



# Civil society monitoring report on implementation of the national Roma integration strategies in Germany

Focusing on structural and horizontal preconditions  
for successful implementation of the strategy

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national Roma integration strategy  
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Although the Roma Civil Monitor pilot project, as part of which the report was prepared, is coordinated by CEU, the report represents the findings of the authors and it does not necessarily reflect the views of CEU. CEU cannot be held responsible for any use which may be made of the information contained therein.



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## LIST OF ABBREVIATIONS

ADS	Federal Anti-Discrimination Agency
AfD	Alternative for Germany
AGG	General Equal Treatment Act
BAMF	Federal Office for Migration and Refugees
BMFSFJ	Federal Ministry for Family Affairs, Senior Citizens, Women and Youth
CDU	Christian Democratic Union of Germany
CSO	Civil Society Organisation
CSU	Christian Social Union in Bavaria
ECJ	European Court of Justice
ERDF	European Regional Development Fund
ESF	European Social Fund
EVZ	Remembrance, Responsibility and Future Foundation
FACE	Federal Agency for Civic Education
FEAD	Fund for European Aid to the Most Deprived
LKA	Criminal Police Office
LZBP	State Centre for Civic Education
MEP	Member of European Parliament
MP	Member of Parliament
NAP	National Action Plan on Combatting Racism
NetzDG	Network Enforcement Act
NPD	National Democratic Party of Germany
NRCP	National Roma Contact Point
NRIS	National Roma Inclusion Strategy
SPD	Social Democratic Party of Germany
StGB	Penal Code

## EXECUTIVE SUMMARY

Over the past ten years, policies aiming at the social inclusion of disadvantaged Sinti and Roma and at combating antigypsyism have been strengthened. An explanation for this development is manifold. First, the adoption of the European Framework for National Roma Integration Strategies has pushed the German government, regional and local authorities to strengthen measures. Second, a high proportion of citizens from Bulgaria and Romania – Roma and non-Roma – arriving in the cities are socially disadvantaged, resulting into social policy challenges. The cities have been reacting to these challenges. Third, the federal government strengthened programs of civic education which are supposed to counter the increasing right-wing extremist tendencies in the society. These policy developments have been pushed at the same time by Sinti and Roma organisations which have been fighting for decades for achieving changes in terms of non-discrimination and equal treatment.

### Governance and overall policy framework

Since Sinti and Roma have been recognised as an autochthonous national minority in 1998, institutional settings have been established to address the minority affairs. In the *Bundestag* (the federal parliament), issues concerning Sinti and Roma are debated by a discussion group on 'National Minorities'. Over the last two legislative terms, several parliamentary questions were submitted on the subject and parliamentary hearings have taken place. Just recently, in 2015, an Advisory Committee for Questions of German Sinti and Roma was established at the Federal Ministry of the Interior, which is the National Roma Contact Point (NRCP). Nevertheless, the NRCP has no mandate to draft programmes or coordinate programmes with the federal states or local administrations. Ministries at federal and regional (*Länder*) level are responsible for programmes aiming at promoting the equal treatment and social integration of Sinti and Roma.

Over the last five years, stronger investments have been done in measures aiming at equal treatment of Sinti and Roma. At federal level, programmes have been set up to promote the equal treatment and empowerment of disadvantaged Sinti and Roma, and to fight antigypsyism.

Officially, data on ethnic origin is not collected in Germany. This has to do with the National Socialist persecution and murder of Jews, and Sinti and Roma. This position on data collection is shared by the Minority Council that represents the four autochthonous national minorities and ethnic groups in Germany.

Sinti and Roma organisations are consulted by various public institutions at federal, regional and local level. Several regional states (*Länder*) have concluded agreements with Sinti and Roma organisations for a better safeguarding of their minority rights.

### Anti-discrimination

Despite full transposition of the EU Racial Equality Directive into the German law, in practice there are still gaps in the legislation on antidiscrimination that prevent an effective protection against discrimination. The General Equal Treatment Act (AGG) does not provide effective protection against discrimination in education (as the public education is regulated by *Länders*, which in reality do not have laws which would provide such protection) and in access to housing (the AGG allows unequal treatment to maintain a social stability and mixture, what is misused by owners to deny certain groups the access to housing). Until now, no single complaint discrimination against Roma has been successful.

A large part of Roma faces discrimination in the school system and housing markets. Roma children, especially from Eastern European countries, face school segregation when they are often referred to the so-called, "welcome/transition/side-entrance

classes” by municipalities with a high degree of immigration; they are often educated in such transition classes for longer periods than necessary to improve their German language skills. As consequence, these children are separated (segregated) from the pupils of the regular classes. There is also a high number of children from Bulgaria and Romania in special schools (*Förderschulen*); according to CSOs, a large part of them are Roma. Sinti and Roma often experience discrimination in the housing markets and hostility in their neighbourhoods. In the private housing market, they face abusive practices from tenants and landlords (very low standards, the threat of eviction and unlawful rent increases).

Roma from Bulgaria and Romania experience also serious restrictions in the exercise of their right of freedom of movement, including access to the German labour market and social benefits. Restrictions of the freedom of movement in Germany coincide with the actual full entitlement to the same right of freedom of movement for Romanians and Bulgarians in the EU since 1 January 2014 and have been exacerbated ever since. They have been and are accompanied by massive and biased media coverage, massively introducing terms like “Roma problem”, “poverty migration [from Romania and Bulgaria]”, or “abuse of the right to freedom of movement/social benefits”. The restriction of the freedom of movement has been backed by the EU Court of Justice which limits the access to social benefits to a minimum income and to certain period of residence in Germany.

The right of asylum for Roma asylum seekers have considerably been limited since the countries of the Western Balkans have officially been classified as “safe countries of origin”. Asylum procedures are now faster, with claims usually rejected, even if the claimants have been living in Germany for several years or were born here and there is evidence of strong antigypsyism in the countries of origin. As a result, the threat of deportation is always present.

### Addressing antigypsyism

Antigypsyism is recognised by the state as a specific form of racism against Sinti and Roma. Since 2017, antigypsyist criminal offenses are recorded separately in Political Crime Statistics. Detected antigypsyist offenses represent only a fraction of those committed. Often, racist and especially antigypsyist motives are ignored by police investigations, and on the contrary racial profiling remains a serious problem in police authorities. The prosecution of antigypsyist hate speech in election campaigns, which is also punishable as “incitement” under the German Penal Code’s Article 130, has not been carried through by the German judiciary so far.

Antigypsyist hate speech is present in almost all online formats. Right-wing extremist and populist websites are a particularly successful medium in the propagation of antigypsyist agitation. But, it can be found as well in mainstream online media. This phenomenon is related to public antigypsyist media and political discourses. References to EU citizens from Bulgaria and Romania and on asylum seekers from the Western Balkans are clearly marked by antigypsyist narratives. These are depicted as “abusers of the welfare state or of the asylum right”. Antigypsyism is not only spread by right-wing extremists and populists, but also by mainstream politicians who have played a particularly strong role in fuelling prejudices against Sinti and Roma in recent years. Antigypsyist narratives are also reproduced in film productions which are funded by public institutions. Antigypsyism is reflected by several studies and opinion polls on population attitudes. Such surveys have revealed widespread antigypsyist tendencies among the population. In the last five years national actions plans and civic education programs have been devoting chapters for fighting antigypsyism.

## INTRODUCTION

Germany does not have a National Roma Inclusion Strategy (NRIS) but a set of integrated measures for various societal groups which Sinti and Roma could benefit from. According to the German state, Sinti and Roma have access to inclusion programmes as the members of the majority society. Following the adoption of the EU Framework for NRIS until 2020, a National Roma Contact Point was established at the Ministry of Interior. This has not led to major policy change, but has backed stronger policy making at regional (*Länder*) and especially at local level and in federal agencies for promoting democracy. Researches show that antigypsyism remains wide-spread in society leading to structural barriers of discrimination in various fields of life. Participation structures on national and regional level have developed, as well as the recognition and the fight against antigypsyism have slowly increased by the institutions. This development has been strongly pushed by the advocacy work of Sinti and Roma organisations, which have been demanding stronger investment and participation for long time.

This monitoring report relies on qualitative research which has been based on analysis of policy literature and on interviews with stakeholders. Following documents have been analysed: legal and policy documents, parliamentary enquiries, reports from city administrations, civil society organisations (CSOs) and studies of research centres and CSOs. Semi-structured interviews have been conducted with the following stakeholders: representatives of the governmental agencies at national and *Länder* level, of municipalities, of Sinti and Roma organisations, of CSOs working for Sinti and Roma and researchers. Written questionnaires were sent to the Regional Criminal Offices, to the regional member organisations of the Central Council of German Sinti and Roma and to CSOs dealing with asylum policy.

## GOVERNANCE AND OVERALL POLICY FRAMEWORK

### Representing the interests of Roma in the parliament

In the *Bundestag* (the federal parliament), issues concerning Sinti and Roma as an autochthonous minority are debated by a discussion group on 'National Minorities', which sits within the Internal Affairs Committee. The group holds meetings - in which the Central Council of German Sinti and Roma also participate - several times a year. Other committees, such as the Committee on Human Rights and Humanitarian Aid, also deal with matters of concern for the protection of the human rights of Sinti and Roma - both domestically and abroad. The *Bundestag* also deals with matters relating to Sinti and Roma through parliamentary questions presented to the Federal Government by the political groups. Over the last two legislative terms, several parliamentary questions were submitted on the subject. Parliamentary questions concerning the situation of Sinti and Roma and the development of antigypsyism have also been submitted in the parliaments of individual states (*Landtage*).

Parliamentary hearings on specific issues represent another instrument. On 12 November 2014, for example, the Committee on Human Rights and Humanitarian Aid held a hearing in the *Bundestag* on the, 'Situation of Sinti and Roma in Germany and in the EU: Exclusion and Participation'. The Central Council of German Sinti and Roma and the *RomaneRomnja* Initiative also participated in this hearing.

Since 1993, the second Federal chamber, the *Bundesrat*, has marked the anniversary of the 'Auschwitz Decree' issued by Himmler on 16 December 1942, with an official commemoration of the National Socialist genocide of 500,000 Sinti and Roma held in the last plenary session of the year. On this day, talks are held with the regional prime ministers and board members of the Central Council of German Sinti and Roma allowing the Central Council and its regional associations to bring important political concerns directly to the federal chamber.

The entry of right-wing populist Alternative for Germany (AfD) into the *Bundestag* in 2017 has given considerable impetus to xenophobic discourses in parliamentarian politics. Since 2014, the AfD has been using parliamentary questions in *Landtagen* as a means to defame Sinti and Roma. Exemplary of this is a question from 2017 submitted by Hans-Thomas Tillschneider, member of the state parliament of Saxony-Anhalt, entitled, "the delinquency of EU citizens of Sinti and Roma ethnic origin". The questions imply that Roma from Bulgaria and Romania are criminals and parasites who exploit the social security system.<sup>1</sup>

### Mainstreaming Roma inclusion across ministries and other national level public authorities

The Sinti and Roma National Contact Point sits within Unit M II 4 of the Federal Ministry of the Interior (National Minorities in Germany, European Minority Policy). Its tasks are to exchange information with other Member States at EU level, to develop the progress reports to be submitted to the EU and to be contact point for state agencies at federal and regional level for issues of Roma integration.<sup>2</sup> Over the past two years, the contact

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<sup>1</sup> Landtag von Sachsen-Anhalt (2017) Antwort der Landesregierung auf eine Kleine Anfrage des Abgeordneter Dr. Hans-Thomas Tillschneider (AfD) - Drucksache 7/1253 von 18.04.2017. Straffälligkeit von EU-Bürgern aus der Volksgruppe der Sinti und Roma.

<sup>2</sup> Deutscher Bundestag (2015), Antwort der Bundesregierung auf die kleine Anfrage der Abgeordneten Tom Koenigs, Volker Beck (Köln), Omid Nouripour, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN-Drucksache 18/4528 von 31.03.2015. Arbeit der Nationalen Kontaktstelle Sinti und Roma im Bundesministerium des Innern, p. 6.

point has had more intensive contact with civil society organisations (CSOs). Contradicting the Green and the Left parties, and CSOs, the Federal Government insists that the contact point has no mandate to draft programmes or coordinate programmes with the federal states or local administrations. The Federal Government justifies its position arguing that within Germany's federal system, the contact point cannot intervene in state, city, and municipal level policies on Sinti and Roma.<sup>3</sup> At federal level, ministries are responsible for programmes promoting the equal treatment and social integration of Sinti and Roma.

In an evaluation of the Federal Government's package of measures on Roma inclusion, the European Commission stated that the coordinating role of the contact point should be strengthened. The Commission recommended that data collection should be developed in order to evaluate the impact of mainstream and targeted actions on Sinti and Roma. The Commission also called for stronger cooperation with Sinti and Roma organisations.<sup>4</sup>

### **The progress report on the implementation of the package of measures**

The Federal Government has published progress reports since 2012, on the implementation of the integrated package of measures. The latest progress report<sup>5</sup> includes a more detailed list of initiatives and projects on the equal treatment and social inclusion of Sinti and Roma. The progress report is, however, full of weaknesses:

- It outlines measures and programmes that every citizen and/or migrant can access. It does not discuss whether Sinti and Roma have participated in these programmes and actions.
- The focus is not clearly defined – no explanation is given as to why certain programmes and measures are listed and others not. There is no information on the impact of these policies and programmes on the equal treatment and social inclusion of disadvantaged Sinti and Roma. Nor is it clear if they have prompted any change in the overall social climate that would enhance the participation of Sinti and Roma. No information on the evaluation of the listed programmes and measures is provided.
- No approach to planning, monitoring and developing measures can be identified.

### **Mainstreaming Roma inclusion across local authorities**

The chapter on "local measures" in the Federal Government's progress report lists a variety of initiatives in various cities – compiled via the German Association of Cities, and some EU-funded projects that (also) target Roma. This rather loose inventory reflects the fact that federal policy coordination and support for the local level as regards the inclusion of Sinti and Roma is currently very limited.

With regard to German Sinti and Roma and the fight against antigypsyism, the federal *Live Democracy!* programme probably has the greatest impact on local politics. The programme promotes local model projects addressing group-focused enmity, including projects to tackle antigypsyism, which are usually carried out with the participation of Sinti and Roma. So far, however, the programme has only supported a few projects in particularly committed cities (Berlin, Göttingen, Saarbrücken).

The biggest efforts in policy coordination with cities have been, however, in the field of immigration from South-Eastern Europe. Following on from the German Association of

<sup>3</sup> Interview with the National Roma Contact Point.

<sup>4</sup> European Commission (2014) Assessment of Germany's National Roma Integration Strategy 2014.

<sup>5</sup> Bundesministerium des Innern (2017) Informationen von Deutschland über den Fortschritt bei der Umsetzung des Berichts „EU-Rahmen für nationale Strategien zur Integration der Roma bis 2020 – Integrierte Maßnahmenpakete zur Integration und Teilhabe der Sinti und Roma in Deutschland“ – 2016.

Cities' 2013 Policy Paper on immigration from Bulgaria and Romania<sup>6</sup> and the State Secretary Committee on, "Legal issues and challenges in the use of social security systems by citizens from EU member states", cities have been involved in the design of policies for this new immigrant group. In addition to setting the thematic focus of the European Fund for the Most Deprived (FEAD) on EU citizens (see below section "Guarantees for the effectiveness of programmes with the largest budgets"), this coordination eventually led to a restriction on immigrants' access to social benefits. As of 1 January 2017, foreign nationals saw their access to various social benefits restricted for their first five years of residence (see section on freedom of movement of this report). While this may have slightly reduced municipal spending in some areas, it has also dramatically increased the number of vulnerable people living in cities who are cut off from any assistance.

Regarding the impact of this new federal policy on the situation in cities, the city of Munich asserts that the Federal Government is wrong to assume that restricting EU citizens' access to social benefits leads them to either take up work or leave the country.<sup>7</sup> The city also states that given the challenges, "support received from the Federal government was weak."<sup>8</sup> A report by the city of Dortmund, chair of the German City Association's Working Group on Immigration from Romania and Bulgaria, mentions that coordination with the federal government on issues such as health insurance, access to support structures and publicly subsidized employment is still needed.<sup>9</sup>

The practical consequences of this policy are that in many cities (for example in Frankfurt, Hamburg and Dortmund) immigrants are now also denied emergency aid as support is now dependent on employment status, or, as in Hamburg, people who have not taken up work after three months are required to immediately to leave the country. Other cities like Munich are addressing the new support gap – Munich has created a clearing point and an emergency fund for the health care of EU citizens in precarious situations.

Given the generally weak support provided by the federal and state governments to promote local policies for Sinti and Roma, access to social and human rights for Sinti and Roma varies greatly according to the commitment and budgetary situation of the municipalities themselves. There are only a few municipalities and city-states where the Sinti and Roma population needs are addressed in a comprehensive manner.

Since 2014, Berlin is implementing the Action Plan for Inclusion of foreign Roma. The plan comprises a set of measures focusing on education, health, housing, anti-discrimination and community building and has a budget of 1.8 million EUR for the period 2018. Berlin Roma organisations have expressed criticism on lack of involvement in decision processes, on the process of distribution of funds and the ethnicisation of certain fields of intervention as health and education.<sup>10</sup>

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<sup>6</sup>Deutscher Städtetag (2013) Positionspapier des Deutschen Städtetages zu den Fragen der Zuwanderung aus Rumänien und Bulgarien.

<sup>7</sup> Landeshauptstadt München (2017) Runder Tisch zur Armutzuwanderung aus EU-Ländern (Südosteuropa) Sitzungsvorlage Nr. 14-20 / V 09498. 52. Sitzung des Sozialausschusses des Stadtrates der Landeshauptstadt München, 09.11.2017.

<sup>8</sup> Landeshauptstadt München (2017b) Runder Tisch zur Armutzuwanderung aus EU-Ländern (Südosteuropa) Sitzungsvorlage Nr. 14-20 / V 09498. 52. Sitzung des Sozialausschusses des Stadtrates der Landeshauptstadt München, 09.11.2017.

<sup>9</sup> Stadt Dortmund (2017) Sachstandsbericht Zuwanderung aus Südosteuropa" (April 2017).

<sup>10</sup> Interview with Merdjan Jakupov, *Amaro Foro*.

Munich<sup>11</sup> is one such case, regarding policies both towards German Sinti and Roma and immigrants from South-eastern Europe, which were developed largely independently from European and federal programmes. Within the city administration, the “Sinti, Roma, EU Immigrants” coordination unit not only holds responsibility for coordination but also for raising awareness of antigypsyism and the exclusion of Sinti and Roma. It is noteworthy that many measures (such as school mediation or career orientation) have become permanent services with regular funding and that tackling antigypsyism is, due to its structural nature, considered an integral aspect of social work for this group, for instance in the career orientation project “Drom Sinti and Roma”. The city is effectively addressing the gaps left by a financing and political vacuum at the state and federal levels. For example, the city is continuing a pilot project for socio-pedagogically supervised language and integration courses for immigrants from Bulgaria and Romania, which was initially financed by the Federal Office for Migration and Refugees, after federal government funding ended.

The city of Dortmund<sup>12</sup> is another exception in particular regarding relatively comprehensive policies for the labour market inclusion of immigrants from South-eastern Europe, which the city has developed by acquiring FEAD and significant federal and state-administered ESF funds, and interlinking the services created through them. Within Germany, these two cities, along with Berlin and a handful more represent exceptions of comparatively comprehensive local approaches to the inclusion of German Sinti and Roma or immigrant Roma. Both Munich and Dortmund refrain from explicitly mentioning “Roma” as a specific immigrant target group in order to avoid ethnicisation and additional stigmatisation of the immigrants.<sup>13</sup>

Apart from these “exceptional” cities, there are other cities, like Duisburg, where immigration from South-eastern Europe is treated first and foremost as a policing issue,<sup>14</sup> and a large majority where no – or no significant – initiatives for the social inclusion of immigrant and German Sinti and Roma and the fight against antigypsyism have been developed.

### Promoting empowerment and participation of Sinti and Roma

The federal government’s most important consultative body, the Advisory Committee for Questions of German Sinti and Roma in which the Central Council of German Sinti and Roma and the Sinti Alliance Germany participate was established in 2015 at the Federal Ministry of the Interior. This body is tasked with improving exchanges with the federal government, the federal parliament and the state governments about minority matters and interests. The Central Council also participates in the Round Table of National Minorities in the *Bundestag*’s Committee on Internal Affairs, which meets several times a year.

The Central Council also participates in the *Bund-Länder-Conferences* along with representatives of national minority umbrella organisations and representatives of the federal and state governments. These conferences serve to implement the Framework Convention for the Protection of National Minorities and the European Charter for

<sup>11</sup> For this case study, Interviews with the city council and one CSO working with Sinti and Roma were conducted and several city council papers were analysed.

<sup>12</sup> For this case study interviews were conducted with two civil society actors participating in the coordination network on “Immigration from South-East Europe”. Additionally, the city’s most recent report on immigration from South-East Europe, “Sachstandsbericht Zuwanderung aus Südosteuropa” (April 2017) was analysed.

<sup>13</sup> Interview with Jörg Stüdemann, City of Dortmund.

<sup>14</sup> See the newspaper report on evictions against immigrants from Southeast Europe in Duisburg: <https://www.waz.de/staedte/duisburg/nord/weggeraeumt-das-leben-der-rumaenen-und-bulgaren-in-marxloh-id212974281.html> [Accessed 25.01.2018]

Regional or Minority Languages of the Council of Europe. The Central Council is also a member of the Advisory Council of the Federal Anti-Discrimination Agency (ADS). The Hildegard Lagrenne Foundation is represented in the Monitoring Committee of the FEAD in Germany.

The Central Council is the most important civic contact point for the protection and preservation of the graves of Sinti and Roma murdered during the Nazi era. Since 2004, it has been working to ensure that these graves, as family memorial sites and places of public education, are permanently taken into public care. In 2016, the federal and state governments passed a decision on the right for the graves of Sinti and Roma persecuted under the National Socialist dictatorship to remain permanently.

The Central Council of German Sinti and Roma is strongly committed to two demands that are of utmost importance to the minority: first, the establishment of a permanent working group at the Conference of Ministers of Education which would deal with issues of Sinti and Roma, or national minorities in Germany and include the relevant minority organisations. One task of this working group would be to design, monitor and evaluate educational standards in relation to the history and culture of Sinti and Roma. Secondly, the Council demands that Sinti and Roma participate in broadcasting councils and state media authorities (see recommendations).<sup>15</sup>

The Federal Republic of Germany's official recognition of German Sinti and Roma as a national minority followed the signing of the Council of Europe's Framework Convention for the Protection of National Minorities on 11 May 1995 and was an important achievement for the Central Council, its regional associations and their work on civil rights. Since then, the Central Council has been busy concluding binding contractual agreements between the respective sub-federal state governments and German Sinti and Roma organisations. These agreements set out the states' specific implementation obligations, including funding, under the Framework Convention and the European Charter for Regional or Minority Languages.

The governments of Baden-Württemberg, Bavaria, Bremen, Rhineland-Palatinate and Hesse have concluded contractual agreements with the regional associations of the Central Council. The most comprehensive contract has been closed in Baden-Württemberg's where the State Treaty created a, "Council for the Affairs of the German Sinti and Roma in Baden-Württemberg", whose coordinating office is located in the state ministry and includes German Sinti and Roma representatives, the state government, the state parliament and the state's municipal associations.

In 2014, a framework agreement was signed between the Hessian state government and the regional association of German Sinti and Roma Hesse. In 2017, this was converted by the state government into a state treaty. In 2012, German Sinti and Roma were included – at the initiative of the Central Council and its regional association in Schleswig-Holstein – in Article 5 of Schleswig-Holstein's constitution on the protection of minorities. On 2 May 2017, the state of Thuringia's Prime Minister, Bodo Ramelow and Romani Rose, Chairman of the Central Council of German Sinti and Roma, signed a joint statement on cooperation between the state government and the Central Council of German Sinti and Roma. On 28 September 2017, the Brandenburg state parliament unanimously approved a proposal by the SPD; die Linke; Bündnis90/The Greens, which requested that the state government conclude an agreement with the regional association of German Sinti and Roma Berlin-Brandenburg.

The state of Berlin is currently (March 2018) in the process of decision-making for the adoption of a treaty that aims to protect the rights of Sinti and Roma more effectively. When it started, at the end of 2016, this process was perceived as non-transparent and

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<sup>15</sup> See page on advocacy on minority rights Central Council of German Sinti and Roma in German language: <http://zentralrat.sintiundroma.de/arbeitsbereiche/minderheitenrechte/>.

not very participative in that the most representative associations in Berlin were excluded from the decision-making process.<sup>16</sup> At present, the governing coalition in Berlin is trying to create a more inclusive process, the outcome of which is still open.<sup>17</sup>

Regardless of whether or not contractual agreements have given substance to the implementation obligations set out in the Council of Europe's Framework Convention, national associations of German Sinti and Roma are generally consulted on issues affecting the minority. This applies above all in the areas of culture and social affairs, and decision-making processes in which the regional associations themselves are involved. The regional associations of German Sinti and Roma are in regular contact with the state governments and receive regular funding from them.

At local level, Sinti and Roma associations are also involved in consultation procedures. For example, the City of Munich has a municipal network to coordinate projects for EU immigrants in which Sinti and Roma associations are involved. The city of Dortmund is in contact with the Roma association Carmen e.V. in its consultations on the design and implementation of appropriate cultural policy measures.

Sinti and Roma organisations are part of various civil society networks. The Central Council of German Sinti and Roma is a member of the, "Minority Secretariat of the four autonomous national minorities and ethnic groups", which jointly represents the interests of self-organised national minorities, and monitors the implementation of the Federal Republic's commitments with regard to the European Framework Convention for the Protection of National Minorities. The Central Council is also a member of the Association of the German Institute for Human Rights and sits on the board of trustees of the Remembrance, Responsibility and Future Foundation (EVZ) together with the Sinti Allianz Deutschland. AmaroDrom is a member of the djo-German Youth in Europe, and thus part of the German National Youth Council. Amaro Foro is a member of Berlin's Migration Council, and the Association for Intercultural Welfare.

These examples of Sinti and Roma associations taking part in political decision-making processes indicates an improvement as regards participation. It should not, however, give the impression that Sinti and Roma participate significantly in policy making in Germany. They are generally absent from decision-making processes. Usually their involvement is limited to providing an opinion and at best, this opinion is taken up. Politicians and the administration have a monopoly when it comes to the final design of policy and measures. Sinti and Roma have little political influence in the centres of power. Minorities are neither represented in parliaments nor in administrations or ministries.

## Guarantees for the effectiveness of programmes with the largest budgets

In its latest progress report on the implementation of the EU framework in 2016, the Federal Government reiterated its position that, 'no special policies for specific groups' are implemented and that in principle, projects are open to all sorts of targets. Given this 'mainstreaming' approach to Sinti and Roma issues within the EU framework, the question is whether general programmes reach Sinti and Roma, and indeed how this is verified.

### **The European Social Fund (ESF)**

For the current 2014-2020 funding period, the German ESF is divided in two between programmes run by individual states (4.8 billion EUR) and federal programmes (2.7

<sup>16</sup> SPD; die Linke; Bündnis90/Die Grünen (2016) Berlin gemeinsam gestalten. Solidarisch. Nachhaltig. Weltoffen, p. 114.

<sup>17</sup> Der Regierende Bürgermeister (2017) Richtlinien der Regierungspolitik 2016-2021. Available at: <https://www.berlin.de/rbmskzl/regierender-buergermeister/senat/richtlinien-der-politik/#9> [Accessed: 15.01.2018].

billion EUR). The Federal Government's Progress Report on the Roma framework mainly presents programmes that explicitly address immigrants or people with a migration background. Some of the projects supported through these programmes target Roma or immigrants from South-eastern Europe (projects in five municipalities in Lower Saxony, Dortmund, Duisburg, Mannheim and Tuttlingen). At the level of states, the ESF-funded programmes explicitly include the Roma among the target groups; indeed, some projects focus on Sinti and Roma (e. g. one project in Hamburg) or immigrants from South-eastern Europe (e.g. projects in Essen, Gelsenkirchen [each 2 times], Hamm and Cologne), and in one project in Hamburg and Baden-Württemberg) as their target groups.

However, this analysis of operational programmes and funding databases can only provide limited information on the degree to which Sinti and Roma really access ESF-supported integration measures. The ESF participant questionnaire would provide a better insight. It asks – somewhat in contradiction to the Federal governments discourse – whether participants are member of a ‘recognised minority’ (i.e. German Sinti and Roma, as well as Sorbs, Frisians and Danes). According to the government’s Agency on Horizontal Objectives, however, this question is answered too infrequently to provide reliable data.

### ***Fund for European Aid to the Most Deprived (FEAD)***

Germany is (along with Sweden) one of the member states that explicitly oriented its national priority areas for the new ‘Fund for European Aid to the Most Deprived (FEAD)’ to immigrants from EU states. The programme promotes the referral of migrants from EU countries to regular services (priority 1) and the education system (priority 2), as well as the support of people who are at risk of homelessness (priority 3).<sup>18</sup> It funds projects submitted by civil society organisations with the support of local communities. In Germany, around 90 projects with a total volume of 61 million EUR were approved for the initial 2016-2018 funding phase. The total budget until 2020 is 92.8 million EUR, or about 10 per cent of the ESF or the ERDF. Berlin (with 13 projects), Hamburg (4), Hannover and Frankfurt (3 each) as well as Cologne, Duisburg, Offenbach and Stuttgart (2 projects each) are urban focal points for the project.

In comparison with the ESF, the fund focuses much more explicitly on newcomers from EU member states living in precariousness. The dominant approach of the projects is that of a “bridging logic”, i.e. they aim to provide referrals to mainstream social services. This happens partly through counselling centres and cafés, and partly through outreach and work on the street.

In contrast to that of the ESF, the cross-cutting objective of non-discrimination of the FEAD programme has a concrete impact in the way the programme is managed and on efforts to improve the access of minorities such as Sinti and Roma. The fact that the Hildegard Lagrenne Foundation for Education, Inclusion and Participation of Sinti and Roma in Germany is one of the Monitoring Committee’s 24 members indicates that disadvantaged Roma are at least implicitly seen as a target group for the Fund and has led to an offer of antigypsyism training to FEAD project coordinators through the programme budget. In 2017, seven of the ten scheduled training sessions were held. The importance of this offer is illustrated by the fact that 21 FEAD projects, i.e. just under 25 per cent, expressed their interest in participating. The trainer reported that many participant organisations were aware of cases of discrimination against Roma from government employees, but also of antigypsyist stereotypes held within their own organisations.

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<sup>18</sup> <http://www.bmas.de/EN/Our-Topics/Social-Europe-and-international-Affairs/Programmes-and-Funds/FEAD/fead-article.html>

Roma participation in the FEAD – just like the ESF – is not evaluated in the context of programme monitoring, although many of the demographic and social characteristics of participants in the actions are monitored.<sup>19</sup>

In its progress report, the Federal Government links the lack of data on the access of Sinti and Roma to EU programmes, to the protection of minorities and the fact that public authorities are banned, for historical reasons, from collecting data related to ethnicity. Given the available statistics on stereotypes and the rejection faced by Roma, and the number of known cases of discrimination against members of this group<sup>20</sup> (including by public officials), this “blind trust” in the fact that Sinti and Roma also have access to the projects is not sufficient guarantee. In a context of persistent discrimination, a desire to ‘protect minorities’ rather justifies generating a more solid information base, also through qualitative surveys or group discussions with service providers in cooperation with the minority community.

According to interviews with organisations running advisory services for citizens from Romania and Bulgaria, a large number of whom are Roma, are sceptical about the fit between many EU-programmes and the profiles of vulnerable immigrants from South-Eastern Europe. They stated that given that ESF support measures often target participants with higher formal qualifications there was a shortage of low-threshold support measures. The new restrictions on newcomers accessing welfare support, which entered into force in 2017, have created further barriers (see section on free movement of the Anti-Discrimination chapter), as they de facto exclude them from many measures that, like literacy and language courses, could increase their employment options.<sup>21</sup>

### Availability of reliable data on the situation of Roma

Officially, data on ethnic origin is not collected in Germany because of the historical experience with the National Socialist persecution and murder of Jews, and Sinti and Roma. This position on data collection is shared by the Minorities Secretariat that represents the four autochthonous national minorities and ethnic groups in Germany. According to the Minority Secretariat, to identify oneself as a member of a minority is an act of individual choice and cannot be checked by public authorities.<sup>22</sup> The Central Council of German Sinti and Roma also rejects ethnic data collection due to the Nazi persecution of Sinti and Roma. The genocide of Sinti and Roma was made possible by the collection of ethnic data. Ethnic data collection during the Nazi-era covered almost all areas of life, from public security to education and healthcare, so that Sinti and Roma could always be identified by, and were at the mercy of their persecutors. Unfortunately, antigypsyism remains so deep-rooted that identifying members of the minority still has a stigmatising effect for Roma and would be unlikely to have a positive impact on their situation. According to the Central Council, surveys in other European countries have shown that collecting data related to ethnicity did not improve the social situation of disadvantaged Sinti and Roma.<sup>23</sup> The Central Council believes that scientific research must be carried out to understand antigypsyism and its impact on the way the Roma minority experiences discrimination in different life situations, and also to identify mechanisms of exclusion. Ethnic data collection is not a condition for conducting this

<sup>19</sup> Response from 05.12.2017 to an email request to Thomas Becker, Coordinator for the Implementation of FEAD in the Federal Ministry for Work and Social Affairs.

<sup>20</sup> Daniel Strauß (Ed.) (2013) [Gutachten Antiziganismus](#). Zum Stand der Forschung und der Gegenstrategien. Marburg.

<sup>21</sup> Interview Joachim Brenner, Förderverein Roma Frankfurt.

<sup>22</sup> Minderheitensekretariat (2015) Stellungnahme des Minderheitenrates zur 4. Stellungnahme des Beratenden Ausschusses für das Rahmenübereinkommen zum Schutz nationaler Minderheiten vom 19. März 2015.

<sup>23</sup> Zentralrat Deutscher Sinti und Roma (2017) Position zur ethnischen Datenerhebung.

type of research. Close cooperation with Sinti and Roma led organisations should form part of the ethical standards applied by such research.

### Policies and measures addressing specific needs of Roma women, children and youth

Following the position of the German state, needs of Sinti and Roma communities should be addressed by mainstream measures of women, children and youth programmes. There are very few measures targeting specifically Roma women; these are implemented at local level. For example, the Federal Association of Sinti receive funds from the ESF for a self-employment project targeting Sinti women. There is a need to implement measures addressing the multiple discrimination faced by Sinti and Roma women. These measures could address the particularly vulnerable situation of Roma migrants. Specific measures fostering the empowerment of Sinti and Roma women and girls and facilitating their self-organisation (structures for civic and political participation) could be implemented, too. Project funding should be shifted accordingly to these types of measures.

Few measures at local level which have Roma children as target group are carried out as the kindergarten "Chavorale" managed by Roma Förderverein Frankfurt which is attended by Roma children of migration background. With regard to measures targeting youth, it should be mentioned that Amaro Drom, Roma Youth Association, receives funding from the Ministry for Family, through the djo-German Youth in Europe Association.<sup>24</sup>

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<sup>24</sup> More Information on project funding by BMFSFJ can be found in the German Implementation Report within the EU framework for Roma inclusion, Bundesregierung (2017).

# ANTI-DISCRIMINATION

## Implementing the Racial Equality Directive

The General Equal Treatment Act (AGG) was adopted in 2006 to implement the EU Racial Equality Directive (2000/43/EC). Although it has been in force for over 10 years and legal experts endorse that the German law theoretically meets the Racial Equality Directive's material scope,<sup>25</sup> in practice, there are still significant gaps in actual reinforcement of equal treatment and anti-discrimination. The biggest deficit is in the field of public education. The reason for this is that the provisions of the AGG apply only to civil and labour law, while the public education is governed by public law. In addition, regulation of public educational systems falls within the competence of the *Länder* (regional states). Article 3 of the Constitution provides the legal framework for the prevention of discrimination in the field of education. However, the *Länders'* education laws (*Schulrecht*) do not explicitly and comprehensively prohibit discrimination and there is no special anti-discrimination legislation on the level of *Länders* (Berlin is currently developing an antidiscrimination law). In addition, protection and complaint mechanisms are lacking, as are possibilities for legal action. This difficulty in combating discrimination against Sinti and Roma children and adolescents in schools is acknowledged by the German National Equality Body.<sup>26</sup>

The AGG does not effectively protect against discrimination in access to housing; the law includes an exception concerning housing, which allows unequal treatment concerning the access to housing if it serves the purpose of establishing and maintaining stable social structures of inhabitants, and balanced mixture concerning the economic, social and cultural composition of a neighbourhood (paragraph 3, Art. 19 of the AGG). This provision is abused in practice, as homeowners often refuse to accept Roma or other tenants with a migrant background or being from ethnic minorities under pretext of "maintaining social and cultural balance in the neighbourhood". This was confirmed by interviews with Sinti and Roma organisations, who repeatedly reported difficulties faced by Sinti and Roma when renting a flat or office space.<sup>27</sup>

For a more effective protection of Sinti and Roma against discrimination, Sinti and Roma organisations demand the right to take collective action, i.e. the right of recognised associations to initiate proceedings on behalf of individual victims of discrimination as it is in several other EU member states. In Germany, the right to collective action (*action popularis*) exists only in the areas of consumer protection, environmental issues and the protection of persons with disabilities. When it comes to protection against discrimination, such a legal instrument could play a particularly important role in relieving those affected. Anti-discrimination associations are only empowered to provide counsel to victims in court cases but not to file collective actions. For years now, the Central Council of German Sinti and Roma has been calling for the right to collective action, with no success so far. The evaluation of the AGG carried out on behalf of the Federal Anti-Discrimination Agency (ADS), which is the National Equality Body, also recommends making it possible to take collective action.<sup>28</sup>

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<sup>25</sup> See, for example: European network of legal experts in gender equality and non-discrimination (2017) *A comparative analysis of non-discrimination law in Europe 2017*. European Commission. Available at: [http://ec.europa.eu/newsroom/just/document.cfm?action=display&doc\\_id=49316](http://ec.europa.eu/newsroom/just/document.cfm?action=display&doc_id=49316).

<sup>26</sup> Deutscher Bundestag (2013) *Unterrichtung durch die Antidiskriminierungsstelle des Bundes. Zweiter Gemeinsamer Bericht der Antidiskriminierungsstelle des Bundes und der in ihrem Zuständigkeitsbereich betroffenen Beauftragten der Bundesregierung und des Deutschen Bundestages. Diskriminierung im Bildungsbereich und Arbeitsleben*. Drucksache 17/14400 vom 13.08.2013

<sup>27</sup> Interview with regional association of Sinti in Hamburg; Information from Amaro Foro.

<sup>28</sup> Berghahn, Sabine; Egenberger, Vera; Klapp, Micha; Klose, Alexander; Liebscher, Doris; Supik, Linda; Tischbirek, Alexander (2016) *Evaluation des Allgemeinen Gleichbehandlungsgesetzes*, p. 137.

The EC's November 2014 report to the EU Parliament and the EU Council on the application of the Anti-Discrimination Directive makes clear that Roma require special protection. The EC recognises "*that legislation alone is not enough to resolve the deep-rooted social exclusion of the Roma and the prejudice they still face. Legislation needs to be combined with policy and financial measures. (...) Ensuring full equality in practice may under certain circumstances warrant Roma-specific positive action.*" In explicitly identifying Roma as a group that needs special protection, the EC report provides a basis for advocacy work, pushing, for instance, for the right to collective action for Sinti and Roma associations in the AGG to be introduced.<sup>29</sup>

In the framework of the research we have found out, that there is no adequate system of anti-discrimination offices which support Sinti and Roma in cases of discrimination. Most Sinti and Roma do not have access to anti-discrimination offices, are not aware of anti-discrimination legislation and/or do not have financial means to afford the process costs; furthermore, there is a lack of trust in institutions. In many cases, counselling centres, which are usually the first to learn about cases of discrimination against Sinti and Roma, or anti-discrimination offices may not necessarily classify antigypsyist incidents as such, or recognise their discriminatory character at all. There is often lack of capacity to document cases of discrimination. There is no effective cooperation between the independent counselling centres and public anti-discrimination offices. Antigypsyism can be found also within counselling centres.<sup>30</sup>

## Educational and residential segregation

Although there is recognition in Germany of the human right to non-discriminatory access to educational institutions, and of the prohibition of discrimination in education<sup>31</sup> this has not lead to equal participation and inclusion of Sinti and Roma children and adolescents in the German education system. As aforementioned, the AGG does not include schools, as many Roma and human rights organisations lament.<sup>32</sup> According to Art. 30 of the German Basic Law school is a competency of the states, and municipalities respectively.<sup>33</sup> According to a 2013 report by the ADS however, "the states' education laws do not ensure comprehensive protection against discrimination [...]. There is no explicit prohibition of discrimination. In addition, legal protection mechanisms and complaints mechanisms are often insufficiently standardized".<sup>34</sup>

In terms of access to primary and secondary schools, strong institutional discrimination can be observed. It is reinforced by an 'ethnicising' view of Sinti and Roma parents and children on the part of school staff and the actors involved in school, youth and health administrations.<sup>35</sup> Counselling organisations report that Bulgarian and Romanian pupils with an ascribed or actual Roma background often also encounter antigypsyist

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<sup>29</sup> Ruiz Torres, Guillermo (2017) Antigypsyism in Europe: The European Union's dual approach, in: Ruiz Torres, Guillermo (Ed.) *Countering Antigypsyism in Europe*. The Greens / EFA in the European Parliament.

<sup>30</sup> We have conducted interviews with following counselling centres: Amaro Foro (Berlin), Förderverein Roma Frankfurt, Madhouse (Munich), Diakonie HasenbergI (Munich), Diakonisches Werk (Dortmund), Planerladen (Dortmund), Landesverein der Sinti in Hamburg; and antidiscrimination offices: ARIC-NRW (Duisburg), Gleichbehandlungsbüro (Aachen), Gleichbehandlungsbüro (Köln), Planerladen Antidiskriminierungsbüro (Dortmund). We have interviewed as well the National Equality Body, the Antidiscrimination Office of Berlin and the Büro zur Umsetzung von Gleichbehandlung which supports victims of discrimination.

<sup>31</sup> Art. 26 of the Universal Declaration of Human Rights, Art. 28 of the UN Convention on the Rights of the Child; and the European Convention on Human Rights.

<sup>32</sup> Ruiz Torres, Guillermo; Striethorst, Anna; Gebhardt, Dirk (2014) *Monitoring the implementation of the National Integration Roma Strategy in Germany*, p. 64.

<sup>33</sup> Antidiskriminierungsstelle des Bundes (ADS) (2014) *Schutz vor Diskriminierung im Schulbereich. Regelungen und Schutzlücken im Schul- und Sozialrecht sowie Empfehlungen für deren Weiterentwicklung*.

<sup>34</sup> Deutscher Bundestag (Ibid.), p. 70.

<sup>35</sup> *Ibid*, p. 79; Amaro Foro (2016) *Dokumentation von antiziganistischen und diskriminierenden Vorfällen in Berlin*, p. 13.

discrimination in school ranging from insults, remarks and actions and calls to action, to bullying from other children, parents and school staff.<sup>36</sup>

Roma from Eastern European countries are often referred to so-called, "welcome/transition/side-entrance classes" which have been established in German municipalities with a high degree of immigration. Though these classes are meant to support the children in learning the German language for a transition period only, they have turned to a large extent into segregated classes. The children are separated from those of the regular classes; there are no clear evaluation criteria for placing the children into regular classes, nor on evaluating their state of knowledge and capacities in other subjects than the German language. In Berlin, also children just entering school – attending the first and second class – are placed in these "welcome classes", although these are supposed to host children only from the third class onwards. Additionally, there is evidence that children who are supposed to be in the 8<sup>th</sup> or 9<sup>th</sup> grade and thus to obtain a school degree remain in such "welcome classes" until they leave school. Thus, they do not obtain a regular school degree, making it very difficult if not impossible for them to start a professional career. In Frankfurt / Main, these classes have a stronger segregation character, since they are set up in special schools. The city administration justified its actions claiming there was no alternative.<sup>37</sup>

Children with migration background, including Roma, also face other forms of structural discrimination through school administration. Often, children are left to wait for several months after arriving before they are assigned a place at school. Waiting periods of up to one year are not uncommon.<sup>38</sup> Usually, parents' preferences are not sufficiently taken into account or ignored altogether when it comes to selecting schools. Structural discrimination can further aggravate antigypsyist prejudices. A long journey to school, that requires the use of public transport, for example, complicates school attendance, if parents are unable to afford a ticket.<sup>39</sup> If parents show resistance to schools that are so far away, they may be accused of a lack of interest in education, and when children travel to school without a ticket, this is dismissed as "typical of Roma/Gypsies". Often, this odyssey results in poor learning, a refusal to go to school, and dropouts, which in turn confirm and solidify the *cliché* of "deprived Roma".

Structural and institutional discrimination in the school sector culminates in the segregation of Sinti and Roma children in special education. According to CSOs working with Roma migrants, parents are often not adequately informed about the educational and social meaning of special needs schools and face serious difficulties to counter the decision of school administration on the placement of their children in such schools.<sup>40</sup> Given that German school statistics do not record ethnic data, it is impossible to determine the actual number of Sinti and Roma students in German (special) schools. However, a comparative analysis of school statistics with regard to children and adolescents from Romania and Bulgaria in special needs schools, undertaken in 2015 is alarming. During the 2014/2015 term, the study found that Bulgarian and Romanian students were strongly to very strongly over-represented in special schools compared to German students, and slightly or strongly over-represented compared to other foreign

<sup>36</sup> Leibnitz, Mirja; Schmitt, Anna; Ruiz Torres, Guillermo; Botescu, Diana (2016) Förderprognose: negativ. Eine Bestandsaufnahme zur Diskriminierung von Bulgarinnen und Rumäninnen mit zugeschriebenem oder tatsächlichem Roma-Hintergrund in Deutschland, p. 44.

<sup>37</sup> Interview provided by Roma Förderverein Frankfurt in the framework of the study "Förderprognose"

<sup>38</sup> Leibnitz, Mirja; Schmitt, Anna; Ruiz Torres, Guillermo; Botescu, Diana (2016) *Förderprognose: negativ. Eine Bestandsaufnahme zur Diskriminierung von Bulgarinnen und Rumäninnen mit zugeschriebenem oder tatsächlichem Roma-Hintergrund in Deutschland*, p. 44. Amaro Foro (2016) *Dokumentation von antiziganistischen und diskriminierenden Vorfällen in Berlin*, p. 13.

<sup>39</sup> *Ibid.*, p. 41, (for developing the study "Förderprognose" this information was gathered in 2015-2016 through interviews with the organizations AWO Duisburg-Marxloh, ARIC Duisburg und Amaro Foro based in Berlin); AmaroForo (2016), p. 14.

<sup>40</sup> Interviews conducted in 2015-2016 for the study "Förderprognose" with Caritas München, Förderverein Roma e.V. Frankfurt am Main, AWO Duisburg-Marxloh, Amaro Foro in Berlin, see Leibnitz et al (*Ibid.*), p. 49

students. According to information from counselling centres for Bulgarians and Romanians, a significant proportion of these children are Roma.<sup>41</sup>

According to the UN Convention on the Rights of Persons with Disabilities, which the Federal Government ratified in 2009, all people with disabilities have the right to attend a regular school (UN Disability Rights Convention, Art. 24).<sup>42</sup> Instead, many children, including disadvantaged Sinti and Roma, are referred to special schools, even when they do not have a disability.<sup>43</sup> The Convention on the Rights of Persons with Disabilities provides the legal basis for the abolition of this discriminatory practice. The Convention has not yet been fully implemented in all German states.<sup>44</sup>

When addressing segregation in the school system, the educational situation of child asylum seekers with Roma background in return facilities needs to be mentioned. These facilities house rejected asylum seekers as they await deportation. A report on the educational facilities within the "ARE II" return centre in Bamberg describes catastrophic conditions for Roma children.<sup>45</sup> The children are forced to attend this facility, even though they have the right to attend a regular school. The classes are understaffed; the children are taught in one single large room and receive an insufficient number of lessons. The children themselves report that they see the lessons (oriented towards painting, singing, playing) more like play time than as school lessons. Here it should be stressed that the AGG does not apply to third-country nationals.

### **Discrimination in access to housing**

The General Equal Treatment Act (AGG) also covers discrimination on the basis of (ascribed) ethnic origin in access to housing. This general protection is, however, weakened in particular by paragraph 19 (3) of the AGG, which states, with regard to rental housing, that, "*a difference of treatment shall not be deemed to be discrimination where it serves to create and maintain stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions.*"<sup>46</sup> The first comprehensive expertise on discrimination in the housing market published by the ADS in 2015 revealed that discrimination in access to housing is very present, but focused on, "people with a history of migration or with Muslim or Jewish religious affiliations" – Sinti and Roma were not part of the investigation.<sup>47</sup>

At the individual level, Sinti and Roma often experience hostility in their neighbourhoods, culminating in some cases with the establishment of neighbourhood initiatives opposed to the presence of Sinti and Roma. According to a study commissioned by the ADS, about 20 per cent of respondents would consider the presence of Sinti and Roma in their neighbourhood, "unpleasant" or "very unpleasant".<sup>48</sup> Those affected by antigypsyism

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<sup>41</sup> In the context of this report, of the Monitoring Report 2012-2013 and of a Report on the discrimination against Bulgarian and Romanian Roma, Sozialfabrik conducted interviews with the service providers AWO Duisburg-Marxloh, Amaro Foro e.V., ARIC Duisburg Roma e.V. Köln, Förderverein Roma e.V. Frankfurt/Main and with Mr. Gkantinas, Berlin-Neukölln.

<sup>42</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>43</sup> Leibnitz et al (Ibid.), p. 54; Interview with Roma Förderverein Frankfurt.

<sup>44</sup> Ruiz Torres, Guillermo; Striethorst, Anna; Gebhardt, Dirk (2014) *Monitoring the implementation of the National Integration Roma Strategy in Germany*, p. 60.

<sup>45</sup> Alexandropulu, Magdalini; Leucht, Christoph; Samilovska, Sabina (2016) *Gewährleistung der Kinderrechte in den Aufnahme- und Rückführungseinrichtungen für Asylbewerber mit geringer Bleibeperspektive*, p. 20.

<sup>46</sup> [http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/AGG/agg\\_in\\_englischer\\_Sprache.html](http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/AGG/agg_in_englischer_Sprache.html)

<sup>47</sup> Müller, Annekathrin (2015) *Diskriminierung auf dem Wohnungsmarkt. Strategien zum Nachweis rassistischer Benachteiligungen. Im Auftrag der Antidiskriminierungsstelle des Bundes (ADS)*.

<sup>48</sup> Zentrum für Antisemitismusforschung; Institut für Vorurteils- und Konfliktforschung (2014) *Zwischen Gleichgültigkeit und Ablehnung. Bevölkerungseinstellungen gegenüber Sinti und Roma*, p. 76.

report insults and threats, including physical assaults (see chapter Addressing Antigypsyism, section Hate crime). Most accusations are about illegal activities ("they all steal") and antisocial behaviour (being noisy, neglecting their children or littering). Events in Marxloh, Duisburg and the Neue Neustadt neighbourhood of Magdeburg provide examples of such hostility towards Roma within the neighbourhood.<sup>49</sup> The hostility towards Sinti and Roma is further fuelled by (social) media, where based on antigypsyist resentments Sinti and Roma are blamed for social ills in deprived neighbourhoods (see also the Addressing Antigypsyism chapter).<sup>50</sup>

Sinti and Roma are severely discriminated against in the social housing market, too. For example, counselling centres for German and immigrant Sinti and Roma report that housing associations rent apartments to Sinti and Roma remarkably rarely. In some cases, as in Munich, the city administration is involved in these housing associations. The forced eviction of Romanian Roma families in Marxloh, Duisburg in October 2016 represents a particularly harsh case of unlawful and discriminatory housing practice at the hands of a city administration where the tenants were dragged out onto the street by the police because the apartments apparently did not fulfil security conditions in terms of protection against fire.<sup>51</sup>

In the private housing market, they face abusive practices from tenants and landlords e.g. the threat of eviction and unlawful rent increases.<sup>52</sup> Immigrants in particular are often victim to overpriced housing offers on the informal market where low standards, overcrowding and exploitative practices such as *per capita* or per bed rental are common. In other cases, tenants are denied apartments on the regular housing market because it is assumed they will behave in an antisocial way and disrupt the peace.<sup>53</sup>

Discrimination in the real estate market also affects Sinti and Roma interest groups and associations. The Roma association, Amaro Foro e.V. Berlin, and the regional associations of German Sinti in Hamburg and Hesse for example reported that they were confronted with antigypsyist discrimination in their search for new premises.<sup>54</sup>

### Discriminatory behaviour by police, misconduct by prosecutors or courts

Antigypsyist police practices continue to manifest in the following areas: the design of investigative strategies, inappropriate police behaviour towards Sinti and Roma; racial or ethnic profiling and antigypsyist discourses in the police's internal and external communications. A recent published study on police's antigypsyist investigative approaches and their internal and external communication reveals a long-standing relationship in police departments between the construction of the "gypsy" and crime, resulting in antigypsyist behaviour patterns. It is noted that Sinti and Roma were categorised and coded as a (potential) criminal group of "gypsies", from 1945 until the 1980s as "travellers" and later under other labels. Police investigation files, crime

<sup>49</sup> Meschede, Laura (2017) Wie aus einem Nachbarschaftsstreit ein Skandal wird. Zeit Online. Available at: <http://www.zeit.de/politik/deutschland/2017-09/roma-magdeburg-neue-neustadt-migration> [Accessed 07 January 2018]; TAZ (2013) Die Angst vor Lichtenhagen. Rechte Hetze gegen Roma. TAZ. Available at: <http://www.taz.de/Rechte-Hetze-gegen-Roma/!5060728/> [Accessed 27.12.2017]

<sup>50</sup> Hamelmann, Maren; Lhopitault, Camille; Schadauer, Andreas (2017) Manifestations of Online Hate Speech. Reports on antisemitic, antiziganistic, homophobic and anti-Muslim Hate Speech, International Network Against Cyber Hate (INACH), p. 91.

<sup>51</sup> Balke Christian (2016) Räumungswelle in Marxloh - Klagen über rabiates Vorgehen, WAZ <https://www.waz.de/staedte/duisburg/raeumungswelle-in-marxloh-klagen-ueber-rabiates-vorgehen-id12283743.html> [Accessed 26.12.2017].

<sup>52</sup> From Munich it was reported that the sentence "We do not rent to Bulgarians" is almost a standard. In one case, a client with a family net income of 4,000 EUR reported that a landlord had torn all the application documents into pieces shortly before the signing should happen on the grounds that he did not rent out to Bulgarians (Interview Caritas Munich).

<sup>53</sup> Amaro Foro (2016), p. 10.; Interview with Integrationsagentur Duisburg; Förderverein Roma e.V.

<sup>54</sup> Leibnitz et al (2016), p. 26.

statistics or press releases talk about “mobile ethnic minorities”, “people whose whereabouts changes frequently”, “Bulgarians and Romanians” or “certain ethnic groups” as a way of labelling members of the community. To this day, police statistics record a suspected criminal’s affiliation with the group of Sinti and Roma.<sup>55</sup>

Another area in which antigypsyism is manifest in police practices is in the unlawful or inadequate action or use of force by officers against Sinti and Roma. In response to a parliamentary question, the Federal Government states in 2017 that it has no knowledge of discrimination or attacks on Sinti and Roma by the authorities.<sup>56</sup> Nonetheless, and although there is still no statistical coverage, numerous reports by non-governmental organisations and the media have been highlighting such practices for years.<sup>57</sup> According to information from the *All Stay!* initiative, the police used excessive force to deport citizens from the Western Balkans, including many Roma.<sup>58</sup> In recent years, the Berlin-based Amaro Foro association has also documented unlawful police attacks on Roma with a migrant background.<sup>59</sup>

In racial or ethnic profiling, we see yet another pattern that illustrates antigypsyism in the police. Police carry out checks regardless of whether or not they have a concrete suspicion. Human rights organisations have complained for years that these discriminatory controls on members of minority groups are a common police practice.<sup>60</sup> This practice is backed up by the guidelines for the states’ Criminal Police Offices (LKAs). In Berlin, for example, such police action is protected in so-called “danger zones”. Associations of Sinti and Roma have long criticized the police’s systematic practice of racial profiling of members of the minority.<sup>61</sup>

## Right to free movement

### **The restriction of the right to free movement of EU citizens**

A plethora of policy and administrative measures since 2014 have severely limited the right to free movement in Germany for Romanians and Bulgarians, including free access to the German labour market and social benefits, although this is granted for EU citizens. These measures, which have been backed by the European Court of Justice (ECJ), limit the access of EU citizens to social benefits unless they have lived and worked in Germany for a certain period of time. These measures, as described by the *Neuen Richtervereinigung* (Association of judges and prosecutors), regarding the final law of 2016 “mainly [target] Sinti and Roma from Romania and Bulgaria, whose presence is considered particularly undesirable, by unthinkingly following a tradition”.<sup>62</sup> Case studies strongly suggest that these measures and restrictions have a direct influence on the decisions taken by the staff of public authorities verifying the right to social benefits. Due to legal and administrative uncertainties or even pressure from the management, more stringent rules to examine the entitlement to social benefits for Romanians and

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<sup>55</sup> End, Markus (2017) Antiziganistische Ansätze in Polizei- und Sicherheitsbehörden, p. 7.

<sup>56</sup> Deutscher Bundestag (2017), Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Andrej Hunko, weiterer Abgeordneter und der Fraktion DIE LINKE - Drucksache 19/301 von 20.12.2017. Die Entwicklung des Antiziganismus in Deutschland ab 2015, p. 6.

<sup>57</sup> Antidiskriminierungsbüro Köln (2014) Sprache schränkt uns ein. Jahresbericht 2014, p 14.

<sup>58</sup> AlleBleiben! (2016) Gewaltsame Massenabschiebungen in Hamburg. Available at: <http://www.allebleiben.info/5129-2/> [Accessed 27.01.2018]

<sup>59</sup> Amaro Foro (2015) *Dokumentation von antiziganistischen und diskriminierenden Vorfällen in Berlin*, p. 13; Amaro Foro (2016), p. 20.

<sup>60</sup> Zentrum für Antisemitismus Forschung; Institut für Vorurteils- und Konfliktforschung (2014)

<sup>61</sup> Evidence about racial profiling by the police was provided by Amaro Foro, Förderverein Roma Frankfurt am Main; Antidiskriminierungsbüro Cologne; Madhouse Munich.

<sup>62</sup> <https://www.neuerichter.de/details/artikel/article/zum-entwurf-eines-gesetzes-zur-regelung-von-anspruechen-auslaendischer-personen-in-der-grundsicherung-fuer-arbeitssuchende-nach-dem-zweiten-buch-sozialgesetzbuch-und-in-der-sozialhilfe-nach-dem-zwoelften-buch-sozialgesetzbuch-bt-drs-1810211-499.html> [Accessed 22.02.2018].

Bulgarians – who are often supposed to have a Roma background – are applied.<sup>63</sup> When decision taken by the authorities are examined in more detail and appealed, the appeal is often successful, thus proving that many of these decisions are not in conformity with the law. The tightening of the Freedom of Movement Act is primarily based on:

1. Recommendations by the German Parliament which came into force in December 2014:<sup>64</sup> Temporary re-entry bans in cases of abuse of rights or fraud were introduced, and the time limit for seeking employment was set at six months. The procurement of residence permits through incorrect/incomplete information has become punishable and the granting of child benefits has been made conditional on the presentation of a tax identification number.<sup>65</sup>
2. Two judgments of the European Court of Justice (ECJ), *Dano vs. Jobcenter Leipzig* (European Court of Justice 2014: h (3)) and *Alimanovic* (2015): Depending on interpretation, these rulings allow for the exclusion of non-jobseekers from certain "special non-contributory cash benefits" and the denial of benefits to citizens who have a right to residence based on being job-seeking EU citizens.<sup>66</sup> They were partially weakened by the 4<sup>th</sup> Chamber of the Federal Social Court (Federal Social Court 2015). It ruled that granting at least social assistance in form of a regular subsistence allowance at statutory rate is subject to discretion when residence in Germany has been stable for at least six months.<sup>67</sup>
3. A special law on claims of foreigners which entered into force in December 2016:<sup>68</sup> Its primary purpose is to exclude EU citizens from receiving social benefits from three months after entering Germany who a) have come without a material right to residence or as job seekers; or b) as former workers who derive their right to reside in Germany from their children's education or vocational training. A decision by the Federal Constitutional Court is awaited regarding the legality of completely excluding applicants from benefits. According to the *Neuen Richtervereinigung* and the Federation of Welfare Associations in Germany (*Paritätischer Wohlfahrtsverband*), the new legislation violates both EU and fundamental rights.<sup>69</sup>

Interviews with counselling services show that all these restrictions led to a grey area and uncertainty in administrative practice and partially to discriminatory administrative practices towards Bulgarian and Romanian EU citizens, many of whom with a Roma background.<sup>70</sup>

### **Deportations of Roma asylum seekers to the Balkan countries**

The countries of the Western Balkans (Albania, Kosovo, Serbia, Montenegro, Macedonia, and Bosnia and Herzegovina) have officially been classified as "safe countries of origin" in Germany since the beginning of 2016 (paragraph 29a and Annex II Asylum Procedures

<sup>63</sup> Leibnitz et al. (2016), p. 26.

<sup>64</sup> Final Report of the Secretary of State Committee on Legal Issues and Challenges in the Use of Social Security Systems by citizens of EU Member States" (Deutscher Bundestag 2014)

<sup>65</sup> [http://www.paritaet-lsa.de/cms/files/jahresgutachten\\_2015.pdf](http://www.paritaet-lsa.de/cms/files/jahresgutachten_2015.pdf)

<sup>66</sup> It should be noted that the expulsion for reasons of public safety, security or an epidemic risk was already justified independent of the *Alimanovic* judgment.

<sup>67</sup> On points 1-2 see Leibnitz et al (2015), p. 29.

<sup>68</sup> *Act on the Settlement of Claims of Foreign Persons on the Basic Provision for Jobseekers under the Second Book of the Social Code and on Social Welfare under the Twelfth Book of the Social Code*, which entered into force 09.12.2016. See: <http://dipbt.bundestag.de/extrakt/ba/WP18/772/77237.html>. Accessed 04.01.2018.

<sup>69</sup> For a detailed explanation of the residence regulations and the situation of EU citizens see Der Paritätische. Available at: "[Ausgeschlossen oder privilegiert? Zuraufenthalts- und sozialrechtlichen Situation von Unionsbürgern und ihren Familienangehörigen](#)", Accessed 02.01.2018.

<sup>70</sup> Leibnitz et al (2016), p. 31; Amaro Foro (2016), p. 7.

Act), although de facto this has been the case since 2014.<sup>71</sup> Since the tightening in March 2016 of paragraph 60 of the *Act on residence, employment and integration of foreigners on the German territory* regulating the ban of deportation, deportations can only be suspended for health reasons in situations of, "life-threatening or serious illness which would significantly worsen through deportation", irrespective of whether sufficient medical care is available in the country of deportation.

This meant a significant deterioration in the legal situation of Roma asylum seekers from this region. Asylum procedures are now faster, with claims usually rejected, even if the claimants have been living in Germany for several years or were born here. As a result, the threat of deportation is always present.

On 1 August 2015, the law on the Redefinition of residence rights and the termination of residence came into effect in Germany (BGBl. 2015 I p. 1386). Although rights of residence arrangements for, "well-integrated youth and adolescents" were reformed, the right to expel was simultaneously tightened. At the request of several MEPs and the Alliance 90/The Greens group (response of the Federal Government of 3 February 2017) it turns out that several thousand people in Germany are still affected by long-term toleration ("chain toleration"). For example, 10,382 people from Serbia and 8,001 from Kosovo have been living in Germany for at least 5 years, and several thousand of them for at least 8 years. Members of the Die Linke group have submitted a further question (response of the Federal Government of 17 November 2017) to deportations and departures from 1 January 2017 to 30 September 2017. During this period, 2,877 people were deported by air to Albania, 2,126 to Kosovo, 1,835 to Serbia, 1,219 to Macedonia, 388 to Bosnia-Herzegovina and 179 to Montenegro. These numbers are distributed to federal states. In Baden-Württemberg, for example, 1,270 people, including many Roma families, were deported to the Western Balkans from the beginning of the year until 22 June 2017.<sup>72</sup>

The political decision to classify the Western Balkans as, "safe countries of origin" serves on the one hand to "correct" a mismatch between the high number of asylum applications made by people in the region and the very slim chance that they will be recognised de facto. It is also about a response to recent public discussions about so-called "poverty migration" (sometimes called "Roma migration"). Since then, this debate has not only appeared in media reporting but also in politics at both local and federal levels, accusing asylum seekers with a Roma background of "asylum abuse" and wanting to take advantage of social security systems.

Another measure taken by the Federal Government to "decouple asylum from labour migration" was to make it easier for nationals from the Western Balkans, as of 1 January 2016, to obtain a temporary "residence permit for gainful employment" (until the end of 2020). However, this was subject to certain prerequisites that would be difficult for members of the Roma community to fulfil because of the structural disadvantages they face.<sup>73</sup> The Federal Government contributes directly or indirectly through EU funds to financial and development programmes designed to help build and stabilize Western Balkan countries. Many of these programmes strive to explicitly benefit local Roma communities, especially, in the field of education, children and adolescents.<sup>74</sup> From the

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<sup>71</sup> This policy was backed by EU institutions when the EU Commission, in September 2015, and the European Parliament, in July 2016, classified Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia as safe countries of origin. As a result, Roma from these countries are de facto denied the right to asylum in EU Member States. See: ProAsyl (2015) EU-weite Liste sicherer Herkunftsstaaten? Available at: <https://www.proasyl.de/news/eu-weite-liste-sicherer-herkunftsstaaten/> [Accessed 20.02.2018].

<sup>72</sup> Flüchtlingsrat Baden-Württemberg (2017) Abschiebezahlen Baden-Württemberg.

<sup>73</sup> Europäisches Migrationsnetzwerk (2016) Migration, Integration, Asyl. Politische Entwicklungen in Deutschland 2016, p. 24. Available at: [http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/EMN/Politikberichte/emn-politikbericht-2016-germany.pdf?\\_\\_blob=publicationFile](http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/EMN/Politikberichte/emn-politikbericht-2016-germany.pdf?__blob=publicationFile)

<sup>74</sup> <https://www.returningfromgermany.de/programmes>

point of view of the Central Council of German Sinti and Roma, such measures should be viewed positively, "but [they] can only be sustainable if they are embedded in a comprehensive approach to improving the housing situation and access to the labour market, combatting social exclusion and granting far-reaching support to governments. However, governments should also be made aware that they need to step up their efforts to fight antigypsyism and exclusion, and improve the socio-economic situation".<sup>75</sup>

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<sup>75</sup> Müller Stephan (2016) Die Roma in den Staaten des Westlichen Balkans und Antworten der deutschen Entwicklungszusammenarbeit auf ihre Situation, Bestandsaufnahme im Auftrag des Zentralrats Deutscher Sinti und Roma, p. 17.

## ADDRESSING ANTIGYPSYISM

### Institutional settings for fighting discrimination and addressing antigypsyism

Sinti and Roma are recognised by the German state as a national minority together with the Danish, Frisians and Sorbs. Nevertheless, the German state does only recognise German Sinti and Roma but not those with migration background. The phenomenon and the term antigypsyism are recognised by the state as a specific form of racism against Roma and is used in official communication.

For years now, the Central Council of German Sinti and Roma has been calling on the German Bundestag to set up a commission of experts on antigypsyism. This commission – like the Independent Expert Group on Anti-Semitism – would present its report and recommendations on antigypsyism once every parliamentary term. It would develop strategies to combat antigypsyism and make appropriate recommendations for action to political decision-makers. In February 2017, the political groups in parliament which belong to the governing coalition, organised an internal expert discussion on this project. Such discussions have proven fruitless so far. In the draft of the coalition agreement, CDU, CSU and the SPD express their will to set up the commission of experts.

In recent years, the federal government has put the fight against antigypsyism on the agenda of several national plans and strategies. In the Federal Government's Strategy for the Prevention of Extremism and Promotion of Democracy, the fight against antigypsyism is a field of action that falls under the objective of fighting extremism. The National Action Plan on Combatting Racism (NAP) devotes a chapter to the fight against antigypsyism. The NAP represents a major step forward in terms of the federal government's recognition of the existence of antigypsyism and the need to combat it.<sup>76</sup> There are, however, some shortcomings. The NAP does not present a baseline analysis, nor does it establish goals, timetables and indicators, or allocate resources. The creation of such an action plan could provide a framework within which existing programs could be bundled together.<sup>77</sup>

At the federal level, the Federal Agency for Civic Education (FACE) has taken various measures to deal with the history of Sinti and Roma in Germany, their persecution and current discrimination. The FACE develops and implements training for youth work multipliers on the prevention of racism. One of the training modules is dedicated to antigypsyism. FACE designed a series of flyers and short films to raise awareness of racism and discrimination and provide support for tackling it. One of these flyers is dedicated to the fight against antigypsyism.<sup>78</sup> The States' Centres for Civic Education (LZPB) also conduct activities on the history of Roma and their persecution. For example, in 2015 North Rhine-Westphalia's LZPB published an anthology on the history of Sinti and Roma and their current situation. In 2017, the Berlin LZPB Berlin held a series of events in collaboration with RomnoKher Berlin-Brandenburg e.V. on the educational situation and political participation of Sinti and Roma. In 2015, the Bayern LZPB and federal FACE published an anthology on the history of Sinti and Roma, which includes information on the early police registration of Sinti and Roma, "racial science" and the community's genocide.

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<sup>76</sup> Bundesministerium des Innern; Bundesministerium für Familie, Senioren, Frauen und Jugend (2017) Nationaler Aktionsplan gegen Rassismus. Positionen und Maßnahmen zum Umgang mit Ideologien der Ungleichwertigkeit und den darauf bezogenen Diskriminierungen.

<sup>77</sup> Interview with Vera Egenberger, BUG.

<sup>78</sup> The Federal Agency for Civic Education, FACE is part of the Ministry of Interior. The Department of Extremism Prevention has an annual budget of 2.4 million EUR. This budget covers action and does not include staff costs.

National police authority training is another area where awareness of antigypsyism is an issue. When an inquiry was made, as part of this review, eight state police departments indicated that the history of Sinti and Roma and their genocide, as well as the discrimination they currently face forms part of the police authorities' training. In Baden-Württemberg the murder of Sinti and Roma by the National Socialists as well as stereotypes, prejudices and racial profiling are covered. In Berlin, Brandenburg and Saxony-Anhalt, the history of Sinti and Roma, their genocide at the hands of the Nazis and the community's current situation are not dealt with as a separate topic, but rather are raised in several parts of the training curricula for middle and senior ranking police officers. In Mecklenburg-Western Pomerania, the topic of antigypsyism is taught as part of a subject on police history in the context of the Nazi persecution and the racist riots in Rostock-Lichtenhagen in 1992. In Bavaria, the recent situation of extremism and the role of the police in the Nazi era form part of the training. In Thuringia, a workshop will be held as part of a visit to the Documentation Centre for German Sinti and Roma. In Saxony, a coordination office on, "intercultural competence" has been set up within the chair of social sciences. The topic of Sinti and Roma or antigypsyism is not specifically addressed.<sup>79</sup>

Important actors for awareness raising on antigypsyism are Sinti and Roma civic organisations and associations, which stand up for their rights. The national associations of German Sinti and Roma, Amaro Foro, Amaro Drom and Madhouse conduct regular awareness-raising seminars for the administration, the police, social workers, in schools, etc. The work of the Documentation and Cultural Centre of German Sinti and Roma also falls within this area. The centre has a permanent exhibition on the Sinti and Roma genocide committed by the Nazi. Through lectures, film screenings, exhibitions, concerts and excursions, the centre wants to preserve the memory of the history and culture of the German Sinti and Roma and make it accessible to the general public.

At federal level, programmes have been set up to promote the equal treatment and empowerment of disadvantaged Sinti and Roma, and fight antigypsyism. Following on from this, federal programmes and agencies for the promotion of democracy introduced thematic priorities on, "Combating Antigypsyism" and on "Sinti and Roma". One of these programmes is the Federal Ministry of Family, Senior Citizens, Women and Youth's, "Live Democracy!" (*Demokratie Leben*), with a programming period from 2015-2019, and an annual budget, in 2017, of 104.5 million EUR. The programme supports projects to prevent radicalisation and promote democracy. According to the Federal Government, 40 measures to strengthen the fight against antigypsyism were funded between the beginning of the programme and September 2017. Furthermore, the Documentation and Cultural Centre of German Sinti and Roma was converted into a federal agency with funding from the programme (through the structural development of nation-wide NGOs sub-programme).<sup>80</sup> It should be emphasized that "Live Democracy!" is the first federal programme to have made the fight against antigypsyism a programme objective.

In recent years, the Federal Office for Migration and Refugees (BAMF) has funded projects aiming to promote the social inclusion and empowerment of Roma with a migrant background. These are 3-year integration projects.<sup>81</sup> The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) also supports initiatives and projects targeting Roma beyond "Live Democracy!". Finally - although it is not a federal government programme - the funding provided by the 'Remembrance, Responsibility and

<sup>79</sup> From the responses of the police authorities of Baden-Wuerttemberg, Bavaria, Berlin, Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt and Thuringia to our inquiry about the way that the history of the Sinti and Roma and their persecution is dealt with in police training.

<sup>80</sup> Deutscher Bundestag (2017), Antwort der Bundesregierung auf die KleineAnfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Andrej Hunko, weiterer Abgeordneter und der Fraktion DIE LINKE - Drucksache 19/301 von 20.12.2017. Die Entwicklung des Antiziganismus in Deutschland ab 2015, p. 10.

<sup>81</sup> The pilot projects funded by "Live Democracy!" and by BAMF are usually funded with 50,000 EUR per year.

Future' Foundation (EVZ) for projects for Sinti and Roma and their equal treatment should be mentioned. In 2016 and 2017, eleven of such projects were funded by EVZ.

Additionally, there are two initiatives, which although do not have the goal directly to counter antigypsyism, aim at changing the hegemonic narratives on Sinti and Roma. The first one is RomArchive – the Digital Archive of the Roma which is a digital archive on the arts of the Roma and funded by the German Federal Cultural Foundation with 3.75 million euros. The second one is the European Roma Institute for Arts and Culture based in Berlin which obtains project funding from the Ministry of Foreign Affairs.

The fact that issues around the equal treatment of Sinti and Roma and the fight against antigypsyism have found a place in federal programmes like those mentioned above is a positive development. Temporary funding provides a good opportunity, particularly for less established self-organisations, to carry out projects, and thereby acquire experience and professionalise. It is still a pity, however, that the projects' sustainability cannot be guaranteed in most cases. Long-term support, which fosters sustainable results, is ensured through structural funding, which is usually granted to a limited extent and to established organisations only.<sup>82</sup> Civil society organisations make this same point themselves. They demand that the existing Act for the Promotion of Democracy be adopted and that prevention and the promotion of democracy be integrated in mainstream institutions.<sup>83</sup>

## Countering hate crime and hate speech against Roma, and antigypsyist rhetoric of politicians, public figures and media

### Hate crime

In the German penal code (Strafgesetzbuch, StGB), there is no specific article on hate crime. Instead, paragraph 46 Section 2 StGB, rules that in sentencing, particular attention should be paid to "racist, xenophobic or other inhumane" motives and goals on the part of the perpetrator.<sup>84</sup> Following guidelines set out by the Ministry of the Interior, since 2017, antigypsyist criminal offenses are recorded separately in Political Crime Statistics, where they fall under the overarching category "hate crimes" and the subcategory "xenophobic crimes". Before 2017, there was no differentiation between different types of "xenophobic" crime. In response to a parliamentary question, the Federal Government stated that between 1 January 2017 and 17 November 2017, 30 politically motivated crimes were reported as "antigypsyist" by the states.<sup>85</sup>

It can be assumed, however, that detected antigypsyist offenses represent only a fraction of those committed. In order to put together a more realistic picture, right-wing extremist acts of violence against foreigners and against accommodation centres for asylum seekers should be taken into account. According to the Federal Office for the Protection of the Constitution, 153 acts of violence were perpetrated against asylum seeker accommodation in 2015 and 2016 respectively. 65 of these in 2015 and 75 in 2016 were arson attacks, where the perpetrators were aware that asylum seekers could

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<sup>82</sup> The second evaluation of the programme "Live Democracy!" identified a problem related to this, which is the co-funding of project leaders. According to the evaluation, this represented an additional problem for civil society organisations to effectively implement their projects.

See: Heinze, Franziska; König, Frank; Rehse, Aline; Reiter, Stefanie; Roscher, Tobias (2016) Zweiter Bericht. Strukturentwicklung bundeszentraler Träger. Programmevaluation "Demokratie Leben!" Zwischenbericht für den Zeitraum 01.01.2016-31.12.2016. Deutsches Jugendinstitut, p. 56). The first evaluation points out that "the solution to the problem of mainstream funding via the path of structural support" represents an operational goal.

<sup>83</sup> See the position paper by the Federal Civil Society Working Group on the Development of Democracy (Bundesarbeitsgemeinschaft Demokratieentwicklung, BAGD) on the occasion of the general elections 2017.

<sup>84</sup> ADS (2015) Möglichkeiten effektiver Strafverfolgung bei Hasskriminalität. Rechtsgutachten.

<sup>85</sup> Deutscher Bundestag (2017), p. 2. Answers to requests by the authors by the regional criminal offices of Baden-Württemberg, Berlin, Brandenburg, Mecklenburg-Vorpommern and Sachsen-Anhalt.

die.<sup>86</sup> While it is certain that asylum seekers from the Balkan countries were among the residents of the centres attacked, there is no data on how many of the residents were Roma. In 2016, 1,190 violent xenophobic offenses of a right-wing extremist nature were recorded; in 2015 there were 918.

Various reports, antidiscrimination offices and contact points<sup>87</sup> report on antigypsyist crimes. According to the Amaro Foro association, homeless citizens from Bulgaria and Romania are at particular risk of becoming victims of racist violence.<sup>88</sup> The association's registry point for antigypsyist incidents has filed about 30 cases in Berlin, which can be described as hate crime (ibid.). Amnesty International, for example, reports in its 2016 annual report on a case of 40 Roma in a house in Berlin being systematically harassed by right-wing extremists.<sup>89</sup>

Violent attacks on Sinti and Roma, like the arson attack that took place in Plauen on 29 December 2017 are particularly alarming. In the Plauen case, a residential building in which Roma families, most of whom from Romania and Slovakia, were housed was attacked. 19 people were injured, of whom two women and two children were so badly hurt that their lives were at risk. The alleged perpetrator was caught shortly afterwards. According to media reports, passers-by shouted right-wing extremist, inhumane slogans like, "Let them burn" or "*Sieg Heil*" and even hampered the fire fighters' rescue operation. In spite of its seriousness, the attack was not the subject of much reporting in the national press.<sup>90</sup>

The fact that the police have not yet commented on the motive of this arson attack is symptomatic of a more general problem in police investigative practice. Often, racist and especially antigypsyist motives are ignored by police investigations.

Incitement is one of the most common criminal forms of antigypsyism in Germany: 17 of the 30 aforementioned offenses from 2017 were cases of incitement.<sup>91</sup> Germany has signed the *Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law*. The Decision prohibits, "publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin" (Framework Decision, Article 1.1). The prosecution of antigypsyist hate speech in election campaigns, which is also punishable as "incitement" under the German Penal Code's Article 130, has not been carried through by the German judiciary so far, as the following case demonstrates.

During the 2013 and 2017 federal election campaigns, the extremist right-wing National Democratic Party of Germany (NPD) erected election posters carrying antigypsyist and other defamatory slogans: "Money for Granny and not for Sinti and Roma", "Maria not Sharia" and "Step on the gas" ("Gas geben" – in a reference to mass murder committed in the gas chambers of German concentration and extermination camps). The city council of Bad Hersfeld (Hesse) had the posters taken down because it saw them as a violation of the law on incitement, but it had to put them up again after the Kassel Administrative Court ruled that the slogans did not constitute incitement. The court argued that the slogan, "Money for Granny and not for Sinti and Roma" did not clearly call for arbitrary

<sup>86</sup> Bundesministerium des Innern (2016) Verfassungsschutzbericht, p. 49.

<sup>87</sup> Contact points are run by CSOs providing disadvantaged people, also Sinti and Roma, counselling in social issues.

<sup>88</sup> Amaro Foro (2016), p. 17.

<sup>89</sup> Amnesty International (2016), *Leben in Unsicherheit. Wie Deutschland die Opfer rassistischer Gewalt im Stich lässt*, p. 51.

<sup>90</sup> MDR Sachsen (2018) *Plauen ehrt Jugendliche für Hilfe bei Hausbrand*. Available at: <https://www.mdr.de/sachsen/chemnitz/brandhelfer-plauen-trockentalstrasse-geehrt-100.html> Accessed 22.02.2018.

<sup>91</sup> Deutscher Bundestag (2017), p.14.

action against the minority and was therefore covered by freedom of expression. It argued further that this would not, for example, have been the case had the posters called for "depriving Sinti and Roma of the social support to which they are legally entitled" (cf. Central Council of German Sinti and Roma 2013).<sup>92</sup> Following strong protest from Sinti and Roma associations, the Ministry of Justice commissioned Professor Stefanie Schmahl from the University of Würzburg, to prepare a legal opinion.<sup>93</sup> Schmahl came to the conclusion that the NPD posters fulfilled the necessary criteria to be deemed guilty of incitement and violated international norms.<sup>94</sup> Her conclusions were in line with an opinion from the German Institute of Human Rights.<sup>95</sup>

When in 2017, the same posters reappeared, the Central Council of German Sinti and Roma protested against the fact that the city councils of Ingolstadt (Bavaria) and Herzberg (Brandenburg) did not take them down, and referred to the legal opinion of Prof. Schmahl mentioned above. The legal and planning director of the city of Ingolstadt justified the city's inaction arguing that it was impossible to remove the posters given that they had been subject to a judicial examination. This contradicts decisions of the states' Ministers of Justice on racist election campaigns in 2015 and 2016, which state that, "all legal options must be taken to prevent campaigning at the expense of minorities".<sup>96</sup>

### **Hate Speech online**

A first step towards more effectively fighting comments that contain hate speech is the Network Enforcement Act (NetzDG), in force since 1 October 2017.<sup>97</sup> The law foresees, among other things, that social networks are held accountable for the content made available on their platforms by obliging them to prosecute content that is punishable for incitement, insult, threat, slander and defamation within a set time frame and to make it easier for users to report such content. Non-action on the part of the network operators can be punished with a fine.

Antigypsyist hate speech is present in almost all online formats and in websites of extreme right-wing groups and of mainstream social media as well.<sup>98</sup> Right-wing extremist and populist websites are a particularly successful medium in the propagation of antigypsyist agitation. Facebook pages in particular related to the extremist party NPD publish antigypsyist contributions that insult members of the minority and spread hatred. The far-right party "The 3<sup>rd</sup> Way" has also incited hatred against Sinti and Roma through antigypsyist campaigns on its websites.

The propaganda against Sinti and Roma that appears on the internet uses antigypsyist resentments, prejudices and stereotypes in relation to the imaginary figure of the "gypsy" or "nomad".<sup>99</sup> An example of antigypsyist hate speech online is the debate

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<sup>92</sup> Link to the decision of the Administrative Courts Kassel:  
[https://verwaltung.hessen.de/irj/VG\\_Kassel\\_Internet?rid=HMdJ\\_15/VG\\_Kassel\\_Internet/sub/303/303d1051-dce0-4179-cdaa-2b417c0cf46a,,,11111111-2222-3333-4444-100000005003%26overview=true.htm](https://verwaltung.hessen.de/irj/VG_Kassel_Internet?rid=HMdJ_15/VG_Kassel_Internet/sub/303/303d1051-dce0-4179-cdaa-2b417c0cf46a,,,11111111-2222-3333-4444-100000005003%26overview=true.htm)

<sup>93</sup> Link to the expertise:[http://www.jura.uni-wuerzburg.de/fileadmin/02140200/user\\_upload/Aktuelles\\_Ankuendigungen/Gutachten\\_Wahlkampfplakate.pdf](http://www.jura.uni-wuerzburg.de/fileadmin/02140200/user_upload/Aktuelles_Ankuendigungen/Gutachten_Wahlkampfplakate.pdf)

<sup>94</sup> For developments since 2013 see: Karakul, Ruhan (2017) Politische und juristische Entwicklungen seit 2013 - Analyse und Handlungsmöglichkeiten.

<sup>95</sup> [http://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publikationen/Stellungnahmen/Stellungnahme\\_DIMR\\_Rassistische\\_Wahlplakate\\_NPD\\_Grenzen\\_Meinungsfreiheit.pdf](http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Stellungnahmen/Stellungnahme_DIMR_Rassistische_Wahlplakate_NPD_Grenzen_Meinungsfreiheit.pdf)

<sup>96</sup> Konferenz der Justizministerinnen und Justizminister der Länder (2015), (2016) Beschlüsse

<sup>97</sup> Bundesregierung (2017): Hasskriminalität effektiv bekämpfen. Online-article of the German Government published on 21.09.2017. <https://www.bundesregierung.de/Content/DE/Artikel/2017/04/2017-04-05-rechtsdurchsetzung-soziale-netzwerke.html> [Accessed 22.01.2018].

<sup>98</sup> Hamelmann; Lhopitault; Schadauer (2017), p. 4.

<sup>99</sup> *Ibid*, p. 61, 90; Jugenschutz.net (2010): „Sie haben das Klauen in den Genen ..." Recherche zu Antiziganismus im Internet von jugenschutz.net. Recherchebericht 12/2010, p. 1.

surrounding the kidnapping and murder of a six-year-old child in Potsdam in July 2015. In a Facebook group created to organise a search after the boy's disappearance, Simon K. posted the following comment to the public "Searching for Elias" Facebook group, "Filthy Roma! These incestuous freaks apparently also kidnap kids!" Thereupon a reader filed a complaint against Simon K. and those who had "liked" his statement. Now the accused has to answer charges of incitement in court.<sup>100</sup>

At the moment there is no official monitoring system for online hate speech, as is illustrated by the Federal Government's response to a parliamentary question on cases of antigypsyism submitted by a left-wing party Die Linke on 20 December 2017. The Government's response identifies six cases of online hate speech in social media among a total of 30 antigypsyist issues covered for the period January to November 2017. It should be remembered that offenses falling under the "antigypsyist" category have only been recorded since 2017 and monitoring structures have not yet been sufficiently established. This disproportionately low number of criminal charges compared to the high number of incidents of antigypsyist hate speech on the Internet shows that effective monitoring mechanisms should be put in place to tackle antigypsyism on the net.

Further information can be found in a report by the International *Against Cyber Hate (INACH)* network. The report examines online hate speech against Jews, Sinti and Roma, Muslims and homosexuals in six countries.<sup>101</sup> In this report, examples of antigypsyist online hate speech in Germany are presented and analysed. In addition, the federal and state governments have set up the "jugendschutz.net" competence centre for youth protection on the Internet, which for some years now also documents cases of online antigypsyist hate speech.

According to the organisation's monitoring report from 2010, the only German monitoring report so far on the topic of antigypsyist hate speech, antigypsyist comments are concentrated on Facebook and YouTube. Out of 149 communications with antigypsyist content, 35 included elements of incitement and 34 were considered harmful to minors due to their racist character. It is also significant that 59 per cent of the unlawful contributions were published on platforms that are not part of a far-right environment. This proves the point that degrading statements are considered socially acceptable.<sup>102</sup>

At the local level, the annual documentation of antigypsyist discriminatory incidents in Berlin by AmaroForoe.V. should not be overlooked. This report analyses the cases reported in Berlin in the year 2016 and conducts media monitoring.<sup>103</sup>

Although punishable cases of hate speech online must be reported and prosecuted, so far, the overwhelming majority of criminal charges for antigypsyist hate speech filed by the Central Council of German Sinti and Roma have been dropped.<sup>104</sup> Some of the reasons for this include the fact that it is impossible to identify anonymous user, and that the operating servers of relevant, extremist right-wing websites are operated abroad.<sup>105</sup>

### **Antigypsyism in the media**

<sup>100</sup> Bischoff, K. (2018): Prozess der Woche. Der Hetzer, der im Fall Elias Sinti und Roma böswillig beschimpfte. Berliner Zeitung, 08.01.2018. <https://www.berliner-zeitung.de/berlin/polizei/prozess-der-woche-der-hetzer--der-im-fall-elias-sinti-und-roma-boeswillig-beschimpfte-29438228> [Accessed 22nd January 2018]

<sup>101</sup> Hamelmann; Lhopitault; Schadauer (2017), p. 8.

<sup>102</sup> Jugenschutz.net (2010).

<sup>103</sup> Amaro Foro (2017), p. 26.

<sup>104</sup> For instance, in 2016 the Central Council filed a criminal complaint on the suspicion of Holocaust denial by a private person on Facebook (see Zentralrat Deutscher Sinti und Roma 2016).

<sup>105</sup> Jugenschutz.net (2010), p. 1. However, it also happens that, as in the case mentioned above, there is no charge because the defendant is subject to a lack of knowledge and intellectual capacity which, according to prosecutors, are necessary conditions for qualifying as hate speech (cf. Central Council of German Sinti and Roma 2016).

Antigypsyist stereotypes in the form of clichéd representations of Sinti and Roma in the German media have grown and intensified dramatically since the eastward enlargement of the EU. The media coverage of EU immigration from Bulgaria and Romania and on asylum seekers from the Western Balkans is clearly marked by antigypsyist narratives. In most cases, the media refer to Roma explicitly; in the others it is implied.<sup>106</sup>

The latter, namely not identifying an ethnic origin in crime reporting, is something that the Central Council of German Sinti and Roma along with other civil society organisations has been requesting for a decade. In March 2017, a new German Press Council regulation entered into force, giving the media greater latitude to mention ethnicity in crime reporting. In paragraph 12, “justifiable factual reference” was replaced as a criterion by a “substantiated public interest”, thereby turning an objective condition into a subjective one, and weakening the protection expressed by this paragraph. For example, journalists use the term “Sinti-Roma clan” in some reports, defying the press code. The so-called “clan members” have a nationality, so for them in principle the same individual standards should apply that apply for all other citizens. An explicit reference in the Press Council's Guidelines to the fact that “clans” may only be identified by their citizenship and not by other features would be desirable in this context.

In recent years, the Central Council of German Sinti and Roma, AmaroForo, and the Federal Roma Association have responded to reports containing antigypsyist content by submitting several letters of protest to media companies, filing complaints with the Press Council and contacting the responsible journalists. In most cases, the addressees responded to the complaints and denied that they had contributed to antigypsyism and the stigmatisation of the minority. The influence that these reports have on prejudice and hatred against Sinti and Roma can be gauged from the comments on the respective websites where they are published (see also the chapter “Hate speech online” in the present monitoring report).

A study on antigypsyism in the German public sphere, commissioned by the Documentation and Cultural Centre of German Sinti and Roma in 2014 to explore this development came to the following conclusions: “1. Antigypsyism in the media is not tied to the use of the term “gypsy”. 2. Antigypsyism in the media goes far beyond the attribution of crime 3. Antigypsyism in the media does not necessarily consist of an obviously negative representation; even supposedly ‘positive’ representations can reproduce antigypsyist patterns in the form of ‘philo-gypsyism.’ 4. Journalists who reproduce antigypsyism do not necessarily do so consciously or with malicious intent. 5 These days, antigypsyism in the media is not usually openly expressed, but is coded in a variety of ways. In addition, authorship is often denied. 6 Antigypsyism in the media is generated and communicated through numerous media mechanisms and strategies”.<sup>107</sup>

Drawing on two broadcasts by Rundfunk Berlin-Brandenburg (RBB), “The big theft” (“*Der große Klau*”), 12 April 2016) and “Clueless in Kreuzberg” (“*Ratlos in Kreuzberg*”, 27 April 2016), Markus End analyses mechanisms and instruments through which antigypsyist images are passed on. One report deals with neighbourhood conflicts at the Chamissoplatz in Berlin-Kreuzberg and the other with pickpocketing. In both reports, Roma are associated with “street music”, “noise”, “begging”, “filth” and “pickpocketing.” The reports feature a wealth of techniques that turn Roma into pickpockets and primitive people (the choice of image and sound, image identification, camera movements and the technique of filming people in focus although they are not protagonists and thereby

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<sup>106</sup> Some examples for reports with antigypsyist content: [https://www.rbb-online.de/kontraste/ueber\\_den\\_tag\\_hinaus/terrorismus/die-mafia-der-taschendiebe.html](https://www.rbb-online.de/kontraste/ueber_den_tag_hinaus/terrorismus/die-mafia-der-taschendiebe.html); <https://www.deutschlandfunknova.de/beitrag/bettelmafia-ein-teil-organisierter-kriminalitaet>; <https://www.sat1nrw.de/aktuell/roma-probleme-175434/>

<sup>107</sup> End, Markus (2014) Antiziganismus in der deutschen Öffentlichkeit. Strategien und Mechanismen medialer Kommunikation. Im Auftrag des Dokumentations- und Kulturzentrums Deutscher Sinti und Roma, p. 26.

portraying them as passive 'exemplars' of a particular species.<sup>108</sup> Studies by the Duisburg Institute for Language and Social Research (DISS) identify the same type of antigypsyist discourse in the coverage of EU immigrants from Bulgaria and Romania by local media in Duisburg in 2014 and 2015. These EU immigrants are associated with "nomadism", "welfare abuse", "viruses and diseases", "crime" "rats", "chaos", "rubbish" etc.<sup>109</sup>

The police's media work is another field that reproduces antigypsyist discourses. Police authorities actively use antigypsyist terms in press releases, public appearances, when alerting the public, or calling for assistance in searches. An example of this practice can be found in a press release about an integration project issued by the Essen police department. Essen's chief of police is quoted as saying: "This initiative also offers young; Romanian Roma crime suspects a chance to lead a crime-free life in the future" (Polizei Essen 2017). Phrases such as, "police warn of Gypsy women", "judging from their appearance they were Sinti/Roma or traveller", "fraudsters from a Romanian ethnic minority", "women with long black hair and colourful skirts", or "of a southeast European appearance" can be found in the public alerts and press releases issued by the police in different states. Police departments and officers use the same categories, thereby stigmatising whole population groups when evaluating testimonies, searching profiles and carrying out identity checks. The fact that the media generally disseminates these public communications without criticism is extremely problematic and results in the stigmatisation of Roma and Sinti, implying that they are all criminal. Another case of this practice is a lecture by a member of the Berlin Federal Police Directorate at an event during an Open Day at the Ministry of the Interior in August 2017. In his presentation he said that Roma are organised as, "criminal clans" and "wander through Europe in their extended, criminal families". In a press release on this incident, the Central Council of German Sinti and Roma quoted its chairman saying that, "Such a racist lecture in the Federal Ministry of the Interior is damaging for the reputation of both the police in Germany, and the Federal Ministry of the Interior as democratic authorities, that are bound by the rule of law" (Romani Rose quoted by the Central Council 2017).<sup>110</sup>

In its annual media monitor, the Berlin Roma Association "AmaroForoe.V." has been documenting and analysing articles on Sinti and Roma from relevant Berlin newspapers for several years. In 2016, a total of 130 newspaper articles were reviewed. Of these, 52 were considered discriminatory because of they, "used clichés, ethnicised social phenomena, externally labelled people as Roma or identified an ethnic affiliation when reporting on a crime".<sup>111</sup>

### **Political discourses**

Antigypsyism is not only spread by right-wing extremists and populists, but also by democratic politicians who have played a particularly strong role in fuelling prejudices against Sinti and Roma in recent years. In the context of the debate on EU immigration, especially from Bulgaria and Romania, citizens from these countries are equated with Roma and thus dismissed as "poverty immigrants" who come to Germany to "exploit the German social system" (see AK Antiziganismus DISS 2015). In 2013, while the Chancellor inaugurated a Memorial to the Sinti and Roma Murdered during National Socialist Regime, the then Federal Interior Minister Hans-Peter Friedrich (CSU) called on the competent authorities to expel "poverty migrants" from Romania and Bulgaria who

<sup>108</sup> End, Markus (2016) Antiziganistische Darstellungen im RBB. Eine Analyse der Sendungen RBB-Reporter: „Der große Klau“ und des Klartextbeitrags „Misstrauen und Angst im Kiez“. Kurzexpertise.

<sup>109</sup> Duisburger Institut für Sprach und Sozialforschung (DISS) (2014) Die Migration aus Südosteuropa in lokalen Medien in Duisburg 2014; AK Antiziganismus in DISS (2015) Stimmungsmache. Rechtsextreme und antiziganistische Stimmungsmache. Analyse und Gefahreinschätzung am Beispiel Duisburg

<sup>110</sup> Following this criticism, the Central Council and the Federal Police issued a press release in which Dieter Romann, President of the Federal Police said, that "of course, the citizenship of a citizen should not be called into question by turning descent into a criterion of police work" (Bundespolizei; Zentralrat Deutscher Sinti und Roma 2017).

<sup>111</sup> Amaro Foro (2016), p. 26.

were “abusing the German social system”. In recent years, politicians across all parties, especially from the CDU, CSU, SPD and the AfD have fuelled antigypsyist discourses. The rise of the right-wing populist AfD has given considerable impetus to antigypsyist discourses in politics.

In debates about safe countries of origin, politicians propagate negative images of asylum seekers from countries of the Western Balkans suggesting that they have abused the right to asylum. It is worrying that such statements are even made in the Bundestag. For example, the CDU MP Nina Warken claimed in the Bundestag in 2014: “According to the experience of the Federal Office for Migration and Refugees, most applicants are also aware that they are not entitled to asylum. They still come here because they know that only through applying for asylum, they will receive state benefits that are many times higher than the income they receive in their home countries. This is not fair, and we urgently need to end this abuse of our asylum system”.<sup>112</sup>

## Analysing and forming narratives and attitudes towards Roma

### *Attitudes towards Sinti and Roma among the population*

Only in recent years has the phenomenon of antigypsyism in Germany been addressed by several studies on population attitudes. Such surveys have revealed widespread antigypsyist tendencies among the population. According to a study on attitudes of Germans towards Sinti and Roma conducted by the Centre for Research on Antisemitism at the Technical University Berlin on behalf of the Federal Anti-Discrimination Agency (ADS), the majority of the population has little knowledge about Sinti and Roma. 19 per cent did not know about the persecution of Sinti and Roma under the Nazi regime.<sup>113</sup> Around 20 per cent of respondents consider Sinti and Roma in their neighbourhood “unpleasant” to “very unpleasant”.<sup>114</sup> 49 per cent shared the view that Sinti and Roma provoke public hostility through their behaviour.<sup>115</sup>

Similar results can be found in a study conducted by the University of Bielefeld. According to which, “hostilities towards Sinti, Roma [...] are much more frequent and persistent”. About 23.1 per cent of respondents agree that Sinti and Roma are prone to crime, while 22.1 per cent do not want Sinti and Roma as neighbours.<sup>116</sup>

In addition, Leipzig University’s most recent “centre” survey reveals a slight increase in the negative perception of Sinti and Roma in the general population compared to 2014. 57.8 per cent of respondents said that they would have a problem with Sinti and Roma in their vicinity; 49.6 per cent said that Sinti and Roma should be banned from city centres; 58.6 per cent said that Sinti and Roma are prone to crime.<sup>117</sup>

Further studies or surveys were conducted on group-focused enmity, including antigypsyism, in certain regions of Germany. According to a study by the University of Hamburg, more than half of Hamburg’s citizens find Sinti and Roma in their neighbourhood “unpleasant”. Moreover, the scenario of a member of their family marrying a member of a Sinti or Roma community is perceived by the majority of respondents as “rather” or “very” unpleasant, which represents a much higher bias than

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<sup>112</sup> Deutscher Bundestag (2014) Plenarprotokoll 18/46, p. 4180.

<sup>113</sup> Zentrum für Antisemitismusforschung; Institut für Vorurteils- und Konfliktforschung (2014), p. 50.

<sup>114</sup> *Ibid*, p. 76.

<sup>115</sup> *Ibid*, p. 78.

<sup>116</sup> Zick, Andreas; Preuß, Madlen (2014) *Zu Gleich. Zugehörigkeit und (Un)Gleichwertigkeit*. Institut für interdisziplinäre Konflikt- und Gewaltforschung, Universität Bielefeld.

<sup>117</sup> Decker, Oliver; Kiess, Johannes; Brähler, Elmar (2016) *Die enthemmte Mitte. Autoritäre und rechtsextreme Einstellung in Deutschland*. Universität Leipzig.

for any other group or minority.<sup>118</sup>

Similar findings were revealed by a survey on “group-focused enmity” in Bavaria, which found that Sinti and Roma, along with Muslims, the long-term unemployed and refugees, are among the most negatively perceived groups. 10 per cent of respondents showed “strong”, 25 per cent “medium” and 38 per cent “weak” group-focused enmity towards Sinti and Roma.<sup>119</sup>

Regional data on antigypsyist attitudes among the population was also collected in the Thuringia-Monitor 2015 and in the 2016 Saxony Monitor. According to the latter source, 54 per cent of Saxonians and 38 per cent of Thuringians, “would have a problem if Sinti and Roma lived in their neighbourhood”.<sup>120</sup> Both represent degrees of antigypsyism that are above the German average.

### **Antigypsyist film productions**

Antigypsyist depictions of Sinti and Roma can be found in a variety of German and European film productions. In 2017, the Central Council of German Sinti and Roma drew public attention to the issue of funding film productions with antigypsyist content through the case of the children's film “Nelly's Adventure”, demanding that the film not be broadcast as planned in the SWR (a regional public channel) and *Kinderkanal* (Children's Channel). In “Nelly's Adventure”, the young heroine Nelly, travels to Romania with her parents, and is abducted by two Roma on behalf of a dodgy German investor and taken to a village inhabited exclusively by Roma people. There, the girl befriends the siblings Roxana and Tibu and eventually takes the decision together with her family to move to Romania. An expertise commissioned by the Central Council of German Sinti and Roma assesses the film as follows: “*In Nelly's adventure, Roma are consistently portrayed as alien and different. This is the conceptual basis of the film: to establish a sharp contrast between the “square” thinking Germans and the “freedom-loving” Roma. The actions and characteristics of the Roma in the film follow typical antigypsyist conventions: Roma appear as petty criminals, tricksters, beggars, performing ‘traditional’ dances, as kidnappers etc. Roma in other life situations, in ‘regular’ occupations or as students for example are not depicted in the movie.*”<sup>121</sup>

The film “Nelly's Adventure” was funded by five state Film funds with a total sum of about 935,000 EUR; it was shown – funded by tax payers broadcasting fees – in SWR and *Kinderkanal* and also made available online on through the public channel ARD. After the broad criticism the film received from the Central Council of German Sinti and Roma and other voices from civil society and politics,<sup>122</sup> the film's broadcast was brought forward and accompanied by a televised discussion.<sup>123</sup>

<sup>118</sup> Projektbüro Angewandte Sozialforschung der Fakultät Wirtschafts- und Sozialwissenschaften der Universität Hamburg (2014) *Zusammenleben in Hamburg*.

<sup>119</sup> Fröhlich, Werner; Ganser, Christian; Köhler, Eva (2016) *Gruppenbezogene Menschenfeindlichkeit in Bayern*. Institut für Soziologie der Ludwig-Maximilians-Universität München.

<sup>120</sup> Institut für Markt- und Politikforschung GmbH (2016) *Sachsen-Monitor 2016*, p. 30; Best, Heinrich; Niehoff, Steffen; Salheiser, Axel; Salomo, Katja (2015) *Institut für Soziologie Friedrich-Schiller-Universität Jena; Thüringen-Monitor 2015*, p. 106-110.

<sup>121</sup> Brunßen, Pavel (2017) Gutachten zum Kinder- und Jugendfilm „Nellys Abenteuer“, im Auftrag des Zentralrats Deutscher Sinti und Roma. Stellungnahmen, 15 September 2017, p. 19.

<sup>122</sup> Criticisms included the 13-member Federation of Roma, the Alliance for Solidarity with the Roma and Sinti in Europe, whose members include the Federal Anti-Discrimination Agency, Amnesty International and the Foundation Remembrance, Responsibility and Future, the Roma Antidiscrimination Network, the association Roma Trial e.V. as well as member of the parliament of the Greens in Thuringia, where parts of the film were shot.

<sup>123</sup> TV-discussion on the film „Nelly's Adventure” on SWR. Media documentation, 14 November 2017. <http://zentralrat.sintiundroma.de/fernsehdiskussion-zum-film-nellys-abenteuer-im-swr/> [Accessed 06.12.2017]

This debate clarifies key challenges for decision-makers in public film funding. "Nelly's Adventure" was promoted and received film awards because it was marketed as a youth-friendly encounter with other cultures and a contribution to diversity and international understanding. Film funding boards take their decision in a context where antigypsyist attitudes are normal and there is little awareness of the issue.

## RECOMMENDATIONS

### Governance and overall policy framework

#### **Participation of Sinti and Roma in the Broadcasting and State Media Authorities:**

Representatives of Sinti and Roma should be appointed to broadcasting councils and state media authorities. The express appointment of Sinti and Roma to the supervisory bodies of private and public media is a socio-political and legal obligation that follows on from the recognition of the Sinti and Roma as an autochthonous national minority in Germany. For example, the Federal Republic of Germany has committed itself to the inclusion of Sinti and Roma in social and political life by ratifying the Framework Convention for the Protection of National Minorities.

**Antigypsyism as a focus in the European Agenda Post 2020:** The 2011 European Union Framework Strategy on Roma Inclusion focused on the social component. As a result of the emphasis given to this topic by Sinti and Roma organisations and NGOs, the European Parliament and the European Commission have recognized that antigypsyism is one of the most important root causes of the social exclusion of disadvantaged Sinti and Roma. The Federal Government must work to ensure that the fight against antigypsyism becomes a priority in the Post-2020 Agenda for the inclusion of Roma. Germany should be a major force in this, based also on its own experience and history, so that the fight against antigypsyism becomes a priority throughout Europe.

### Anti-discrimination

**Right to collective action on behalf of victims:** The General Equal Treatment Act (AGG) needs to be amended and its scope broadened so that associations and organisations working in the field of anti-discrimination are granted the right to undertake collective action on behalf of victims.

### Addressing antigypsyism

**Establishment of an expert commission on antigypsyism:** An independent expert commission on antigypsyism should be set up by the German Bundestag. Like the "Independent Experts Group on Anti-Semitism", this commission should submit a report and recommendations on antigypsyism once per parliamentary term. The experts' commission should investigate the diverse causes, manifestations and effects of antigypsyism in politics and society, develop strategies to combat antigypsyism and make proposals and recommendations to policy makers. It should have the mandate to commission studies that cover all socio-political spheres of life in which antigypsyism is manifest and address the lack of studies on the perspectives and experiences of people affected by antigypsyism, in cooperation with Sinti and Roma self-organisations.

**Monitoring of antigypsyism:** Monitoring tools and structures, as well as in-depth case studies that reveal the scale, multi-faceted nature and complexity of the of structural antigypsyism and the discrimination of Sinti and Roma are lacking. While state statistics on "politically motivated crime" have recently begun documenting antigypsyist hate crime, the federal government should set up and finance an independent antigypsyism monitoring body in all areas. This office should continuously examine and document all antigypsyist incidents and developments, thus enabling a systematic recording and processing of cases of antigypsyism in all areas of public life, even where they do not constitute a crime.

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