measures appear warranted to punish and dissuade racially motivated crimes. ECRI “considers that the fight against this violence could be further improved through defining racially motivated offences as specific offences.”<sup>284</sup>

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<sup>278</sup> Ministry of Interior,  
see: <[http://www.bmi.bund.de/dokumente/Pressemitteilung/ix\\_52443.htm](http://www.bmi.bund.de/dokumente/Pressemitteilung/ix_52443.htm)>, (accessed 3 August 2002).

<sup>279</sup> US State Department Human Rights Report: Germany (2001);  
see: <<http://www.state.gov>>, (accessed 5 March 2002).

<sup>280</sup> International Helsinki Federation Report 2002,  
see: <<http://www.ihf-hr.org/reports/AR2002/country%20links/Gernamy.htm>>, (accessed 3 August 2002).

<sup>281</sup> State FCNM Report, p. 51.

<sup>282</sup> CERD/C/338/Add.14, 10 August 2000, para. 32.

<sup>283</sup> “[A] term of imprisonment from three months to five years [may] be imposed on whomever, in a manner designed to interfere with public peace, violates the dignity of others by inciting hatred against parts of the population, inciting violent or arbitrary action against them, or insulting, maliciously disdain[ing] or disparag[ing] them.” Cited in the State FCNM Report, p. 51.

<sup>284</sup> ECRI Report 2000, p. 19.

### 3.2.1 Violence by private individuals

The State FCNM report acknowledges that:

In the last years, xenophobia on the part of a small segment of the German population ... has become a problem in society. It has increasingly emerged in the “new Länder”... and has ranged from verbal attacks to violent acts, also involving loss of life, primarily against foreigners of non-European origin who live in Germany. ... In some cases ... there have been attacks against German Sinti and Roma.<sup>285</sup>

It is undeniable that many cases of xenophobic or racially motivated violence are carried out by members of right-wing organisations, and the authorities have taken fairly robust measures to monitor and control the activities of these organisations. The Basic Law and Federal laws ban organisations that profess totalitarian, racist, anti-Semitic, xenophobic and other intolerant attitudes (anti-Gypsyism is not regarded as a special form of racism).<sup>286</sup> The dissolution of such organisations must be decided by a special court decree,<sup>287</sup> although it is fairly easy to reassemble and register any party under a different name.<sup>288</sup>

ECRI and the International Helsinki Federation welcomed the 2001 decision of the authorities to suspend an openly fascist party, the National Democratic Party (NPD). The party had been founded in 1964 and numbered about 6,000 members around Germany.<sup>289</sup> The party’s chief goal was to create “minority-free zones” in cities. However, two other notoriously right-wing parties, Die Republikaner (REP) and Deutsche Volkunion (DVU) are active.

The Berlin-based REP, founded in 1983, has a membership of approximately 15,000. The party’s chief objective is to support “Germany for the Germans.” Its programme sets forth a specifically anti-Roma platform, demanding a visa regime on the Polish and Czech borders, across which large numbers of Roma arrive. Although the party is

<sup>285</sup> State FCNM Report, p. 52.

<sup>286</sup> Basic Law, Art. 9, para. 2.

<sup>287</sup> The Federal Constitutional Court is the only body with powers to ban political parties; in the 1950s, the Court banned a neo-Nazi party and a Communist party. See US State Department Human Rights Report: Germany (2000): <<http://www.state.gov/g/drl/rls/2000/eur/index.cfm?docid=765>>, (accessed 5 March 2002).

<sup>288</sup> Information provided by Minority Rights Group, Interrights and European Roma Rights Centre under the auspices of the joint project, ‘Implementing European Anti-Discrimination Law,’ July 2001.

<sup>289</sup> Information on the membership and programmes of the right-wing organisations in this and the next two paragraphs draws extensively upon the thesis of R. Kuder, *Recent Trends in German Ethnic Politics: the Roma*, pp. 38–40.

under Government surveillance for “criminalising and defaming foreigners,” its members held 14 of 160 (nine percent) of the seats in the Parliament of Baden-Württemberg from 1992 through March 2001.

The Munich-based DVU, founded in 1987, counts approximately 15,000 members. This party’s chief objective is also to support “Germany for the Germans.” Its programme takes a position against collective German responsibility for the Holocaust. Although the party is under Government surveillance, its members consistently held 16 of 116 seats (15 percent) in the Parliament of Saxony-Anhalt since 1998, and five of 89 seats (six percent) in Brandenburg since 1999 (data as of 2000). Allegedly, DVU members were behind the “Citizens initiative of Lichtenhagen” – a three-day pogrom against Romani refugees in Rostock in August 1992 (see below).<sup>290</sup>

In addition, there are also around 150 neo-Nazi groups, as well as “a thriving skinhead sub-culture” numbering approximately 9,000 members.<sup>291</sup> The informal nature of these groups make it difficult for law enforcement authorities to identify and counter their activities.

Right-wing organisations have quickly recognised the potential for proliferation of information through the Internet; the US State Department recently noted the establishment of approximately 800 Internet sites “with what [the German authorities] consider objectionable or dangerous right wing content.”<sup>292</sup> ECRI expressed concern about a “steep rise in numbers of racist Internet sites originating in Germany.”<sup>293</sup> CERD also noted this development, and recommended that the authorities “seek solutions to this problem” which is “likely to become more significant in the future.”<sup>294</sup>

The Government has pointed out that right-wing extremism is higher in the “new federal States,” i.e. East Germany, where the authorities are allegedly less well-prepared

<sup>290</sup> G. Margalit, “Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?” See: <<http://sicsa.huji.ac.il/9gilad.htm>>, (accessed 9 April 2002).

<sup>291</sup> P. Sussman, “The Menace of the Far Right,” see: <<http://europe.cnn.com/SPECIALS/2000/germany/stories/resurgence>>, (accessed 15 October 2001).

<sup>292</sup> US State Department Human Rights Report: Germany (2000); see: <<http://www.state.gov/g/drl/rls/2000/eur/index.cfm?docid=765>>, (accessed 5 March 2002).

<sup>293</sup> ECRI Report 2000, p. 15.

<sup>294</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Germany, CERD/C/304/Add.115, 27 April 2001.



to deal effectively with such issues.<sup>295</sup> ECRI, meanwhile, expressed concern over “a tendency amongst German authorities and the media to portray the problem of racist and anti-Semitic violence and harassment as a problem of former Eastern Germany,”<sup>296</sup> and asserted that “some media simplify these crimes to problems of juvenile delinquency ... neglecting to place the events in a broader context of racism, anti-Semitism and intolerance.”<sup>297</sup>

Racially motivated attacks have sometimes been encouraged by ordinary individuals. Thus, during a three-day pogrom against a refugee settlement in the city of Rostock in August 1992, thousands of ordinary citizens reportedly cheered and encouraged extremists and local youths to throw Molotow-cocktails at the settlement where as many as 200 refugees were trapped.<sup>298</sup> The last group of perpetrators were charged only in 2001.<sup>299</sup>

Police officials in Essen, Hesse, reportedly obtained evidence in 1997 that a group of German citizens paid right-wing extremists to attack Roma refugees in hopes that the refugees would be removed from the area, as had previously happened in the towns of Hoyerswerda and Mölln following murderous arson attacks there on Turkish refugees. The perpetrators of these attacks were prosecuted and awarded sentences from 1.5 years to five years of imprisonment.<sup>300</sup>

Several Berlin school teachers claimed during interviews that they are afraid to take their pupils on excursions around Brandenburg, because minority children in the class are so frequently subjected to verbal harassment and threats of physical attack by right-wing extremists.<sup>301</sup> Reportedly, some minority entrepreneurs have been forced to relocate because of persistent acts of vandalism by unidentified individuals. The Association of

<sup>295</sup> International Helsinki Federation Report 2001, see: <<http://www.ihf-hr.org/reports/ar01/Country%20issues/Countries/Germany.pdf>>, (accessed 13 December 2001).

<sup>296</sup> ECRI Report 2000, p. 20.

<sup>297</sup> ECRI Report 2000, p. 15.

<sup>298</sup> G. Margalit, “Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?” See: <<http://sicsa.huji.ac.il/9gilad.htm>>, (accessed 9 April 2002).

<sup>299</sup> “Neun Jahre zum Protest um Rostock” (Nine Years since Protest in Rostock), *Der Tagesspiegel*, 12 February 2001.

<sup>300</sup> See Tolmein (1998), p. 62. Cited in R. Kuder, *Recent Trends in German Ethnic Politics: the Roma*, p. 47.

<sup>301</sup> Interviews with school teachers in Berlin, 15-28 November 2001. Also media clips from *TAZ*, *Junge Welt* and *Archiv gegen Rechts* from 2000/01.

German Sinti and Roma of Berlin-Brandenburg removed the organisation's title from the door-bell because of allegedly frequent threats contained in anonymous hate mail.<sup>302</sup>

### *Response by law enforcement officials*

Sinti and Roma representatives assert that the response of law enforcement officials to cases of violence against members of their communities is often unsatisfactory. Lawyers specialising in defence of minority groups concur that police are often slow to arrive to the scene of racially motivated crimes, slow to gather evidence, and slow to open cases and investigate, but quick to close files for lack of evidence.<sup>303</sup>

On 30 July 2001 in Wildau, Brandenburg, a camping site at which about 40 Roma were settled was bombed with at least three Molotow-cocktails and set on fire. The identity of the perpetrators has not been established, but the police spokesperson declared that "right-wing motives could not be concluded."<sup>304</sup> Romani leaders criticised the authorities for not taking greater care to find and prosecute perpetrators, even though nearly identical attacks had taken place before and those apprehended were known right-wing extremists.<sup>305</sup> The Romano Rat e.V. has asserted that too many perpetrators of terrorist acts against Roma and Sinti remain unidentified and therefore unpunished, and has called upon the police to carry out their investigations of these acts in good faith.<sup>306</sup>

Some public officials have suggested that victims of racially motivated crimes are to blame for attacks against them. When 15 right-wing youths chased and assaulted an asylum-seeker in the town of Spremberg, Brandenburg, in November 1999, rather than condemning the attack, the Mayor reportedly asked, "And what was he looking for in the streets at this hour of the night?"<sup>307</sup> According to a study conducted by the Brandenburg anti-discrimination bureau, in the absence of sufficient protection from

<sup>302</sup> Cited in "Erschaft des Stolzes" (Heritage of Pride), *Der Tagesspiegel*, 18 December 2001.

<sup>303</sup> Interviews with lawyers of the Association of Criminal Lawyers of Berlin, 26 November 2001. Also, the IHF Report 2002 notes that "[r]acial offenders [are] frequently only sentenced years after the offences were committed." See International Helsinki Federation Report 2002, see: <<http://www.ihf-hr.org/reports/AR2002/country%20links/Gernamy.htm>>, (accessed 3 August 2002).

<sup>304</sup> *Aktiv gegen Rechts* (Newsletter), 30 July 2001.

<sup>305</sup> For example, in April 1998, when several youth shouting "Sieg-Heil" threw Molotow-cocktails at a Traveller. See *Rundbrief 1999*, annual publication of the Association of German Sinti and Roma of Hesse, p. 19.

<sup>306</sup> The Romano Rat e.V., Press-release: "Declaration Addressed to the Berlin Authorities," 31 July 2001; on file with EUMAP.

<sup>307</sup> Cited in J. Delfeld, *Tradition und Zukunft des Rechtsextremismus* (The Tradition and Future of the Right-Wing Extremism), p. 7.

law enforcement authorities, members of ethnic minority groups resort to such “preventive” measures as avoiding trouble by “staying home after dark.”<sup>308</sup>

### 3.2.2 Violence by public actors

Legislation does not stipulate specific sentencing enhancements for racially motivated crimes perpetrated by law enforcement officers. Although the police are generally considered well-trained and respectful of human rights, reports of alleged violence and mistreatment against minority individuals, including Sinti and Roma, by law enforcement authorities are not uncommon (see Section 3.1.5). Most reported abuses are directed against “foreigners” (citizens of non-German origin, immigrants, migrant workers, asylum seekers and refugees, most of whom belong to racially distinct groups).

The official response to allegations of mistreatment by law enforcement personnel has been criticised as inadequate. For example, ECRI notes “a wide discrepancy between reports of excesses and the results of criminal proceedings and internal investigations of complaints, which find a relatively small number of complaints to be valid.”<sup>309</sup> Amnesty International asserts that investigations of law enforcement officers accused of having committed human rights violations against minority individuals and foreigners proceed slowly:<sup>310</sup> several reported cases of mistreatment by law enforcement authorities have remained unresolved for years.<sup>311</sup> Moreover, lawyers who deal frequently with cases of minorities and foreigners assert that the authorities are often too lenient with regard to infractions committed by law enforcement officials.<sup>312</sup> However, the Government has asserted that “(t)he investigations against police officers suspected of criminal acts are conducted carefully, just like other investigation proceedings, and without consideration of the identity of the person concerned.”<sup>313</sup>

Reportedly, victims of mistreatment by State officials are often reluctant to press charges against the alleged perpetrators, in part because of the expense involved, but also out of fear that the police might bring counter-charges. In a recent case in Berlin, a

<sup>308</sup> OPAS Final Report, p. 50.

<sup>309</sup> ECRI Report 2000, p. 14.

<sup>310</sup> Amnesty International Report 2001: Germany, see: <<http://www.amnesty.org>>, (accessed 25 October 2001).

<sup>311</sup> Amnesty International Report 2002: Germany, see: <<http://www.amnesty.org>>, (accessed 22 July 2002).

<sup>312</sup> Interviews with lawyers of the Association of Criminal Lawyers of Berlin, 26 November 2001. Interviews with lawyers in Hamburg, 5 December 2001. Interviews with lawyers in Cologne, 10 December 2001.

<sup>313</sup> CERD/C/338/Add.14, 10 August 2000, para. 99.

non-Caucasian person was arrested on suspicion of breaking into a flat. A false alarm was subsequently established. However, during the arrest the man's arm had been broken, and he decided to file a lawsuit against the police officer. Following two years of preliminary investigations (from 1998 until 2000), the case was dismissed by the state prosecutor, on the grounds that "the testimony of the claimant contradicted the testimony of the police officer," and there was "nothing to suggest that the testimony of the claimant should be trusted more than the testimony of the police officer;" the prosecutor estimated "only a 70 percent chance" that the incident took place as alleged.<sup>314</sup>

### *Treatment of non-citizens*

Alleged violence against and mistreatment of foreigners, particularly refugees, by law enforcement authorities (border control, railroad and ordinary police) presents a significant problem. The Amnesty International Report 2001 notes "a clear pattern of abuse" of foreigners in custody by the police,<sup>315</sup> and Amnesty and IHF have documented a number of incidents in which inhuman methods have been used during the forced deportation of asylum-seekers and refugees.<sup>316</sup>

ECRI has urged the Government to provide training to law enforcement officials, prosecutors, judges and lawyers "to enable the successful application of legal provisions aimed at combating racist and anti-Semitic crimes."<sup>317</sup>

## 3.3 Minority Rights

With ratification of the FCNM and the CRML, Germany undertook an obligation to support the right of its four recognised minority groups (Danes, Friesians, Sinti/Roma,

<sup>314</sup> Letter of the state prosecutor to M. R., the lawyer in the case. Copy of the letter on file with EUMAP.

<sup>315</sup> Amnesty International Report 2001: Germany, see: <<http://www.amnesty.org>>, (accessed 25 October 2001).

<sup>316</sup> International Helsinki Federation Report 2001, see: <<http://www.ihf-hr.org/reports/ar01/Country%20issues/Countries/Germany.pdf>>, (accessed 13 December 2001). See also, Amnesty International, "Germany: The Death During Forcible Deportation of Aamir Ageeb," EUR 23/004/00, 4 October 2000.

<sup>317</sup> ECRI Report 2000, p. 7.

and Sorbs) to maintain and foster their identity, language and culture.<sup>318</sup> However, Sinti and Roma often face serious obstacles to enjoyment of these rights in practice.<sup>319</sup>

The Federal Act of 22 July 1997 ratifying the FCNM and the Federal Act of 9 July 1998 ratifying the CRML<sup>320</sup> are subordinate to the Basic Law, although as Federal laws they take precedence over state laws, and as the more specific laws override other Federal laws.<sup>321</sup>

Aside from these ratification acts, there is no specific Federal legislation stipulating the rights of minorities, with the exception of the Declaration on the Rights of the Danish Minority of 29 March 1955.<sup>322</sup> The only existing provisions on the Federal level cited as applicable for minority protection in the State FCNM Report (1999) are Article 2 of the Basic Law, which guarantees the right to personal self-fulfilment, and Article 3, which bans discrimination by State agencies.<sup>323</sup> The leader of the Central Council for German Sinti and Roma has demanded that minority rights protection should be written into the Basic Law, but no such initiative is contemplated.<sup>324</sup>

Legislation on cultural matters, including language and education, is a prerogative of individual states. As of August 2002, only five of 16 states had adopted legislative provisions regarding minority protection: Article 25 of the Constitution of Brandenburg, Article 18 of the Constitution of Mecklenburg-West Pomerania, Articles 5.2 and 6 of the Constitution of Saxony, Article 37.1 of the Constitution of Saxony-

<sup>318</sup> State FCNM Report, p. 114.

<sup>319</sup> “Noch immer vergessene Minderheit” (Still Ever-Forgotten Minority), *Husumer Nachrichten*, 18 May 2000. Also, OSI Roundtable Meeting, Hamburg, 8 April 2002. Advisory Committee concluded that “[d]espite valuable efforts, the implementation of the Framework Convention has not been fully successful for the Roma/Sinti.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 97.

<sup>320</sup> Germany’s Declaration under the CRML stipulates that the Romani language on the territory of FRG “shall be protected pursuant to Part II of the Charter.”

<sup>321</sup> State FCNM Report, p. 5.

<sup>322</sup> The Declaration specifically guarantees that the members of the Danish minority enjoy fundamental rights on par with the German citizens. Cited in the State FCNM Report, p. 21.

<sup>323</sup> State FCNM Report, pp. 18–19.

<sup>324</sup> Federal Agency for Employment, Press-release of 27 April 2001; see <[http://www.arbeitsamt.de/hst/services/pressearchiv/26\\_01.html](http://www.arbeitsamt.de/hst/services/pressearchiv/26_01.html)>, (accessed 20 January 2002).

Anhalt, and Article 5 of the Constitution of Schleswig-Holstein.<sup>325</sup> None of these articles specifically mentions Sinti and Roma, although the other three recognised minority groups (Danes, Frisians, and Sorbs) are specifically mentioned in the legislation of the states in which individuals belonging to these groups reside. At the same time, the State FCNM Report points out “that Sinti and Roma more or less live in *all* parts of Germany” [emphasis in the original].<sup>326</sup>

Given the federal structure of Germany and the fact that the Sinti and Roma population is widely dispersed throughout the country, international legal experts have recommended the adoption of public law agreements between minority organisations and the Government as a means of ensuring specific and enforceable minority rights for German Sinti and Roma.<sup>327</sup> Sinti and Roma leaders have welcomed this recommendation; as of August 2002, however, only the state of Rhineland-Palatinate has initiated negotiations on, but not yet concluded, such an agreement with the local Sinti and Roma Association (see below).

### 3.3.1 Identity

The FCNM guarantees the right of persons belonging to ethnic and national minorities to maintain a separate identity.<sup>328</sup> The State FCNM Report cites Article 2.1 of the Basic Law (on the right to personal self-fulfilment) as providing protection of this right at the Federal level.<sup>329</sup>

There is no legal definition as to what constitutes a minority. The State FCNM Report explains that “(w)ithin the organisations of the German Sinti and Roma, there is ... no general agreement on the designation as either a national minority or an ethnic group,”<sup>330</sup> that “it is everybody’s individual personal decision – which is neither registered, reviewed or contested by the German State – whether he/she chooses to be considered a member of any of the groups protected under the Framework

<sup>325</sup> Thus, Schleswig-Holstein recognises Danish and Frisian minorities as entitled to protection and promotion in that State, Saxony and Brandenburg recognise minority rights for Sorbs (including the right to bilingual public signs), and Saxony-Anhalt and Meklenburg-West Pomerania recognise the right of minorities in general to cultural autonomy. State FCNM Report, p. 32.

<sup>326</sup> State FCNM Report, p. 18.

<sup>327</sup> See Central Council of German Sinti and Roma, ed., *Expert Opinion by Theo van Boven, Public Law Agreements about the Minority-Protection for the German Sinti and Roma* (1998).

<sup>328</sup> See FCNM, Art. 5.

<sup>329</sup> State FCNM Report, pp. 18–19.

<sup>330</sup> State FCNM Report, p. 11.

Convention,<sup>331</sup> and that the State “acknowledges the ... common basic position” that “the German Sinti and Roma are an inseparable part of the German people.”<sup>332</sup>

In reality, the right of Sinti and Roma to self- or non-identification is allegedly not always respected. The ECRI Report 2000 notes that some media perpetrate “(s)igmatising prejudices about Roma and Sinti ... particularly by naming alleged perpetrators of crime as Roma and Sinti without such mention being required for understanding of the reported incident”<sup>333</sup> (see Section 1).

Many Sinti and Roma reportedly conceal their identity in an attempt to avoid the negative effects of widespread anti-Gypsy prejudices, particularly in gaining access to employment, housing, education and commercial services.<sup>334</sup> The State CRML Report acknowledges that “[Sinti and Roma] are still subject to occasional private discrimination, due to the prejudices on the part of some fellow citizens,” which is “one of the reasons why the Romany language is rarely used in public.”<sup>335</sup>

ECRI criticised “the lack of recognition of the possibility that German identity may also be associated with other forms of identity than the traditional one,”<sup>336</sup> and stated that current debate on “defining culture” (*Leitkultur*) is a “worrying concept,” because it “reflects a concept of German identity as a fairly homogeneous one” and “reinforces negative stereotypes about other cultures.”<sup>337</sup> ECRI considered that “increased acknowledgement” of multiple identity besides the traditional German one may be a key to ensuring that minorities, including Sinti and Roma, “enjoy real equality in all fields of life.”<sup>338</sup>

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<sup>331</sup> State FCNM Report, p. 19.

<sup>332</sup> State FCNM Report, p. 11.

<sup>333</sup> ECRI Report 2000, p. 13.

<sup>334</sup> The interviews have been conducted by the reporter in twelve states visited during field research in the period November 2001-January 2002 and May-July 2002: Baden-Württemberg, Bavaria, Berlin, Brandenburg, Hamburg, Hesse, Lower Saxony, Meklenburg-West Pomerania, North Rhine-Westphalia, Rhineland-Palatinate, Saxony-Anhalt and Schleswig-Holstein.

<sup>335</sup> State CRML Report, p. 7.

<sup>336</sup> ECRI Report 2000, p. 4.

<sup>337</sup> ECRI Report 2000, p. 17.

<sup>338</sup> ECRI Report 2000, p. 17.

### 3.3.2 Language

With ratification of the CRML in 1999, Germany granted minority language status to Romanes.<sup>339</sup> However there is no Federal legislation recognising the right of persons belonging to national minorities to use their language freely in the private sphere and before public authorities.<sup>340</sup> Regulation of language use is understood as a cultural matter, lying within the competence of individual states. As of August 2002, Hesse remains the only state that has accepted all 35 points required for implementing Part III of the CRML, despite the fact that the Romani language “is spoken in most of the *Länder* of the Federal Republic of Germany.”<sup>341</sup> Sinti and Roma leaders have expressed concern about the lack of protection afforded in practice to Romanes.<sup>342</sup>

The Association of German Sinti of Rhineland-Palatinate is currently negotiating a public law agreement with the state authorities with particular regard to minority language rights. The draft agreement also addresses the issues of discrimination, education and media, including representation on media boards, and legally enforceable actions for violations of minority rights.<sup>343</sup> However, the agreement has been blocked in the state Parliament, which has not yet approved the required minimum 35 of 108 points of the CRML; only 24 points had been agreed upon as of August 2002.<sup>344</sup> Jacques Delfeld, the leader of the Sinti Association, and Romani Rose, the head of the Central Council, have criticised the President of Rhineland-Palatinate, Kurt Beck, for an “unacceptable minority rights policy,”<sup>345</sup> claiming that he has

<sup>339</sup> Germany’s Declaration on the CRML states: “Minority languages within the meaning of the European Charter for Regional or Minority Languages in the Federal Republic of Germany shall be the Danish, Upper Sorbian, Lower Sorbian, North Frisian and Sater Frisian languages and the Romany language of the German Sinti and Roma; a regional language within the meaning of the Charter in the Federal Republic shall be the Low German language.” See: <<http://www.bmi.bund.de>>, (accessed 10 July 2002).

<sup>340</sup> State FCNM Report (p. 32) cites Article 2 of the Basic Law (guaranteeing the right of all to free development of personality) as the primary tool for protection of minority language rights at the Federal level.

<sup>341</sup> State FCNM Report, pp. 10–11. Several other states have accepted Part II of the CRML.

<sup>342</sup> “Sorge um Sprache: Sinti und Roma fordern Schutz des ‘Romanes’” (Concerns about the Language: Sinti and Roma Promote Protection of Romanes), *Wiesbadener Tagblatt*, 28 July 2001.

<sup>343</sup> H. Heuss, notes prepared for EUMAP (Part I), p. 40.

<sup>344</sup> “‘Offener Rassismus’ in Rheinland-Pfalz? Sinti und Roma kritisieren Landesregierung” (‘Open Racism’ in Rhineland-Palatinate? Sinti and Roma Criticise the State Government), *Wiesbadener Kurier*, 28 July 2001.

<sup>345</sup> “Sinti und Roma kritisieren Beck” (Sinti and Roma Criticise Beck), *Regionaldienst Südwest*, 31 July 2001.



obstructed the passage of legislation to ensure minority rights for Sinti and Roma in Rhineland-Palatinate since 1992.<sup>346</sup> The spokesperson for the state government denied the allegations, and declared that the Central Council and the Association “adopted a politics of symbols, which in real life German Sinti and Roma let go.”<sup>347</sup>

The state of North Rhine-Westphalia supports a unique cultural initiative: the Roma theatre “Pralipe” in Mülheim (Ruhr).<sup>348</sup> The “Pralipe” theatre produces plays in Romanes, which has far-reaching implications for the preservation and fostering of the Romani language, culture and identity. Moreover, its commitment to fighting xenophobia earned a 1998 award from the International Institute of Mediterranean Theatre.<sup>349</sup>

### *Use of minority languages with public authorities*

The right of minorities to use their language before public bodies, particularly before courts, is articulated in a number of international legal instruments to which Germany is a party.<sup>350</sup> However, only two of 16 states, Schleswig-Holstein and Hesse, have accepted this obligation for Romanes; according to the Government, this is “due to the mostly small number of members of minorities as a percentage of the given local population” [in other states].<sup>351</sup>

In Schleswig-Holstein, the State Administration Act provides for a possibility to submit documents in a “foreign” language, that is, according to the State CRML Report, “a language other than the official language [German].”<sup>352</sup> Hesse adopted an obligation under Article 10.4 (points e and f) concerning the use of minority languages by authorities in debates in their assemblies. If two or more members of Sinti and Roma minority are represented in regional parliaments, councils, parties, etc., they may use Romanes in debates, with a German translation included in the minutes.<sup>353</sup> However,

<sup>346</sup> “Minderheitenrechte verhindert” (Minority Rights Stalled), *Die Rheinpfalz*, 28 July 2001.

<sup>347</sup> “Rose wirft Beck Hinhalte-Taktik vor” (Rose Reproaches Beck’s Delay Tactic), *Pirmasenser Zeitung*, 28 July 2001.

<sup>348</sup> State FCNM Report, p. 45.

<sup>349</sup> State CRML Report, p. 139.

<sup>350</sup> See FCNM, Art. 10, para. 3; See also ICCPR, Art. 14, para. 3, and ECHR, Art. 5, para. 2, and CRML, Art. 9 and 10.

<sup>351</sup> State FCNM Report, p. 75. An estimated 35,000 members of the Sorbian minority, and an estimated 50,000 members of the Danish minority have command of their languages as well as of German. See State FCNM Report, p. 6. Romanes is spoken by 70,000 persons at a minimum. See State FCNM Report, p. 10.

<sup>352</sup> State CRML Report, p. 130.

<sup>353</sup> State CRML Report, p. 131.

there are no Sinti or Roma representatives in the elected bodies, and the provision has not yet been utilised.

The State FCNM Report asserts that Sinti and Roma object to the notion that the State authorities would learn Romanes for the purposes of communicating with Romani clients, and that since Sinti and Roma “grow up as bilingual speakers of Romany and German and, as a rule, have a command of both languages, no actual requirement for using Romany in relations with administrative authorities has been observed.”<sup>354</sup> As regards the provision on drafting and translating legal documents and evidence in minority languages to avoid misunderstandings and errors, the State CRML Report asserts that “this obligation is met by the legal situation prevailing in Germany” and “no special measures have been taken.”<sup>355</sup>

However, some Romani leaders have claimed that many Roma experience difficulties when served with court papers in the German language, which they do not always understand well, making it difficult for them to follow the procedure in an informed manner.<sup>356</sup> Some Roma leaders have demanded that Roma and Sinti should be given the opportunity to represent themselves before the authorities, including before courts, in their own language.<sup>357</sup>

The State CRML Report indicates that there is information only about one case, in Baden-Württemberg, where a court contacted the Ministry of Justice for a qualified translator of Romanes to assist in proceedings. The Federal Association of Interpreters and Translators helped find an interpreter, and the Ministry in Baden-Württemberg has now supplemented its list of interpreters for rarely used languages, published in its *Official Gazette*, with one interpreter of Romanes.<sup>358</sup>

Experts note that involving Sinti and Roma individuals themselves as translators or mediators with authorities would not only relieve possible tensions concerning outsiders’ involvement, but would also present additional employment opportunities for members of the minority. However, this suggestion which has not received serious consideration to date.<sup>359</sup>

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<sup>354</sup> State FCNM Report, p. 79.

<sup>355</sup> State CRML Report, p. 129.

<sup>356</sup> R. Kawczynski, “Report on the Condition of Roma in Europe,” submitted to the OSCE, October 2000, p. 10.

<sup>357</sup> R. Kawczynski, “Report on the Condition of Roma in Europe,” submitted to the OSCE, October 2000, p. 10.

<sup>358</sup> State CRML Report, p. 129.

<sup>359</sup> H. Heuss, notes prepared for EUMAP (Part I), p. 43.

### 3.3.3 Education

The regulation of education is within the legislative competence of the states. Six of sixteen states (Hesse, Berlin, Rhineland-Palatinate, Hamburg, North Rhine-Westphalia and Baden-Württemberg) have adopted select legislative provisions on pre-school, primary, secondary, and post-secondary or adult education for Sinti and Roma, supporting implementation of Article 8 of the CRML.<sup>360</sup> These activities have provided historical and cultural information in teaching curricula about Sinti and Roma, reportedly “(o)n the basis of the requirements and wishes stated by the representatives of the persons concerned.”<sup>361</sup>

With the exception of Hamburg, no state presently provides for instruction in Romanes within the public school system, on the grounds that such instruction is “not wanted by German Sinti parents.”<sup>362</sup> The State FCNM Report acknowledges that some Roma organisations take a different view, and “argue in favour of the inclusion of Romany in school education and wish to support measures, like those taken in European neighbouring countries, for the development of a written form of this language,” but indicates that the Government chooses to respect the will of the majority of Sinti, who reportedly insist on “cultivat(ing) their language exclusively within the family and family clans.”<sup>363</sup>

#### *Teaching in Romanes*

In individual states, authorities have provided support and financing for NGO pilot projects to provide education in Romanes. The first such project is currently being implemented in Hamburg, where the Senate Authority for Schools, Youth and Vocational Training supports instruction in Romanes at four schools in schooling districts in which substantial numbers of Roma and Sinti reside.<sup>364</sup> Teaching in Romanes is integrated into the curriculum of select schools, and Roma teachers work in a team with another teacher. Some of the learning materials are bilingual and include information on Romani history and literature.<sup>365</sup> Hamburg authorities also support vocational training and continued education in Romanes at the Adult

<sup>360</sup> As cited in the State CRML Report, pp. 119–123.

<sup>361</sup> State FCNM Report, p. 112.

<sup>362</sup> State FCNM Report, p. 112.

<sup>363</sup> State FCNM Report, p. 96.

<sup>364</sup> The project is being implemented at Läiszstrasse Primary School, at Billbrookdeich Primary, Secondary Modern and Secondary Technical Schools, at Friedrichstrasse Primary, Secondary Modern and Secondary Technical Schools, and at Ochsenwerder Primary, Secondary Modern and Secondary Technical Schools.

<sup>365</sup> State CRML Report, p. 121.

Education Centre.<sup>366</sup> Exceptionally in Germany, Hamburg authorities on a number of occasions have waived qualification examinations in order to employ Roma teachers (currently four Roma teachers are employed).<sup>367</sup>

The State FCNM report maintains, however, that “apart from a number of pilot test models for Roma children, Romany is *not* taught at German schools ... in compliance with the parents' wish [emphasis in the original].”<sup>368</sup>

There is no Sinti and Roma University or Department of Romani studies.<sup>369</sup> The Government asserts that Sinti and Roma oppose the development of a written form of their language, and object to outsiders learning and providing instruction in their language.<sup>370</sup> With regard to the State obligation under Article 8(2) of the CRML to provide education in minority or regional languages at all stages of education, including higher education, the State CRML Report asserts: “On account of the situation of this minority/language group in terms of school education ... this provision is not relevant in practice.”<sup>371</sup>

### *Minorities in school curricula*

The FCNM and CRML both require State Parties to disseminate knowledge about minority history and culture in education and research.<sup>372</sup> As individual states have competence over educational matters, initiatives to impart information about the history and culture of Sinti and Roma vary from state to state.

In Hesse, teaching the history and culture of Sinti and Roma forms a part of the school curricula on the basis of educational materials developed by the State Institute for Pedagogy in cooperation with the Ministry of Culture and the Fritz-Bauer Institute. In addition, the Marburg-based Educational Bureau for National Minorities has produced

<sup>366</sup> State FCNM Report, p. 112.

<sup>367</sup> Staff Member of the Institute for Furthering Education of Teachers, presentation at the conference “Roma Projects’ ‘Good Practices’: Possibilities and Limits,” conference organised by the Roma National Congress/Rom and Cinti Union in Hamburg, 19-21 November 2001.

<sup>368</sup> State FCNM Report, p. 112.

<sup>369</sup> The Marburg-based Society for Anti-Gypsyism Studies, founded in 1998, is an interdisciplinary scholarly project. However, it is not intended to train Romani scholars. Its members are “scholars from various special-subject fields, who study anti-Gypsy attitudes in the past and at present and the outflow of such attitudes, especially the destruction of Sinti and Roma during the Holocaust.” See State FCNM Report, p. 92.

<sup>370</sup> State FCNM Report, p. 86.

<sup>371</sup> State CRML Report, p. 128.

<sup>372</sup> See FCNM, Art. 12(1) and CRML, Art. 8(1g).

materials on Sinti and Roma history and culture which are designed for use with the majority population.<sup>373</sup>

In Baden-Württemberg, the Association of German Sinti and Roma, in cooperation with the State Institute for Political Education, has published a brochure intended for teachers: “Between Romanticising and Racism – 600 Years of Sinti and Roma History in Germany.” In Hamburg, a reading book with pictures on the history and culture of Sinti and Roma – “We Speak Many Languages” – was prepared by the Centre for Political Education, and is used in schools (also in classes attended by Roma). The Centre for Political Education in Rhineland-Palatinate, in cooperation with the Educational Centre, has also developed educational material: “Sinti and Roma – a German Minority.”<sup>374</sup>

However, aside from these books and brochures, Sinti and Roma leaders maintain that school curricula do not as yet provide adequate information about the history and culture of this minority, or about their victimisation in the Holocaust. Depending on the school, the history of Sinti and Roma receives from one hour per month to two days per year. Moreover, the images of Sinti and Roma in texts and school-books recommended for reading to school-age children are often stereotyped; “respected” or “successful” Sinti and Roma are often portrayed as those who have assimilated into the majority society rather than maintaining Romani identity.<sup>375</sup> In this respect, the FCNM Advisory Committee “considers that the German authorities should intensify their efforts to enhance awareness of minority cultures ... [*inter alia*] in education.”<sup>376</sup>

### 3.3.4 Media

The FCNM and the CRML stipulate a State obligation to support minority media.<sup>377</sup> However, jurisdiction over media matters rests within the competence of individual states, and the Federal Government is furthermore constitutionally prohibited from exerting influence on the content of broadcasting programs.<sup>378</sup>

<sup>373</sup> Information from the Association of German Sinti and Roma of Hesse, Darmstadt, 11 January 2002.

<sup>374</sup> State FCNM Report, p. 88.

<sup>375</sup> M. Krausnick, “Images of Sinti and Roma in German Children’s and Teenage Literature,” in S. Tebbutt, pp. 107–127.

<sup>376</sup> Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 78.

<sup>377</sup> See FCNM, Art. 9; CRML, Art. 11.

<sup>378</sup> State FCNM Report, p. 50.

The state of Schleswig-Holstein has adopted concrete legal provisions on minority media. The Broadcasting Act was amended in 1999 to allow any socially relevant group to apply for nominations for election to the Media Council.<sup>379</sup> The broadcasting corporation has a legal mandate to support minority protection and to report on cultural diversity.<sup>380</sup> In addition, the Prime Minister of Schleswig-Holstein sent a letter to the broadcasting authorities urging them to explore possibilities “for integrating contributions in the minority languages ... into their programs, as a service for the citizens and in support of this element of the culture of Schleswig-Holstein.”<sup>381</sup>

There are no television programs in Romanes, allegedly because the dispersion of the Sinti and Roma population across Germany renders the development and broadcasting of such programming impractical.<sup>382</sup> However, in the states of Hesse and Rhineland-Palatinate TV programmes in Romanes may be broadcast over the “Open Channel,” although as of August 2002 there had not been any such broadcasts.<sup>383</sup>

The State FCNM Report states that “(p)ublication of print media in the Romany language is not in agreement with the conviction of the German Sinti that cultivation of their language should be confined to the family and family clan and that no written form of this language should be developed.”<sup>384</sup> The Government nevertheless acknowledges that Sinti and Roma organisations issue print materials in Romanes, such as brochures, information leaflets and circulars.<sup>385</sup>

The Central Council issues various publications of concern to Sinti and Roma in the German language. The Berlin-based Romani Union e.V., with funds from the European Commission, for several years published the journal *Romano Lil* in Romanes and German; however, the publication recently ceased, as funding was discontinued.<sup>386</sup> Several Associations of German Sinti and Roma and Romani NGOs publish annual reports or periodic newsletters. With the exception of the Central Council’s

<sup>379</sup> State Broadcasting Act (13 October 1999), Section 17, para. 2, Section 24, para 3, Section 34, para. 1, and Section 54, para. 3.

<sup>380</sup> Inter-State Treaty on North German Television (NDR), Art. 3, para. 3, Art. 5, para. 2, and Art. 7, para. 2.

<sup>381</sup> Cited in State CRML Report, p. 134.

<sup>382</sup> State FCNM Report, p. 71. The Advisory Committee on FCNM, however, notes that the situation is “not explained solely by the numbers and the economic and practical possibilities of the groups concerned.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 44.

<sup>383</sup> State CRML Report, p. 135.

<sup>384</sup> State FCNM Report, p. 67.

<sup>385</sup> State FCNM Report, p. 67.

<sup>386</sup> Information from Rajko Djuric, Magdeburg-Loburg, 25 July 2002.

publications, which are almost exclusively financed by the Federal Government, funding for the few existing Sinti and Roma publications is usually provided by local authorities in select states or by international organisations or private funds.

The only existing radio broadcasting programme in Romanes is broadcast by Berlin Radio SFB 4 *Multikulti*, which broadcasts in Romanes for 30 minutes once a week on Sunday night from 9:35pm to 10:05pm.<sup>387</sup>

### 3.3.5 Participation in public life

The State FCNM Report reveals that support for the Sinti and Roma minority has been limited to the cultural sphere. There have been few efforts to enhance their legal and political rights.

The only state to have adopted legislative provisions concerning the right of minorities to participation in public life is Schleswig-Holstein. Its Constitution stipulates:

The existence ... of the culture of national minorities and ethnic groups and their political participation are afforded protection by the State, local governments and local authority associations. The national Danish minority and the Frisian ethnic group are entitled to protection and promotion.<sup>388</sup>

The Danes (an estimated 50,000 persons) are exempted from the Electoral Act's five percent threshold for representation in the state Parliament; however, no such allowance has been made to ensure participation for Sinti and Roma (an estimated 7,000 persons). Matthäus Weiss, the leader of the Association of German Sinti and Roma of Schleswig-Holstein, noted that it is usually "forgotten that the Danes and Frisians are not the only minorities in the state."<sup>389</sup> In fact, a modest package proposal by the Social-Democratic Party (SPD), in coalition with the Alliance 90/Green Party, to grant protection to the Sinti and Roma minority (together with protection of the disabled and animals) in Schleswig-Holstein was blocked by the CDU/FDP opposition.<sup>390</sup>

The Government acknowledges that "(o)n account of their widely dispersed homes, direct participation of the German Sinti and Roma in political life is more difficult

<sup>387</sup> Radio Berlin Multikulti homepage, see: <<http://www.multikulti.de>>, (accessed 30 November 2001).

<sup>388</sup> Constitution of Schleswig-Holstein, Art. 5.2, cited in the State FCNM Report, p. 37.

<sup>389</sup> "Deutscher geht nicht" (Could Not Be More German), *Frankfurter Rundschau*, 2 January 2002.

<sup>390</sup> Cited in "Deutscher geht nicht" (Could Not Be More German), *Frankfurter Rundschau*, 2 January 2002.

than in the case of the other minorities with a more compact form of grouped settlement.”<sup>391</sup> However, Romani leaders have asserted that Sinti and Roma “are citizens of the countries they are living in, and it is this fact that obliges these countries (including Germany) to let Roma participate equally in the community.”<sup>392</sup>

The State FCNM Report indicates that there are no known Sinti or Roma representatives in either the Federal or state legislatures, although it asserts that a number of Sinti have been elected to municipal/parish councils.<sup>393</sup> No Sinti or Roma are known to hold executive or judiciary offices.

The Advisory Committee in this regard noted that “[n]umerous institutional means of participation have been set up for [other minorities] but this is not yet the case for the Roma/Sinti, although one of their organisations receives Federal funding,”<sup>394</sup> and recommended that the authorities “should review this matter and consider how to set up much more appropriate structures by which the Roma/Sinti can be regularly consulted in all parts of [Germany] on matters concerning them.”<sup>395</sup>

### *Citizenship*

Lack of citizenship prevents access to minority rights – including to the right of political participation – for over half of all Roma in Germany.<sup>396</sup> In turn, lack of voting rights provides little incentive for political parties and leaders to take into consideration the issues faced by Roma, as well as other long-term “foreign” residents.

The requirement of citizenship as a prerequisite for enjoying minority protection has a particular impact on Roma, as a stateless minority. Yet though Germany is a country

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<sup>391</sup> State FCNM Report, p. 115.

<sup>392</sup> R. Kawczynski, “Report on the Condition of Roma in Europe,” submitted to the OSCE, October 2000, p. 12.

<sup>393</sup> State FCNM Report, p. 115.

<sup>394</sup> Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 66.

<sup>395</sup> Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 90.

<sup>396</sup> Advisory Committee on the FCNM considers that the “lack of citizenship may constitute a real obstacle to fuller integration, including participation in political life.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 40.



with a particular responsibility towards Sinti and Roma, it has not made allowances for Roma immigration or asylum-seekers.<sup>397</sup>

Until very recently the overwhelming majority of “foreigners,” including Roma, who arrived in Germany from the 1950s onwards and their descendants did not have citizenship, and thus were barred from political participation. According to the figures compiled by the Federal Ministry of Interior, as of 31 December 1999 (the day before the new Citizenship Law would enter into force), of over seven million officially registered foreigners, over 50 percent had been living in Germany for at least ten years, and approximately 32 percent had been living there for 20 years or more. About 20 percent had been living in Germany for between six and ten years, and approximately 28 percent had been living there for less than six years. Specific figures for Roma are not available.<sup>398</sup>

As of 1 January 2000, many foreigners who were born in Germany or were long-term legal residents have become eligible for citizenship, and thus voting rights, *inter alia*. However, the rate of naturalisation remains slow. In practice, the process of acquiring citizenship, particularly in the absence of ties with Germany (i.e. German ethnic origin or marriage), is both cumbersome and expensive.<sup>399</sup>

The new law stipulates the following naturalisation requirements, to be fulfilled after eight years of continuous legal residence: German language proficiency, commitment to the Basic Law, a clean criminal record, and financial self-sufficiency; in addition, applicants are required to renounce all previous nationalities. Minors eligible for double or multiple citizenship are required to make a declaration on choosing German nationality by the age of 23; should no such declaration be made, German citizenship may be taken away. ECRI noted that current “[naturalisation] criteria although not in themselves discriminatory might potentially lend themselves to arbitrary and discriminatory application” and encouraged the authorities “to give consideration to these potential problems.”<sup>400</sup>

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<sup>397</sup> Prior to 1989, Germany set annual immigration quotas for Jewish refugees and asylum seekers from the Communist bloc countries. No such measures were provided for Roma, who have become victims of violent attacks *after* the collapse of Communist regimes in many former Communist bloc countries. See, e.g. “Monitoring the EU Accession Process: Minority Protection 2001,” available at: <<http://www.eumap.org>>, (accessed 8 September 2002).

<sup>398</sup> Federal Ministry of Interior, see: <<http://www.bmi.bund.de>>, (accessed 1 July 2002).

<sup>399</sup> Even with the new law Germany has one of the most stringent citizenship procedures in the EU, hence the relatively high percentage of “foreigners” in Germany. The FCNM Advisory Committee further notes in its Opinion that “naturalisation rates remain significantly less than expected,” para. 40.

<sup>400</sup> ECRI Report 2000, p. 6.

## 4. INSTITUTIONS FOR MINORITY PROTECTION

### 4.1 Official Bodies

Point 10 of the Coalition Agreement of 20 October 1998 of the current Government stated:<sup>401</sup>

The new Federal Government wants to protect minorities and wants to achieve their equal treatment and social participation. No one must be discriminated against on grounds of his disability, origin, colour, ethnic origin or sexual orientation as gay or lesbian. We will put on track a law prohibiting discrimination and supporting equal treatment.<sup>402</sup>

As of August 2002, there was neither comprehensive anti-discrimination legislation nor a statutory body with adequate powers for minority protection or enforcement of anti-discrimination,<sup>403</sup> as required by the Race Equality Directive (see Section 3.1).

The Government has planned to ensure implementation of the EU Race Directive through four new institutions (so-called “national focal points”): the European Office for Monitoring Racism and Xenophobia (EBRF), the German Human Rights Institute, the National Monitoring Office, and the Office for Promoting Implementation of Ethnic Guidelines under Article 13.<sup>404</sup> Two of these bodies have already been created: the EBRF was established on 2 June 1997, and the Human Rights Institute was established on 7 December 2000. Both are meant to function independently from the Government.

The EBRF receives funding from the Vienna-based EU Monitoring Centre (EUMC). Its mandate includes: developing strategies on fighting intolerance, generating a database of “good practices,” conducting national and EU roundtables, and serving as an information centre on issues of racism, xenophobia and anti-Semitism; anti-Gypsyism is not mentioned specifically.

The Human Rights Institute is intended to work on behalf of civil society, in close cooperation with domestic and international NGOs as well as official institutions. The mandate of the Institute includes: gathering information on the human rights situation in Germany and abroad, preventing human rights violations and fostering rights protection, academic research, and advising the Government on policy. Funding for the Institute is provided by the Federal Government, presenting a clear conflict of

<sup>401</sup> At the recent election the coalition attained the necessary majority to stay in power.

<sup>402</sup> EUMC, *Anti-discrimination Legislation in EU Member States – Germany*, Vienna, 2002, p. 27.

<sup>403</sup> EUMC, *Anti-discrimination Legislation in EU Member States – Germany*, Vienna, 2002, p. 29.

<sup>404</sup> Information from the Alliance for Democracy and Tolerance, Berlin, 27 November 2001.

interest; as noted by the HCNM with regard to State-funded NGOs (in Spain), NGO representatives “cannot be expected to dispense fully disinterested advice” when this is likely to affect their own funding.<sup>405</sup>

The other two institutions have yet to be established. The Office for Promoting Implementation of Ethnic Guidelines under Article 13 is to fulfil the requirement of the EU Race Directive for a national body with powers to initiate proceedings in cases of alleged discrimination, gather information and perform a political function of communicating with the Government.<sup>406</sup> The National Monitoring Office is to work in cooperation with the EBRF by gathering information and analysing data on right-wing extremist tendencies, writing shadow reports on right-wing violence, and advising on legislative policies and strategies to counter right-wing extremism. However, there have been proposals in the Federal Parliament calling for the discontinuation of plans to establish these bodies, on the grounds that they are unnecessary.<sup>407</sup>

The main coordinating body for all human rights initiatives is the Alliance for Democracy and Tolerance, specially established at the Federal Ministry of the Interior in 2000.<sup>408</sup>

There are no Sinti or Roma representatives employed at the EBRF, the Human Rights Institute, or the Alliance for Democracy and Tolerance.

### *Combating discrimination*

Unlike fighting intolerance and racially motivated violence, fighting discrimination is a relatively novel concept in Germany.<sup>409</sup> The Federal Government generally does not provide funding for anti-discrimination initiatives, and there are very few projects to provide information and training to public officials regarding their constitutional duty not to discriminate.<sup>410</sup> Civil society organisations usually receive support for anti-discrimination projects from their respective states, international institutions (particularly the European Commission and European Social Fund) or other international bodies or

<sup>405</sup> *Report on the Situation of Roma and Sinti in the OSCE Area*, p. 145.

<sup>406</sup> The absence of a national body to accept individual complaints of discrimination and to assist victims in pursuing such complaints has been noted critically by ECRI. See ECRI Report 2000, p. 8.

<sup>407</sup> Letter from the Federal Commission for Foreigners' Affairs commenting on an earlier draft of this report; on file with EUMAP.

<sup>408</sup> See: <<http://www.buendnis-toleranz.de>>, (accessed 1 July 2002).

<sup>409</sup> See D. Clayton, *Antidiskriminierungsarbeit in Nordrhein-Westfalen* (Anti-Discrimination Work in North Rhine-Westphalia), and OPAS Final Report.

<sup>410</sup> EUMC, *Anti-discrimination Legislation in EU Member States – Germany*, Vienna, 2002, p. 28.

private foundations. However, these projects are rarely institutionalised, and cease to function when the funding ends.

One such project, the “Open Access to Private Services” (OPAS) – a joint German, French and Austrian project, was financed by the European Commission to survey discriminatory practices and promote free, i.e. non-discriminatory, access of all persons to private goods and services in these countries. The project did not focus on discrimination against any specific minority group, such as for example Sinti and Roma, but rather on discrimination in access to goods and services in general. In Germany, the OPAS project, which was finalised in February 2002, was undertaken by the anti-discrimination bureau in the state of Brandenburg.

There are presently only three anti-discrimination bureaux in Germany: in the states of North Rhine-Westphalia and Brandenburg and in the city of Hanover. These bureaux conduct sociological surveys and publicise their findings; receive complaints from the public; communicate with alleged perpetrators of discriminatory acts on behalf of complainants, and in certain instances file lawsuits.

### *Commissions for Foreigner's Affairs*

Commissions for Foreigners' Affairs, by definition created as bodies to attend to matters of concern for non-citizens, have no specific responsibilities related to the protection of minority rights. However, in practice they render assistance to any victim of discrimination, including citizens. Some 200 Commissions for Foreigner's Affairs have been established, in all states as well as at the local level; at the national level there is a Federal Commission for Foreigners' Affairs. Their general functions include: promoting integration, identifying and analysing conflicts between Germans and foreigners, developing measures to encourage tolerance and acceptance through public relations work, and supporting foreigners' self-organisations and local advisory councils for foreigners.<sup>411</sup> As a rule, such bodies do not have sufficient financial or personnel resources to advise on the means of legal recourse or to take legal action on behalf of alleged victims of discrimination.<sup>412</sup>

The Commissions try to involve minority individuals in the implementation of various concrete projects. For example, minority individuals are often called upon to help communicate between alleged victims and perpetrators of discrimination (e.g. between minority individuals and flat-owners, employers, school administrations, teachers,

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<sup>411</sup> State FCNM Report, p. 41.

<sup>412</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 29.

etc).<sup>413</sup> However, minority representatives generally do not take an active part in Commission policy and decision-making processes, such as advising on legislation or policy development and implementation.

The new Aliens Act strengthened the rights of the Federal Commissioner for Foreigners' Affairs *vis-à-vis* the relevant Federal ministries. The Commissioner can now request statements from Federal public authorities in case of substantiated allegations of unjustified unequal treatment.<sup>414</sup> The Commissioner, currently Marieluise Beck, reports to the Federal Parliament every two years on the situation of foreigners. The Federal Commission communicates with representatives of Sinti and Roma organisations, through the "Forum against Racism," *inter alia*.

The Forum, established in 1998 and managed by the Federal Ministry of Interior, presents an opportunity for institutionalised dialogue between the Government and civil society organisations on questions of discrimination.<sup>415</sup> The Forum conducts national roundtable meetings two to three times a year, where Sinti and Roma representatives also have an opportunity to make presentations. For example, in 2001 the Central Council of German Sinti and Roma raised issues of continued police profiling of members of the minority in Bavaria, and of persistent racial bias in the media.<sup>416</sup>

### *Governmental policy on minorities*

There is no comprehensive Government policy on minorities, nor a special official body in charge of minority issues.<sup>417</sup> At present, on the Federal level, "Department A" of the Ministry of Interior has competence over "minority matters," including asylum issues, while the Federal Ministry of Justice is responsible for the "human rights aspects" of minority protection.<sup>418</sup>

At the state level, in Berlin the Senate of Youth, Schools and Sport – the equivalent of a Ministry at the state level – addresses issues of concern to Sinti and Roma, both German and foreign;<sup>419</sup> Schleswig-Holstein has established a Commissioner for Minority Matters which deals also with Sinti and Roma issues and reports directly to

<sup>413</sup> Information from the Commission for Foreigners' Affairs of the Berlin Senate, Berlin, 28 November 2001.

<sup>414</sup> Aliens Act, Art. 91, paras. a and c.

<sup>415</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 28.

<sup>416</sup> Information from the Federal Commission for Foreigners' Affairs, Berlin, 16 May 2002.

<sup>417</sup> State FCNM Report, p. 36.

<sup>418</sup> State FCNM Report, p. 33.

<sup>419</sup> Berlin Senate website, see: <<http://www.sensjs.berlin.de.>>, (accessed 1 January 2002).

the Prime Minister of the state. There are no other special bodies at the state level,<sup>420</sup> although some states have developed *ad hoc* legislative and policy initiatives with regard to education, employment and integration of Sinti and Roma (see Section 3.1).

The Government often delegates minority protection matters, *inter alia*, to NGOs, as “a realisation of the Federal Government’s guiding principle of an activating State that makes suggestions and sets framework conditions but does not do everything itself.”<sup>421</sup> Accordingly, initiatives concerning Sinti and Roma have also been passed onto NGOs. The State FCNM Report explains that “in line with the federal structure of the Federal Republic of Germany, [Sinti and Roma organisations] are grouped in State Associations. The Central Council of German Sinti and Roma serves as the umbrella organisation for the total of 16 state, regional and local associations and institutions.”<sup>422</sup>

Competences of the Central Council include: representing the interests of German Sinti and Roma, calling for legislative proposals and political initiatives, enforcing minority rights, dealing with the issues of Holocaust, cooperating with other German Sinti and Roma Associations and with international minority and human rights organisations, and supporting Sinti and Roma abroad.<sup>423</sup>

Since 2002 the Federal Ministry for Cultural Matters and Media is in charge of providing allocated funding to the Central Council. State Associations of German Sinti and Roma usually receive funding from their respective state governments. At the same time, the leaders of independent Romani organisations which do not belong to the Council’ umbrella claim difficulties in obtaining state funding for their projects (see below).<sup>424</sup>

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<sup>420</sup> The Government mentions that state Chancelleries or Ministries of Culture or Science may have competence dealing with minorities; see State FCNM Report p. 33.

<sup>421</sup> CERD/C/338/Add.14, 10 August 2000, para. 121.

<sup>422</sup> Alliance for Democracy and Tolerance, see: <<http://www.buendnis-toleranz.de>>, (accessed 1 July 2002).

<sup>423</sup> State FCNM Report, p. 44.

<sup>424</sup> In this regard, the Advisory Committee recommended that the Government “should make sure that all financial requests made by the different organisations representing persons belonging to this minority group are given careful consideration.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 28.

## 4.2 Civil Society

Civil society organisations have played an important role in raising awareness about racism and intolerance, and there is an ongoing dialogue between the Government and these organisations with regard to such issues.<sup>425</sup>

NGOs' antiracism initiatives often serve as a stop on activities of right-wing organisations by tracking down and exposing hate groups, and preventing and combating racially motivated violence. The Antiracist Information Centre (ARIC) has set up an electronic database of a network of organisations and individuals working against racism and intolerance.<sup>426</sup> Pro-Asyl and the Society for Endangered Peoples actively advocate the rights of refugees and asylum seekers, of whom many are Roma.

The Alliance Against Ethnic Discrimination (BDB) is a network of interest groups of migrants and ethnic minorities. Its activities include: training for minorities, raising public awareness, documenting cases of discrimination, conflict resolution, assistance to victims of discrimination, and policy-oriented research on discrimination and equal opportunities.<sup>427</sup>

Overall, however, there appears to be a distinction between fighting racism, intolerance and violence on the one hand, and fighting daily discrimination and exclusion on the other hand. While many NGOs focus on the former area, much less attention has been devoted to the latter; it cannot be said that civil society presents a united front in combating ethnic and racial discrimination and the exclusion of minorities.

### *Sinti and Roma organisations*

Sinti and Roma organisations began to appear only in the early 1980s.<sup>428</sup> These organisations have sought to position themselves as partners in the development and implementation of policies to ensure equal rights and conditions for Sinti and Roma, as an alternative to policies which treated these communities as objects of either police surveillance or social care. Sinti and Roma organisations have played a crucial role in

<sup>425</sup> EUMC, Anti-discrimination Legislation in EU Member States – Germany, Vienna, 2002, p. 29.

<sup>426</sup> Anti-Racist Information Centre, see: <<http://www.aric.de>>, (accessed 12 November 2001).

<sup>427</sup> EUMC *Raxen Mapping Exercise in Germany: Final Report*, January 2002; see: <<http://www.eumc.org>>, (accessed 22 July 2002).

<sup>428</sup> There were earlier attempts to set up Sinti and Roma organisations, for example the “Committee of German Gypsies” (*Komitee Deutscher Ziguener*) in Munich in 1946, see L. Elber, “*Ich wüßte, es wird schlimm.*” *Die Verfolgung der Sinti und Roma in München in 1933–1945* (‘I Knew It Would Be Bad.’ Persecution of Sinti and Roma in Munich in 1933–1945), Munich: 1993. However these attempts failed, largely because of the lack of support from the majority society. H. Heuss, notes prepared for EUMAP (Part II), p. 1.

the development of greater public awareness about the persecution of their communities, in obtaining recognition as a national minority, and in winning compensation for Romani victims of the Holocaust.<sup>429</sup>

Some Sinti and Roma organisations are currently grouped within State Associations, under the coordination of the Central Council of German Sinti and Roma. The Heidelberg-based Central Council, headed by Romani Rose, is funded entirely by the Federal Government. In addition, the Documentation and Cultural Centre attached to the Council receives 90 percent of its funding (€1,153,000 annually) from the Federal Ministry for Cultural Matters and Media, and ten percent (€115,000) from the state of Baden-Württemberg.<sup>430</sup> The Government regards the Central Council as the main representative of German Sinti and Roma, and Council members have taken part as members of official German delegations at various international fora.

Several organisations not affiliated with the Central Council have formed the Alliance of German Sinti, which is headed by Natascha Winter. Information about their activities was not available for this report;<sup>431</sup> however, since recently the Federal Government and some of state governments have begun to invite Alliance representatives to various political meetings and other events.<sup>432</sup> The State FCNM Report also asserts that the views of this organisation (which is also funded by the Federal Government) regarding issues of education, language and minority status “must be taken into account by the State to the same extent as the position taken by the Central Council.”<sup>433</sup>

A number of other organisations, such as the Association of German Sinti of Lower Saxony, the Rom and Cinti Union in Hamburg, and some Sinti, Sinti/Roma, and German/foreign Roma organisations function independently, collaborating on a number of issues.

The major ideological distinction between Sinti and Roma organisations appears to be the status of the Sinti and Roma minority. The Central Council-led organisations, in

<sup>429</sup> H. Heuss, notes prepared for EUMAP (Part II), pp. 1–2.

<sup>430</sup> *Bundesaushalt, Titel 684 14-193* with reference to the FCNM and CRML. Information provided by the Federal Ministry for Cultural Matters and Media, Berlin, 3 June 2002.

<sup>431</sup> “[T]he members of SAD see themselves as an independent ethnic group whose – social, cultural and political – aims and concerns differ from the Central Council’s positions.” See Comments by the Sinti Alliance Deutschland to the Opinion of the Advisory Committee on the Report on Implementation of the FCNM in the Federal Republic of Germany, Cologne, 25 June 2002. Information from the Federal Ministry of Interior, 29 July 2002.

<sup>432</sup> H. Heuss, notes prepared for EUMAP (Part II), p. 1.

<sup>432</sup> H. Heuss, notes prepared for EUMAP (Part II), p. 4.

<sup>433</sup> State FCNM Report, p. 11.



agreement with the Government, advance the concept of a German national minority, while many independent Romani organisations promote the concept of a transnational minority, assert minority rights for all resident Roma regardless of legal status, demand special protection through European instruments and call for the development of a “Charter of Roma Rights.”<sup>434</sup>

As there is no consolidated official body to which independent Sinti and Roma organisations could legitimately apply for support for their initiatives,<sup>435</sup> some Romani leaders feel that selective and insufficiently transparent mechanisms for allocating public funding have fuelled competition and conflict between some Sinti/Roma organisations. At the same time, lack of unity among Sinti and Roma organisations is often cited as one of the principle reasons for the limited success of programmes to improve their situation.<sup>436</sup>

State support for Sinti and Roma appears inadequate compared with support for other recognised minorities.<sup>437</sup> For example, annual financial support provided by the state of Schleswig-Holstein to the Danish minority (numbering 50,000) has been DM 53,429,900 (c. €26,000,000), while support to the Sinti and Roma minority (numbering 7,000) has been DM 170,700 (c. €85,000): 300 times less for a group that is only seven times smaller.

Another major point of criticism on the part of Romani leaders is that many NGOs that receive Government funding to improve the situation for Sinti and Roma often fail to integrally involve individuals from these communities in their work, or to listen to the issues and demands put forth by a wide range of Sinti and Roma organisations. In fact, many organisations that currently work on Sinti and Roma issues are not run by Sinti or Roma. One Romani leader referred to the “Roma grants Klondike” that has developed as a result of the funding that has been made available by international (e.g. EU) bodies and the Government to finance initiatives for the benefit of Sinti and

<sup>434</sup> H. Heuss, notes prepared for EUMAP (Part II), p. 3. See also, R. Kawczynski, “Report on the Condition of Roma in Europe,” submitted to the OSCE, October 2000, p. 16.

<sup>435</sup> Advisory Committee found that “the present financial support system is perceived as very complicated by representatives of several national minorities because of the large number of authorities it involves” and recommended that “Germany should seek, in cooperation with the national minorities concerned, to simplify and clarify the financial support for minority languages and cultures.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 76.

<sup>436</sup> “The State and the Gypsies,” interim report on the policy research project of the European Migration Centre, Berlin, November 2001; on file with EUMAP.

<sup>437</sup> Advisory Committee notes Germany’s “smaller financial contribution in favour of the Roma/Sinti minority.” See Advisory Committee on the FCNM, Opinion on Germany, adopted on 1 March 2002, para. 26.

Roma. In the opinion of some Romani leaders, instead of addressing problems faced by Roma and Sinti, such projects often “fight Roma and Sinti *as* a problem.”<sup>438</sup>

Finally, many State-sponsored attempts to integrate the Sinti and Roma minority run up against the long-standing and deeply-rooted mistrust of official institutions among these communities. Many Sinti and Roma leaders feel that unless the root causes of these attitudes are honestly confronted and addressed, and a comprehensive policy is elaborated on terms of equal partnership with the full spectrum of Sinti and Roma organisations, most Government-sponsored programmes stand little chance of success.<sup>439</sup>

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<sup>438</sup> “Roma Projects ‘Good Practices’: Possibilities and Limits,” conference organised by the Roma National Congress/Rom and Cinti Union in Hamburg, 19-21 November 2001.

<sup>439</sup> OSI Roundtable Meeting, Hamburg, 8 April 2002.

## 5. RECOMMENDATIONS

### *Recommendations to the Government:*

- recognise the existence of anti-Gypsyism as an independent form of racism, alongside anti-Semitism and xenophobia, which results in discrimination against and exclusion of Sinti and Roma;
- find acceptable ways to generate ethnic data without compromising relevant international rules on data protection and in cooperation with Sinti and Roma organisations, to research patterns of discrimination in various areas and assess the costs of discrimination and exclusion of minority groups;
- take legislative and policy steps to stop, remedy and prevent discrimination, exclusion and racially motivated crime:
  - adopt comprehensive anti-discrimination legislation, meeting the requirements of the Race Directive as a minimum;
  - introduce sentencing enhancements for racially motivated crime by both private and public parties;
  - demand investigation in good faith of incidents of discrimination and racially motivated crime;
- train all categories of public officials, civil servants, law enforcement personnel and others to apply anti-discrimination measures, to refrain from discriminating, and to develop active policies to ensure equality of opportunity in practice
- launch initiatives to educate the majority population on the illegality of discrimination and exclusion in private transactions, such as recruitment, housing and other goods and services;
- pass necessary constitutional amendments to legally guarantee specific minority rights;
- grant citizenship to all individuals who have legally lived in Germany for the pre-requisite number of years for naturalisation, regardless of their heritage;
- build trust among minority communities through confidence building and partnership programmes involving State institutions and Sinti/Roma organisations and by including duly-elected minority representatives in decision-making on the development and implementation of policies that affect them;
- involve Sinti and Roma in the implementation and evaluation of concrete minority projects, which will help the State meet its obligation to promote higher social participation, employment, and the overall integration of minorities into society.