

Explanatory notes on the individual points of the working paper:

A Measures for Holocaust survivors

Re: Point 3 - Specific promotion of contact with Holocaust survivors; information events, trips and excursions for Holocaust survivors and relatives to historical memorial places in and outside Germany

The Central Council of German Sinti and Roma has enabled survivors of the Holocaust and their relatives to participate in the central remembrance ceremonies in the former concentration and extermination camps of Auschwitz and Sachsenhausen for many years. Since many of the senior citizens cannot afford to pay for the trip to the memorial sites from their own financial means, there is a political and social obligation to enable the survivors to participate personally in memorial services at the locations where they were once imprisoned.

Sinti and Roma were victims of the National Socialist genocide in the same way as the Jews. Half a million members of the minority fell victim to the Holocaust and were murdered in the concentration camps and by the SS-Einsatzgruppen (special operations units). The Holocaust against the Sinti and Roma was not recognised by society in the Federal Republic of Germany for decades. The fate of the Sinti and Roma was marginalised for a long time, even at the official places of remembrance. This also applied to remembrance events in Auschwitz and other places of extermination. The fact that the remembrance of the genocide of the Sinti and Roma has fundamentally changed today is mainly attributable to the civil rights movement of the German Sinti and Roma and the work of the Central Council of German Sinti and Roma, which was founded in February 1982. Today the name of Auschwitz and the names of the other National Socialist concentration camps also stand for the genocide of the Sinti and Roma, even though it was suppressed from public consciousness for a long time and denied.

A delegation of Sinti and Roma Holocaust survivors from Germany was able to return to their former place of imprisonment for the first time in 1985; this was organized and implemented by the Central Council of German Sinti and Roma. The Sinti and Roma murdered in the former camp section B II e were remembered at the memorial there in their own event for the first time on 2nd August 1994, the 50th anniversary of this crime. The memorial was erected and financed by Auschwitz survivors of the minority in 1975.

In the meantime, the international Roma Remembrance Day organized by the Roma association in Poland has taken place at the memorial on 2nd August every year since 1994. Delegations from Roma associations and members of the minority from several countries participate in this. The Republic of Poland declared the 2nd August as an official national day of remembrance for the victims of the genocide of the Sinti and Roma by parliamentary decree in 2010. The governments of Poland and other states are represented in the act of remembrance by high-ranking state, governmental and parliamentary representatives. Many states, including the Federal Republic of Germany and the state of Israel, are represented by their ambassadors. In addition to this, representatives of Jewish communities in Poland, the churches, organisations of the minority and the persecuted as well as regional institutions all come to Auschwitz.

Remembrance of the victims of the National Socialist genocide and mourning over the loss of family members are central components of the culture of the Sinti and Roma and have become an important identity-defining factor. The journey to the places of remembrance is therefore more than a return to the place of their imprisonment for the survivors of the Holocaust. It is a journey to the places where close family members died and were left with no grave, beside which the bereaved could mourn.

In addition to this, the journey to historical memorial places in and outside Germany has an important inter-generational dimension. The survivors have been accompanied to Auschwitz by their grandchildren and great-grandchildren for many years. The shared visit to the memorial sites enables people to keep memories alive and pass them on to the younger generations.

In cooperation with the Bündnis für Demokratie und Toleranz (Alliance for Democracy and Tolerance), a group of young people who were not members of the minority also took part in the remembrance journey for the first time this year. The contact and discussions with contemporary witnesses are of great importance with respect to historical and political education about National Socialism. Extending beyond cognitively challenging approaches such as textbooks, dialogue with the Holocaust survivors creates a personal link to history, which enables an empathetic approach to the historical events.

Re: Point 5 Preservation of the graves of Holocaust survivors of the Sinti and Roma as heritage-protected sites

The Central Council proposes an initiative for a regulation on a national basis, so that the grave sites of Sinti and Roma persecuted under National Socialism are permanently preserved and protected.

Sinti and Roma families have increasingly been facing the problem of late that the graves of their relatives, which also include deceased Holocaust survivors, are to be removed as a result of expired time limits (occupancy periods) pursuant to the usual cemetery regulations. In other cases, renewal fees are demanded which cannot be paid by those concerned, or there are no immediate family members who can pay for the care of the graves. The permanent preservation without a time limit of burial places as protected graves has so far only been approved in isolated cases.

Many of the graves of Sinti and Roma who were victims of persecution by the National Socialists and died after 1945 will now finally be removed because the burial rights have expired. The preservation of these burial places as protected memorial sites is of great importance to the families of the Sinti and Roma, also because there is no burial site for most of the family members murdered under National Socialism. In addition to the President of the German Association of Cities and the German Association of Towns and Municipalities, Minister-Presidents and responsible politicians in the Federal States have also expressly supported a regulation, in order that these grave sites can be taken into public care. In the meantime, affected graves have been preserved as graves of honour and are appropriately recognized in individual Federal states (Baden-Wuerttemberg, Rhineland-Palatinate, Thuringia).

The grave sites in question are worth preserving on account of their unique history (apart from the particular significance for the families and the minority) and should be preserved as sites of historical interest.

It is one of the general principles of the German grave law that "Cemeteries of historical value are preserved and cared for as long as possible"¹. The municipalities should "also declare protected status for individual sites in consultation with the public bodies responsible for caring for historical monuments, since the preservation of memorials of historical and ethnological significance is also one of the tasks of general cultural heritage preservation"²The objects to be protected are to be designated through appropriate individual decisions.³

The current grave law only protects the resting places of persons persecuted by the National Socialists who died on or before the 31st March 1952. A further-reaching change is also required with regard to the possibility of protecting graves which have so far been cared for privately as well as family graves. There is no right to eternal rest as there is in Jewish cemeteries for the graves of the Sinti and Roma concerned.

The genocide of the Sinti and Roma was not recognized in Germany until 1982. Many Holocaust survivors of the Sinti and Roma who were deported to the concentration camps as children and adolescents and survived died in the following years as a result of the delayed effects of the persecution they suffered.

The Central Council requests the German Bundestag and the Bundesrat to recommend to the municipal institutions and communities and the local authority associations responsible for burial grounds that they permanently extend the occupancy periods for grave sites of Holocaust survivors of the Sinti and Roma in municipal cemeteries beyond the usual terms at the express wish of the relatives without levying further fees and to preserve them as protected sites. The responsible local authority body should make the respective individual decisions in light of the fate of the minority under National Socialism, who (in the same way as the Jews) were persecuted and murdered in families and were to be exterminated as a complete ethnic group. During their administrative activities, the responsible local authority bodies should take reasonable account of the fact that family members of those concerned were killed in the concentration camps and the survivors were therefore faced with particular difficulties and hardship after 1945 which have a continuing effect, and that the cultural identity of the following generations of the German Sinti and Roma as a national minority was permanently affected by the Holocaust. The grave sites have a particular importance to the families as family memorial sites, since there is no grave site for many relatives. The graves normally have a special design and relatives who died in concentration camps are explicitly remembered on many gravestones. In this respect, the "Law concerning the Council of Europe's Framework Convention for the Protection of National Minorities" (Bundestag document 13/6912)

¹ Gaedke, Jürgen /Diefenbach, Joachim: Handbuch des Friedhofs- und Bestattungsrechts [Reference guide for cemetery and burial law], Cologne 2010, p. 56, margin no., 14 ff.

² *ibid*, p. 57 margin no. 15 and p. 209, margin no. 55.

³ *ibid*, p. 23 margin no. 17 in more detail also Hönes, Ernst-Rainer: Friedhöfe und Denkmalschutzrecht [Cemeteries and heritage protection legislation] In: DÖV periodical 6/2011, p. 215 ff.

passed by the German Bundestag on 22nd July 1997 with the preamble and Article 5 of the Framework Convention⁴ represent the legal basis for the respective exemptions.

If necessary, funds should be made available to the responsible local authority bodies as part of the global allocation by the Federal State and the Federal Government, in order to compensate them for the costs of extending the right of use and also for the maintenance and care of the grave if members of the family are unable to do this.

A plaque in memory of the person concerned as a victim of National Socialist persecution should be attached to the respective grave (in the customary format for war graves) at the request of those concerned. An inscription has already been placed on the gravestone by the relatives themselves in individual cases.

B Participation of the minority in politics and society

Re: Point 6 - Participation of representatives of the Sinti and Roma in broadcasting councils and State Media Authorities

The Central Council of German Sinti and Roma has demanded the participation of the Sinti and Roma in broadcasting councils and State Media Authorities for a long time. This has only been implemented in Rhineland-Palatinate so far with the appointment of the chairman of the Rhineland-Palatinate regional association to the State Media Authority for Private Media (LMK). Participation of the regional association in the Media Council for Private Broadcasters has been agreed for Bavaria and, at the federal level, the chairman of the CDU/CSU Bundestag faction has raised the prospect of a respective initiative for the Deutsche Welle broadcaster. This initiative is also expressly supported by the organizations of the other national minorities. The appointment of Sinti and Roma to the supervisory bodies of the private and public service media is a socio-political and legal obligation. In the first place, it arises from the historical responsibility of the Federal Republic of Germany after the National Socialist genocide of Sinti and Roma and, secondly, from the recognition of the Sinti and Roma as an indigenous national minority in Germany. Through this recognition as a national minority with the ratification law for the "Council of Europe's Framework Convention for the Protection of National Minorities" of 1998, the Federal Republic of Germany has committed itself to the special protection and integration of the minority in social and political life.

As a consequence, Sinti and Roma are also to be considered in the supervisory bodies as a socially relevant group pursuant to the broadcasting laws and Broadcasting Agreements of the Federal States. The Jewish Regional Federations are represented in all broadcasting councils and State Media Authorities of the Federal Republic of Germany as a result. Following from the state agreements with the Jewish associations, their participation is justified not least by the particular responsibility after

⁴ The preamble of the Framework Convention for the Protection of National Minorities emphasizes that the signatory states should not only respect the identity of national minorities "but also create appropriate conditions enabling them to express, preserve and develop this identity;" Article 5, Paragraph. 1 of the Framework Convention states: "The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage." Framework Convention for the Protection of National Minorities, ETS No. 157 of 1st February 1995, <http://conventions.coe.int/Treaty/ger/Treaties/Html/157.htm>, last accessed: 14.12.2011.

the Holocaust. This responsibility applies to the Sinti and Roma to the same extent, all the more so, because their situation has been characterized by discrimination, marginalization and negative stereotypes in many places, even after 1945. State and civil society would take account of their responsibility towards the minority by including the Sinti and Roma in the supervisory bodies of radio and television.

However, there is a further aspect which speaks for the participation of the Sinti and Roma in the supervisory bodies: these have the task of preventing discriminatory reporting and discriminatory programmes, which is to be implemented by drawing up and implementing programme guidelines. The former Vice-President of the Federal Constitutional Court, Prof. Ernst Gottfried Mahrenholz expressed his opinion on the legal aspects and referred to the criteria of the highest German court:

"The socially composed supervisory bodies are ... guardians of the interests of the general public. Their task is to monitor the people and committees responsible for programme design, so that all the significant political, ideological and social forces and groups in the overall programme are given a reasonable chance to speak. The relationship with the interests organized in associations only serves as a means of gaining agents of the general public who are independent of the state authorities and contribute experience from the various social groups. (Federal Constitutional Court decision 83. 238,333)"⁵

Based upon this, the constitutional court judge comes to the conclusion:

"Therefore, if it concerns (...) the provision of feedback from a particular intellectual current, it seems reasonable to suppose that the Roma should be granted a seat and a vote on the supervisory committees. Such a representative is most likely to meet the requirement of being an agent of the general public beyond his own group precisely because he or she represents a group without any social power, and, amongst other things, can therefore also call attention to discrimination where it otherwise may not be noticed."⁶

"If these factors are considered and compared with the factors which have resulted in the appointment of other groups to the broadcasting council, it is a compelling political consequence that the state and civil society give the Roma and Sinti what is due to them by sending a clear signal with the appointment of representatives of the Roma and Sinti to the supervisory committees of ZDF or Deutschlandradio."⁷

Re: Point 7 - Participation of representatives of the Sinti and Roma in political committees, parties and judicial bodies (corresponding to the so-called Lund Recommendations of the Council of Europe and the OSCE)

⁵ Quoted from: Mahrenholz, Ernst Gottfried: Freiheit der Presse und Medien im Grundgesetz und deren mögliche Schranken für den Schutz bedrohter Minderheiten vor Diskriminierung. [Freedom of the press and media in the German Basic Law and its possible limits for the protection of minorities threatened by discrimination.] In: Central Council of German Sinti and Roma (publisher): Diskriminierungsverbot und Freiheit der Medien – Das Beispiel der Sinti und Roma [Prohibition of discrimination and freedom of the media - The example of the Sinti and Roma], publication series, volume 6, Heidelberg 2010, p. 25- 26.

⁶ Mahrenholz 2010, p. 25.

⁷ *ibid*, p. 27.

On the basis of the international agreements for the protection of its national minorities which Germany has signed and ratified, the Federal Republic of Germany is obliged to ensure effective participation of the national minorities and their representative bodies in the decision-making processes in public life. This particularly applies to matters which directly affect the minorities. The right to participation in public life is a component of all the significant international regulations and legislative provisions which concern the protection of minorities.

Pursuant to Article 35 of the *Document of the Copenhagen Meeting of the Conference on the Human Dimension* of 1990, the participating states of the OSCE will respect "the right of members of national minorities to participate effectively in public affairs, including participation in matters concerning the protection and the promotion of the identity of such minorities."⁸

Article 2, Sections 2 and 3 of the *UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* of 1992 specifies that persons belonging to minorities have the right to participate effectively in public life and "have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live."⁹

Article 15 of the *Council of Europe's Framework Convention for the Protection of National Minorities* of 1995 states that: "The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them."¹⁰

The above stated principles demand the creation of special structures in the signatory states. Guidelines which are intended to provide the states with an orientation for the implementation of appropriate and systematic application of the respective rights of minorities were developed by the international organizations for this purpose.

The "Lund Recommendations on the Effective Participation of National Minorities in Public Life" published by the Organization for Security and Co-operation in Europe (OSCE) in September 1999 are of exceptional importance in this respect. Although they do not concern an intergovernmental document which lays the foundations for direct legal obligations for the OSCE states, the Lund Recommendations provide a guideline for the implementation of the respective internationally codified rights of minorities. The "Foundation on Inter-Ethnic Relations" was commissioned with their formulation. This is an NGO which was founded in 1993 and whose exclusive task consists in supporting the OSCE High Commissioner on National Minorities (HCNM). 19 internationally recognized and independent experts in international law, political science and sociology developed recommendations for international standards for the application and interpretation of the existing rights of minorities on its behalf. The High Commissioner on National Minorities has repeatedly made reference to the Lund Recommendations in dealings with the contractual states and encouraged the implementation of the criteria provided therein.

⁸ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE of 29th June 1990, IV (35), p. 24, www.osce.org/de/odihr/elections/14304, last accessed: 14.12.2011.

⁹ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, A/RES/47/135 of 18th December 1992, www.unric.org/de/component/content/article/15-law/103, last accessed: 14.12.2011.

¹⁰ Framework Convention for the Protection of National Minorities, ETS No.: 157 of 1st February 1995. <http://conventions.coe.int/Treaty/ger/Treaties/Html/157.htm>, last accessed: 14.12.2011.

The "Lund Recommendations on the Effective Participation of National Minorities in Public Life" include general principles for the participation of national minorities in decision-making processes and concrete recommendations for ways and means to guarantee effective participation in public life. In this connection, the HCNM has expressly stated in several reports that the Roma minority must be put in a position to participate effectively in the political decision-making processes in conformity with the OSCE standards - as is the case for all recognised minorities.

Such inclusive, participatory processes thus serve the objective of good governance by responding to the interests of the whole population – weaving all interests into the fabric of public life and ultimately strengthening the integrity of the State.¹¹ The Lund Recommendations demand that the "necessary arrangements" for participation of minorities are made by the state at the level of central government.¹² In this respect, the term "central government" in the original text means the highest legislative, judiciary and executive bodies. Specifically, Recommendation no. 6 demands that states should "ensure" that "opportunities exist for minorities to have an effective voice" at the level of the central government.¹³

The Lund Recommendations of the OSCE have only been rudimentarily implemented in Germany up to now. Only a Bundestag contact committee in the form of a minorities discussion group on the Committee of the Interior has been set up for the Sinti and Roma in the Federal Republic so far. This meets once a year under the direction of its chairman and the Department of the Secretary for Minorities, which is attached to the Federal Ministry of the Interior. However, what is required is the guaranteed participation and consultation of the Sinti and Roma and their representative bodies in the respective parliamentary committees and expert groups with and without voting rights (for example in the preparation of decisions of the Bundestag). This would enable the minority to present its point of view to the committees and authorities in good time and in detail, "which also helps the authorities to understand the concerns of the minorities and include them in the development of their policy."¹⁴ At the same time, the decision makers and authorities are provided with "a platform to explain their policy and their intentions."¹⁵

The participation of the minorities in the parliamentary committees and expert groups should also be to the extent that they have the opportunity "to formulate legislative proposals (...), monitor developments and provide views on proposed governmental decisions that may directly or indirectly affect minorities."¹⁶

The participation of representatives of the Sinti and Roma would be required at the level of the judiciary e.g. through their appointment as lay assessors and honorary judges. In addition to this, young people belonging to the minority who aspire to professional training in the legal sector or a course of studies in law and have the appropriate ability should be supported through grants. In this way, adequate representation of the minority in the judicial bodies could be achieved in the long

¹¹ cf. Project Unit – Office of the HCNM (publisher): The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note, Den Haag 1999, Section I, 1, p. 16.

¹² *ibid.*, No. 6. II A, p. 8.

¹³ Lund Recommendation No. 6. II A, p. 8.

¹⁴ Kemp, Walter: Applying the Lund Recommendations: Challenges for the OSCE, *PSIO Occasional Paper*, Geneva, HEI, 2001, p. 11.

¹⁵ *Ibid.*

¹⁶ Lund Recommendation no. 13, II D, p. 10.

term. Furthermore, special measures for participation of the minority in the civil service should be implemented.¹⁷

The measures for the integration of the national minority of the Sinti and Roma in the various areas of governance stated here require constitutional guarantees. In this regard, legal arrangements or frameworks may be appropriate according to the explanatory notes of the Lund Recommendations.¹⁸

C Anti-discrimination policy

Re: Point 9 - Inclusion of the Sinti and Roma in the minority protection articles of the state constitution of Schleswig-Holstein

With the ratification of the Framework Convention of the Council of Europe for the Protection of National Minorities on 1st February 1998, the Federal Republic of Germany recognized the Danes, the Frisians, the German Sinti and Roma and the Sorbs as national minorities. After the ratifying law of 22nd July 1997, the Framework Convention in Germany is valid as a Federal German Law which overrides subordinate law - including Land legislation – and is always to be applied as the more specific law as opposed to other Federal German Laws.

In 1990 Schleswig-Holstein decided to include the protection of minorities as a state objective in its state constitution, the only Federal state in the Federal Republic of Germany to have done so up to now. The entitlement to protection and promotion of the Danish minority and the Frisian ethnic minority was enshrined in law with the coming into force of the new state constitution. The national minority of the Sinti and Roma has also been established in Schleswig-Holstein for centuries and was not included in the provisions of Article 5, Section 2, Sentence 2 of the Schleswig-Holstein state constitution.

According to unanimous advisory opinions heard by the Schleswig-Holstein state parliament in 2010, the current constitutional situation, which only provides protection and promotion for the Danes and Frisians but not for the national minority of the Sinti and Roma, represents legal discrimination which contravenes both federal law and international legal standards.

Therefore the exclusion of the Sinti and Roma from the minority protection article is neither compatible with the principle of equality nor with the prohibition of arbitrary action pursuant to Article 3 of the Basic Law. The Schleswig-Holstein state parliament heard experts on the question in September 2010 with the following result: the legislator is subject to a strong obligation in the case of unequal treatment of groups of people. As the constitutional law expert, Birthe Köstler, pointed out, "the more the personal attributes approach those stated in Article, 3 Section 3 of the Basic Law and the greater the danger that the associated unequal treatment results in the discrimination of a

¹⁷ cf. Lund Recommendation no. 6, II A, p. 8.

¹⁸ Lund Recommendation no 12, V A, p. 31.

minority, the stronger this obligation becomes."¹⁹ If differentiations are provided, however, "reasons of this nature and of this importance [must] be in existence (...) which are adequate to justify the unequal legal consequences."²⁰ Reasons of this kind which justify the privileged treatment of the national Danish minority and the Frisian ethnic minority do not exist here.

As a result, the exclusion of the Sinti and Roma from Article 5 of the state constitution by the representatives was repeatedly justified by saying that they were not "typical to the region"²¹ and that the minority of the Sinti and Roma did not deserve special protection.²² This line of reasoning does not reflect the historical facts. Roma and Sinti have been established in Schleswig-Holstein for almost 600 years, to be more precise, mainly around the cities of Lübeck, Kiel and in the Hamburg metropolitan region. Sinti and Roma were mentioned in a document for the first time in Lübeck in 1417. It is precisely the fact that the Sinti and Roma have been settled on German soil for such a long time which prompted the Federal Republic to put them on an equal footing with the national minorities of the Danes, Frisians and Sorbs with regard to the obligations included in the scope of the Framework Convention for the Protection of National Minorities, which was ratified in 1998. Even if Danes and Frisians may have been settled in Schleswig-Holstein even longer than the Schleswig-Holstein Sinti and Roma, no one denies that the Sinti and Roma are a long-established indigenous minority.

The line of argument of "unnecessary protection" is also hard to comprehend in the context of the persecution in the Third Reich and the discrimination of the minority which continues to this day. The inclusion of the German Sinti and Roma in the minority protection articles of the Schleswig-Holstein state constitution is necessary and appropriate, in order to counteract discrimination because of ancestry, especially in the context of the terrible persecution. As a result, Article 3, Section 3 of the Basic Law also aims at preventing disadvantage "because of ancestry".²³ This criterion is "included in the catalogue of these statutory provisions precisely as a reaction to the mass exterminations and deportations in the Third Reich."²⁴

The unequal treatment of the Danish minority and Frisian ethnic group on the one hand and the Schleswig-Holstein Sinti and Roma on the other cannot be technically justified and is problematic under constitutional law. This assessment is also shared by the minorities privileged by the Schleswig-Holstein minority protection article, who have supported the inclusion of the Sinti and Roma in the Schleswig-Holstein state constitution with equal rights for a long time.

¹⁹ Köstler, Birthe: „Künftige Erstreckung des Art. 5 Abs. 2 S. 2 LV auf die Volksgruppe der Sinti und Roma?“ [Future extension of Article 5, Section 2, Sentence 2 of the state constitution to the ethnic group of the Sinti and Roma], Schleswig Holstein state parliament (publisher): Reprint 17/904, 2010, p. 2.

²⁰ Köstler 2010, p. 2.

²¹ Press release of the Schleswig-Holstein CDU state parliamentary faction No. 426/96 of 10th October 1998.

²² Ibid.

²³ Dürig, Günter: Art. 3 Abs. 3 im Wert- und Anspruchssystem der Grundrechte. [Art. 3, Section 3 in the value and claim system of fundamental rights.] In: Maunz, Theodor/Dürig, Günter (eds): Grundgesetz Kommentar [Basic Law commentary], Volume I Art. 1-11, Art. 3, Section 3, margin no. 54, p. 307.

²⁴ Köstler 2010, p. 2.

Re: Point 10- Support for the study of the Central Council of German Sinti and Roma in conjunction with the Centre for Research on Anti-semitism in Berlin "Attitudes of the majority population towards Sinti and Roma", which has been applied for since 2009 and is to be updated annually.

Preconceptions and negative stereotypes still influence the attitudes of the majority population towards the Sinti and Roma. In a representative opinion poll in 2002, Infratest²⁵ showed that the negative attitudes of the majority population towards Sinti and Roma had grown continuously in this period. (58 % were against having Sinti and Roma as neighbours).

These results currently require systematic investigation, because specific options for action for political decision-makers, social initiatives and pedagogical interventions cannot be prepared until precise knowledge of how attitudes towards Sinti and Roma develop in the population is available.

Academic studies on the subject have been carried out in the past two decades, especially in the historical context. They heightened the awareness of the National Socialist genocide of the Sinti and Roma. Dealing with historical antiziganism is the prerequisite for understanding structures of prejudice against Sinti and Roma which still exist. However, a systematic survey on the attitudes of the majority population towards Sinti and Roma updated on a yearly basis is necessary, in order to be able to describe present-day marginalisation mechanisms properly and to develop adequate political strategies for action.

For instance, empirical research on prejudice has made enormous progress with regard to anti-Semitic attitudes in the population. Data-based analyses of group enmities towards other population groups, such as immigrants, Muslims, homosexuals, the socially disadvantaged or handicapped, are available, whereas there is still no systematic survey on attitudes towards Sinti and Roma.

In order to fill this gap, the Central Council of German Sinti and Roma in conjunction with the Centre for Research on Anti-semitism in Berlin applied for a study on "Attitudes of the majority population towards Sinti and Roma", which is to be updated on a yearly basis. The Centre for Research on Anti-semitism prepared a project outline for this. The planned study will investigate attitudes at several levels:

- It will clarify the assumptions about Sinti and Roma which are widespread in the population and how virulent traditional stereotypes of the "Gypsy" are.
- It will measure emotional rejection and social distance towards the minority.
- It will make the actual willingness to discriminate apparent.
- The study will determine how such attitudes become distributed in the population, as well as how sociological variables, such as age, formal education, occupation, income, gender, political orientation, denominational affiliation, size and regional location of the place of residence, influence convictions.

Studies of this kind require the cooperation of an academic institute of prejudice and conflict research with an opinion polling institute, which makes the logistics of empirical social research available.

²⁵ The American Jewish Committee: Die Einstellung der Deutschen zu Juden, dem Holocaust und den USA [The attitude of Germans towards Jews, the Holocaust and the USA], Berlin 2002, p. 2. Survey by: Infratest, Berlin.

D Improvement of the anti-discrimination laws

Re: Point 13 - Class action law

Serious cases of racist propaganda against Sinti and Roma in the general public have been increasing for several years now. The chant "Zick Zack Zigeunerpack"²⁶ is one of the standard jibes heard in football, handball and ice hockey Bundesliga stadia (e.g. during the Germany v Slovakia football international in September 2005). This slogan was displayed on a carnival float in Baden-Württemberg without the police or judicial authorities taking appropriate action. The use of violence against Sinti and Roma is openly called for by right-wing extremists in public forums in the Internet (e.g. the so-called. "Free Your Mind Forum") in music, text and images, also with repeated reference to National Socialism and its policy of extermination. The increasing number of political campaigns and election campaigns with racist contents against Sinti and Roma are just as worrying. The NPD (National Democratic Party of Germany), which is represented in several state parliaments, has directed campaigns against the minority in Germany in the past few years and considerably increased its share of the vote in elections as a result. The publication of a letter to the editor in "Der Kriminalist" [The Criminalist], the periodical of the Federation of German Detectives (Bundes Deutscher Kriminalbeamter - BdK), was an extreme case of public defamation by a representative of the authorities. In the issue of October 2005, the deputy regional chairman of the BdK in Bavaria implied that the members of the Sinti and Roma generally have a criminal lifestyle and expressed his opinion on the minority in a discriminatory and offensive manner.²⁷ The BdK has still not dissociated itself from these defamatory remarks.

Individual person belonging to the minority cannot be reasonably expected to instigate prosecution on their own behalf in the case of inflammatory contents and defamatory public statements directed against the minority of the Sinti and Roma as a whole, and thereby expose themselves to threats and other disadvantages. The right of the representative self-advocates of the minorities concerned to bring an action (right to sue) with the objective of an injunction issued by the Administrative Court (with authorities as wrongdoers) or by a civil court (in other cases) is necessary in such cases. The same applies to a right of complaint and formal proceedings to compel the initiation of a prosecution (pursuant to Article 172, Section 2 of the Code of Criminal Procedure) in criminal offences of incitement to hatred.

Such a class action law would enable larger organizations to initiate legal action against discrimination instead of individual aggrieved parties. For example, this is the case if a group is discriminated in a general way or in cases of structural discrimination, in which there is not always a direct victim who could bring an individual action.

Organized self-advocates normally have greater know-how and more extensive resources at their disposal, in order to institute legal proceedings and would relieve the individual of the emotional and

²⁶ Translator's note: Anti-Roma slogan stemming from the Nazi era, the slogan refers to the Roma minority as "Gypsy scum."

²⁷ Der Kriminalist. Fachzeitschrift des Bund Deutscher Kriminalbeamter [The Criminalist. Professional journal of the Federation of German Criminal Investigators]. Issue 10, October 2005. p. 414.

financial burden which legal proceedings usually entail. Pursuant to the present legal position, organizations only have a right to bring an action if their rights are attacked directly. This situation does not reflect the factual position. The rejection of the right of recognized self-advocacy organisations to bring an action deprives the minority concerned - in this case the Sinti and Roma - of adequate legal protection against racist and hate-related attacks.

The UN Committee for the Elimination of Racial Discrimination (CERD) also ruled in much the same way. In the case of the BdK, the Central Council of the German Sinti and Roma submitted a complaint to this United Nations committee. Whereas the German representation at the UNO responded negatively to such a right of the Central Council to bring an action, the committee affirmed the right of complaint of the Central Council as an organization of "victims" (CERD/C/72/D/38/2006). The UNO had previously only recognised this for Jewish communities in 2005.

Re: Point 14 - Hate sites in the Internet which make threats

The hate sites of right-wing extremists in the Internet which are connected with threats of violence and murder against Sinti and Roma are not only a "marginal phenomenon", which they have been regarded as by political authorities from time to time. This assessment conveys the impression that things are not so dangerous and contradicts the 2010 annual report of "jugendschutz.net" which has just been published. Overall, this shows that there was a threefold increase in hate sites compared with the previous year.²⁸

Furthermore, it not only concerns the number of the hate sites but also their increasingly violent character. In particular, the use of violence is called for to a dangerous degree in the song "Zigeunerpack" [Gypsy scum] by the neo-Nazi band "Landser", which is a "hit" in right-wing extremist circles and is still offered as a CD or video at hundreds of sites (and in almost every language). This can easily encourage not only the organized clientele but also "unorganized" individual perpetrators to carry out attacks and acts of violence.

To mention just a few more recent examples:

The following could be read in the "Altermedia" Forum on 15.04.2010:

"...Oh, the Gypsies were murdered? Amazing that they still plague Europe ... Fight the Gypsy vermin. NOW..."

The following could be found in the Altermedia Forum on 13.06.2009:

" ...I can only repeat that the last time the Gypsy problem was successfully combatted in Europe was before 1945. And people still say that the Nazis did not have any good sides..."

²⁸ jugendschutz.net (publisher): Jugendschutz im Internet. Ergebnisse der Recherchen und Kontrollen. Bericht 2010, S. 10, [Protection of children and young persons in the Internet. Results of the research and checks. 2010 report.] p. 10. <http://www.jugendschutz.net/pdf/bericht2010.pdf>, last accessed: 14.12.2011.

"Altermedia" is one of the most important right-wing extremist news forums. It exhibits a target-oriented and coordinated approach and is run by an organized group. An entry left by an unidentified person in the Internet guest book of the Central Council (which we have closed in the meantime) on 30.12.2006 went as follows:

"..YOU GYPSY MOTHERFUCKERS!!! You can only pull off this scam because your racial kin, the Jews, stand behind you...We should have killed all you fucking Jews when we had the chance: ..The national awakening of Hungary is a model for the peoples of Europe.."29

Terms such as "Sinti and Roma losers", "Gypsy scum", "travelling rats, motherfuckers", "filthy rabble", "anti-social nomadic scum culture", etc. can also be found in the guestbook (Ref. no. 15 Js 913/07, Public Prosecutor's Office, Heidelberg)

All this is a cause for great concern and demands systematic steps to make the illegality of such action clear, above all, also publicly and in the whole of society. There may be no capitulation to such dangerous excesses, no matter how many there are.

E Police authorities:

Re: Point 15 - Historical assessment and the training of police officers

The Federal Criminal Investigation Bureau (Bundeskriminalamt - BKA) in Wiesbaden held three colloquia in 2007 which focussed on a critical analysis of the early history of the Bureau. In particular, structural and personnel continuities from the National Socialist regime were considered. As a result, the BKA has started to assess its history in the early years of the FRG 56 years after its foundation. The initial results of the series of colloquia and the subsequent independent research project have shown that elements of the National Socialist elite moved virtually seamlessly from the Reichskriminalhauptamt (Central Office of the Reich Criminal Police) to the newly-founded institution and were able to influence the way of thinking and working of the BKA right up to the 80s.

This continuity had far-reaching consequences for the German Sinti and Roma. The study shows how the former Nazi officials in the BKA, who systematically insulated themselves from democratic control as so-called "Gypsy specialists", continued to criminalise the entire minority as they had done before 1945. The newly founded Criminal Investigation Offices of the individual German states set up so-called "Offices for Vagrants" after 1945 along similar lines to the National Socialist "Central Offices for Gypsies", which were responsible for the systematic registration and deportation of the minority to the concentration camps. They acquired the National Socialist "race files" and deportation documents from Himmler's National Socialist "Central Offices for Gypsies" and exchanged them with each other. These so-called "Gypsy registers" were structured identically for the entire ethnic minority in all Criminal Investigation Offices and were used for the complete registration of the minority.

²⁹ In Hungary alone, 9 members of the minority have been selectively murdered in attacks by neo-Nazis in recent years, including a five-year-old child, <http://www.errc.org/cms/upload/file/attacks-list-in-hungary.pdf>, last accessed: 26.03.2012.

The systematic registration of the complete minority was a clear contravention of Article 3 of the Basic Law and shows that criminological concepts which attempted to connect criminality with ethnic origin survived in the FRG up to the 80s in continuation of the National Socialist racial concept. The Holocaust survivors and their descendents were therefore subjected to a form of stigmatisation by the former perpetrators which is incompatible with the principles of the rule of law and has adversely affected public awareness of the minority right up to the present day.

After the very positive example provided by the BKA with its historical assessment, it is vital that the police authorities of the Federal States also assess their own history. Such an assessment not only serves to transfer knowledge to young police officers but is also a suitable way of counteracting discriminatory attitudes towards Sinti and Roma which are influenced by clichés. In this respect, the practice of the ethnic profiling of accused persons contrary to the rule of law must be made very clear. For this purpose, information and training sessions covering this part of their history should be held by the police academies of the Federal States in conjunction with the Documentary and Cultural Centre of German Sinti and Roma for final year trainees in line with the example of the BKA.