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**Joint EU Monitoring and Advocacy Program / European Roma Rights  
Center Shadow Report**

**Provided to the Committee on the Elimination of Discrimination Against  
Women**

**Commenting on the fifth periodic report of the Federal Republic of  
Germany**

**Submitted under Article 18 of the United Nations Convention  
on the Elimination of All Forms of Discrimination against Women**

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## 1. Executive Summary

The European Roma Rights Center (ERRC)<sup>1</sup> and the EU Monitoring and Advocacy Program (EUMAP)<sup>2</sup> jointly provide this shadow report to the UN Committee on the Elimination of Discrimination Against Women ("Committee"), commenting on the fifth periodic report of the Federal Republic of Germany ("Fifth State Report")<sup>3</sup>, submitted under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women ("Convention").

This report addresses the situation of Sinti and Roma<sup>4</sup> women in Germany and the particular problems they encounter in accessing the protections against discrimination and other abuse offered by the Convention. It focuses on those issues of greatest relevance both to Sinti and Roma women and girls who are German citizens, and to the many foreign Romani women and girls living in Germany.

An important constraint to gathering data for this submission was the lack of data and statistics, including in a number of key sectoral fields, broken down by gender and ethnicity or race. This lack of disaggregated data is an important factor preventing a more detailed analysis of the problems faced by Sinti and Roma women and girls in Germany and, hence, the formulation of policies, programmes and/or (ideally) a national action plan aimed at addressing the discrimination encountered by Sinti and Roma, and in particular Sinti and Roma women and girls.

The phenomenon of intersectional discrimination, the cumulated effects of both gender and ethnic or racial discrimination, is a particularly important factor for vulnerable minority groups such as Sinti and Roma women. At present, the German legislative framework does not provide adequate protection against intersectional discrimination. Full transposition of European Union anti-discrimination Directives<sup>5</sup> into German law through the adoption of a

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<sup>1</sup> The European Roma Rights Center (ERRC) is an international public interest law organisation which monitors the human rights situation of Roma and provides legal defence in cases of human rights abuse. The ERRC has monitored the human rights situation of Roma in Germany since first opening offices in 1996, and has been involved in litigation in a number of cases involving Roma rights in Germany. Further information on the European Roma Rights Center is available on the web at < [www.errc.org](http://www.errc.org) >.

<sup>2</sup> The EU Monitoring and Advocacy Program (EUMAP), formerly the EU Accession Monitoring Program, monitors human rights and rule of law issues in Europe. A program of the Open Society Institute (OSI) in Budapest, EUMAP has published a series of reports on Minority Protection and other topics, all of which may be accessed at < [www.eumap.org](http://www.eumap.org) >.

<sup>3</sup> Fifth periodic report of the Federal Republic of Germany to the UN Committee on the Elimination of Discrimination Against Women (Committee), (hereafter "Fifth State Report"), available at <<http://ods-dds-ny.un.org/doc/UNDOC/GEN/N98/383/77/IMG/N9838377.pdf>> (last accessed on 15 December 2003)

<sup>4</sup> There is increasing consensus among communities traditionally referred to "Gypsies" in Europe that the preferred term for this minority group is "Roma". However, in Germany a number of groups, particularly those with longer histories on the territory of present-day Germany or in areas of pre-World War II Europe where the German language was spoken extensively, have emphasised that they comprise a separate group - Sinti. This submission respects this usage and therefore uses the term "Sinti and Roma" throughout the report.

<sup>5</sup> Beginning in 2000, and in particular under expanded powers provided by an amended Article 13 of the Treaty of the European Community, the European Union adopted a number of legal measures which have significantly expanded the scope of anti-discrimination law in Europe. Particularly relevant for the purposes of this shadow report are three Directives: (i) Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" ("Race Directive") (ii) Directive 2000/78/EC "establishing a general framework for equal treatment in employment and occupation" ("Employment Directive") and (iii) Directive 2002/73/EC "on the implementation of the principle of equal treatment for men and women as regards

comprehensive anti-discrimination law would provide important additional protections, which would significantly help this group of women counter discriminatory practices.

The ERRC and EUMAP draw to the attention of the Committee the fact that many Sinti and Roma women and girls in Germany are at present *de facto* excluded from a range of protections guaranteed by the Convention, notably in the areas of education, employment, health and participation in public and political life.

Lack of adequate educational provisions for Sinti and Roma girls and women is a factor which also significantly affects the access of Sinti and Roma women to both employment and provision of public services. High rates of school abandonment, even at the primary school level, and a significant over-representation of Sinti and Roma girls at “special schools” are of particular concern. There is particular interest among Sinti and Roma women for increasing the number of Sinti and Roma mediators<sup>6</sup> at schools and in other public institutions, as these have proven an effective link between their communities and the school authorities.

Lack of adequate housing and, in some settlements, possible exposure to environmental hazards, can impact significantly on the health of Sinti and Roma women. In addition, these women report a general distrust of healthcare services, due in part to discrimination or lack of cultural sensitivity on the part of medical personnel.

The participation of Sinti and Roma women in the political life of Germany appears to be extremely limited but, by contrast, their participation in civil society organisations is very active. However, lack of adequate state funding for such civil society initiatives has tended to limit the wider proliferation of models of good practice.

Foreign Romani women in Germany, particularly those who are not from another European Union member State, face many additional problems of discrimination to those encountered by Sinti and Roma women who are German citizens, or those of another EU country. Many foreign Romani women do not enjoy secure legal status, so are under the constant threat of forcible expulsion. They suffer from high levels of depression and often do not receive adequate counselling or other medical treatment. They are mostly unable to access employment, so are more heavily dependent on State welfare.

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access to employment, vocational training and promotion, and working conditions", providing an increased level of protection against discrimination based on sex and amending an earlier directive in this area. Directives are binding on EU member states and their provisions must be transposed into the domestic legal order. For the purposes of this shadow report, the three Directives will be referred to herein as the "EU Anti-Discrimination Directives".

<sup>6</sup> "Mediators" are persons who, due to their proximity/links to minority community enjoy the trust of members of minority communities in need, and due to their competence/knowledge of official institutions/structures and language skills, serve the role of liaison between families and authorities in communication regarding problems or concerns of individual members or families of minority communities in such crucial areas as education, healthcare, social protection and other matters.

## **2. Recommendations**

The ERRC and EUMAP urge the Committee to recommend to German authorities the following minimum measures for beginning redress of the current worrying situation of Sinti and Roma women in Germany:

### Law

- Without delay, adopt a comprehensive anti-discrimination law, incorporating all elements of the EU Anti-Discrimination Directives, as well as other international standards, into domestic legislation;
- Without delay, ratify Protocol 12 to the European Convention on Human Rights;

### Data

- In close co-operation with Sinti and Roma communities and in full respect of relevant data protection rules, provide disaggregated data on the situation of Sinti and Roma women and girls in key sectoral fields including but not limited to education, employment, housing and healthcare, in a form readily comprehensible to the public;

### Police

- Investigate any and all allegations of degrading treatment of Sinti and Roma women and girls by police and/or other public officials;
- Provide training to police personnel on their duty to ensure respect for human rights, in particular for members of traditionally vulnerable minority groups and women;

### Political Participation

- Undertake urgent measures to remedy the underrepresentation of Sinti and Roma women in public institutions;
- Provide adequate institutional and financial support to minority NGO initiatives devoted specifically to Sinti and Roma women's issues;

### Education

- Without delay, adopt measures to end the over-representation of Sinti and Roma girls in "special schools" and provide comprehensive measures ensuring that all Sinti and Roma children in Germany enjoy full and unimpeded access to mainstream schooling;
- Support the development and proliferation of good practices, which have proven effective at improving school attendance of Sinti and Roma girls and reducing school abandonment rates, in particular the employment of Sinti and Roma mediators at schools;
- Investigate the particular educational needs of young Sinti and Roma mothers and girls whose families travel for work and develop initiatives aimed at improving their access to education;
- Ensure that teachers receive adequate training on the cultural and educational needs of minority communities in Germany and on the obligation not to discriminate, in particular in those schools with a significant number of Sinti or Roma pupils;

### Healthcare and housing

- Develop and implement effective programmes aimed specifically at improving the access of Sinti and Roma women and girls to healthcare; support instances of good practice in provision of health education, such as the training of Romani women health mediators;
- Investigate allegations that women and girls living in certain Sinti and Roma settlements could be suffering health risks due to environmental hazards. While ensuring close

consultation with community representatives, develop initiatives aimed at addressing the urgent housing needs of many Sinti and Roma communities;

- With a view to ensuring that Sinti and Roma women and girls do not suffer discriminatory treatment in accessing healthcare, provide information to medical personnel on minorities in Germany and training on the legal obligation not to discriminate. Include Romani health mediators in such training initiatives;
- With a view to addressing the specific health concerns of Roma refugees in Germany, provide counselling or other treatment for women suffering from depression or trauma;

#### (Un)employment

- Investigate levels of unemployment among Sinti and Roma women and develop and implement initiatives to address the underlying causes of their limited access to employment.

### **3. Research methodology and issues impeding comprehensive research into the situation of Sinti and Roma women and girls in Germany**

In preparation for the upcoming review of Germany by the CEDAW in January 2004, the ERRC and EUMAP have jointly undertaken research focusing on the specific situation of Sinti and Roma women and girls in Germany. This research aims to provide the Committee with a basis upon which to assess the particular problems faced by members of this vulnerable minority group in Germany and covers both the situation of Sinti and Roma women who are German citizens and also foreign Romani women living in Germany.

In its Concluding comments on Germany's last country reports at the 22<sup>nd</sup> session, the Committee directed several recommendations specifically towards addressing the situation of foreign women in Germany.<sup>7</sup> In general, the Committee expressed concern at the "precarious social and economic situation of foreign women" and noted the "vulnerabilities that foreign women can face on multiple grounds of sex, ethnicity and race".<sup>8</sup> More specifically, the Committee requested that the German Government:

"undertake a comprehensive assessment of the situation of foreign women, including their access to education and training, work and work related benefits, health care and social protection, and to provide such information in its next report".<sup>9</sup>

As yet, the Government has not completed its study on the situation of foreign girls and women, but it has stated that it intends to present the results of this study in its next Report.<sup>10</sup> Appendix II of the Fifth State Report does list a number of measures taken with respect to foreign women.<sup>11</sup> However, a disproportionate number of these (23 out of 32) relate to measures aimed at countering the trafficking of women. While counter-trafficking measures are obviously a very important element in ensuring the protection of women's rights, important

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<sup>7</sup> Report of the Committee on the Elimination of Discrimination against Women, Twenty-second session (17 January-4 February 2000) and Twenty third session (12-30 June 2000), (hereafter "Committee 22<sup>nd</sup> Session"), Chapter IV B 5, paras 317-318. Accessed on the web at < <http://www.un.org/womenwatch/daw/cedaw/reports/a5538.pdf> > (last accessed on 12 Germany 2003).

<sup>8</sup> *Idem*, para 317.

<sup>9</sup> *Idem*, para 318.

<sup>10</sup> Fifth State Report, p. 8, para. 32.

<sup>11</sup> Fifth State Report, p.190

protective measures for foreign women in other areas would also appear to merit further attention.

It must be emphasised that an important general impediment to serious research on the situation of Sinti and Roma women in Germany remains the lack of detailed statistical data disaggregated by both ethnicity and gender. Accurate information in a number of key sectoral fields, such as health, employment, housing, education and access to justice, as relating specifically to Sinti and Roma women and girls, was simply not available and German authorities have apparently made no serious efforts to make such data available to the public.

The background research carried out by ERRC and EUMAP therefore focused on an extensive desk review of existing literature, together with a ten-day field mission to various localities in Germany, where a researcher met with Sinti and Roma women and representatives and other members of Sinti and Roma communities. This research complemented prior ERRC and EUMAP research on the situation of Sinti and Roma in Germany.<sup>12</sup>

In the absence of accurate statistical data, ERRC and EUMAP researchers have had to rely disproportionately on empirical data such as personal testimonies, informal surveys, interviews and first-hand observations made during the field mission. These sources nonetheless revealed an important and coherent pattern of exclusion of Sinti and Roma women from most vital public services.

A lack of data disaggregated by ethnicity is also likely to significantly hinder the Committee's full assessment of all issues facing Sinti and Roma women in Germany. Indeed, the Committee has previously requested that Germany provide such data for the specific case of victims of violence motivated by racism or xenophobia.<sup>13</sup>

Other international monitoring bodies have called for the provision of adequate disaggregated data on a more wide range of issues. For example, in its 2002 Opinion on Germany, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM Advisory Committee) calls on the German Government to "seek means of obtaining more reliable statistics on national minorities".<sup>14</sup> The Committee specifically recommended that the German authorities

"seek means of obtaining more reliable statistical data on persons belonging to national minorities broken down by age, gender and location and in particular seek better to evaluate the socio-economic situation of the Roma/Sinti and, as appropriate, undertake measures in their favour to promote full and effective equality in the socio-economic field."<sup>15</sup>

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<sup>12</sup> 2002 EUMAP Report on the Situation of Sinti and Roma in Germany, (hereafter "EUMAP Germany Report"). Accessed on the web at < [http://www.eumap.org/reports/2002/content/09/276/2002\\_m\\_germany.pdf](http://www.eumap.org/reports/2002/content/09/276/2002_m_germany.pdf) > (last accessed on 20 December 2003). Since opening offices in 1996, the ERRC has periodically undertaken field research among Sinti and Roma in Germany, as well as among Roma in Central and Eastern Europe who have been expelled from Germany.

<sup>13</sup> Committee 22<sup>nd</sup> Session, Report of the Committee., para 318.

<sup>14</sup> The Advisory Committee on the Framework Convention for the Protection of National, Opinion on Germany (adopted on 1 March 2002 - reference ACFC/INF/OP/I (2002)008), (hereafter "FCNM Opinion on Germany"), para. 24, accessed on the web at < [http://www.coe.int/t/e/human\\_rights/Minorities/2\\_FRAMEWORK\\_CONVENTION\\_MONITORING/2\\_Monitoring\\_mechanism/4\\_Opinions\\_of\\_the\\_Advisory\\_Committee/1\\_Country\\_specific\\_opinions/ACFC\\_INF\\_OP\\_I\(2002\)008%20E%20Opinion%20Germany.asp](http://www.coe.int/t/e/human_rights/Minorities/2_FRAMEWORK_CONVENTION_MONITORING/2_Monitoring_mechanism/4_Opinions_of_the_Advisory_Committee/1_Country_specific_opinions/ACFC_INF_OP_I(2002)008%20E%20Opinion%20Germany.asp) > (last accessed on 20 December 2003).

European Union social inclusion processes further impose a range of requirements on the German Government to produce accurate data on the situation of women from marginalized groups. For example, as part of European Union requirements under social inclusion processes agreed at the Lisbon European Council in 2000, the German Government is currently in the process of developing its third National Action Plan to combat social exclusion, under which it has committed to provide data under ten "primary indicators" and eight "secondary indicators"<sup>16</sup> focussing in particular *inter alia* on the intersection between gender and marginalized groups.<sup>17</sup>

In its response to the Opinion of the FCNM Advisory Committee, the German Government stated, however, that "Germany could not consider collecting any such data due to basic legal considerations".<sup>18</sup> These include Article 3(1) of the Framework Convention on National Minorities<sup>19</sup> ("FCNM") and Article 8 of the European Union's Directive 95/46/EC of 24 October 1995 on the "protection of individuals with regard to the processing of personal data and on the free movement of such data" ("EU Data Protection Directive").<sup>20</sup>

The ERRC and EUMAP note, however, that Article 3(1) of the FCNM does not prohibit the collection of ethnicity-specific data. The main rationale behind Article 3 is the protection of individual choice and consent and Article 3(1) seeks in particular to protect the choice of an individual to choose whether or not to be considered as a member of a particular national minority. Similarly, by referring solely to Article 8 of the EU Data Protection Directive as a ground for its failure to provide data disaggregated by gender and ethnicity on "weak" groups, the German Government disregards Article 2 of the same Directive, whereunder it is clear that the data referred to in Article 8 of the Directive is of a fundamentally different quality and order to disaggregated data.<sup>21</sup>

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<sup>15</sup> FCNM Opinion on Germany, para. 75

<sup>16</sup> See European Union Social Protection Committee, "Report on Indicators in the field of poverty and social exclusion", October 2001.

<sup>17</sup> Goals of European Union social inclusion policies include the promotion of "the social integration of women and men at risk of facing persistent poverty, for example because they have a disability or belong to a group experiencing particular integration problems." (see European Union document, "Fight against poverty and social inclusion -- Definition of appropriate objectives", Brussels, 30 November 2000).

<sup>18</sup> Comments by the Federal Republic of Germany on the Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Germany (19<sup>th</sup> July 2002), reference GVT/COM/INF/OP/I(2002)008), Section III, Re Art. 3, number 75. Accessed on the web at <[http://www.coe.int/t/e/human%5Frights/Minorities/2%2E%5FFRAMEWORK%5FCONVENTION%5F%28MONITORING%29%2E%5FMonitoring%5Fmechanism%5F2E%5FComments%5Fby%5Fthe%5FStates%5Fconcerned/GVT-COM-INF-OP-I\(2002\)008%20E%20Germany.asp](http://www.coe.int/t/e/human%5Frights/Minorities/2%2E%5FFRAMEWORK%5FCONVENTION%5F%28MONITORING%29%2E%5FMonitoring%5Fmechanism%5F2E%5FComments%5Fby%5Fthe%5FStates%5Fconcerned/GVT-COM-INF-OP-I(2002)008%20E%20Germany.asp)> (last accessed on 20 December 2003).

<sup>19</sup> Article 3 of the FCNM reads as follows: "(1) Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice. (2) Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others." Accessed on the web at <[http://www.coe.int/T/e/human\\_rights/Minorities/2.\\_FRAMEWORK\\_CONVENTION\\_\(MONITORING\)/1.\\_Texts/H\(1995\)010%20E%20FCNM%20and%20Explanatory%20Report.asp](http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/1._Texts/H(1995)010%20E%20FCNM%20and%20Explanatory%20Report.asp)> (last accessed on 14 December 2003)

<sup>20</sup> Article 8(1) of the EU Data Protection Directive reads as follows: "Member States shall prohibit the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life." Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

The German Government has also cited reluctance of some minority representatives to accept that such data be collected, given that in the past, the gathering of data on minorities -- particularly Sinti and Roma -- has abused by the authorities. Reservations about official data collection expressed by Sinti and Roma representatives may be attributed primarily to concerns that such data, and also documentation such as fingerprints or photographs, has in the past either been misused or used solely with aim of incrimination.<sup>22</sup> The onus is upon the German government to overcome such opposition through good faith. Participation of individuals belonging to minorities themselves in any such project is clearly a key to success for such initiatives, as the German Government itself has observed, with respect to educational projects:

“experience gained in this context has shown that, on a long-term basis, only those initiatives will be successful which are launched locally with the consent, will and participation, including shared responsibility, of the persons concerned.”<sup>23</sup>

#### **4. Introduction: Sinti and Roma in Germany**

There are no reliable figures regarding the total size of the Sinti and Roma population in Germany and estimates vary widely. The Government recently gave an estimate of up to 70,000 German Sinti and Roma.<sup>24</sup> Some Sinti and Roma leaders put the number between 150,000 and 200,000. Current estimates indicate that during the 1990s, up to 100,000 of the Roma in Germany were not German citizens, although the actual number of Roma in Germany who are foreigners is currently declining rapidly, due to ongoing forced expulsions being carried out by German authorities.

Among Roma who are foreigners in Germany, the majority are Roma from Southeastern Europe, including a number of persons who may be refugees in the sense of the 1951 Convention relating to the status of refugees, but the majority of whom have not been actually recognised as refugees, owing primarily to restrictive practices by German authorities in the application of refugee law. A high number of the Roma met by the ERRC and EUMAP do not possess German citizenship, or even a durable or meaningful resident status. Taken as a whole, the Sinti and Romani community is an immensely diverse group of people, including persons with links to German culture as long as 600 years, persons who fled slavery in Romania during the 19th century, and recent migrants and refugees from Central and Eastern Europe, arriving

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<sup>21</sup> Article 2 of the EU Data Directive defines personal data as follows, “ ‘personal data’ shall mean any information relating to an identified or identifiable natural person (‘data subject’); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity”. EU Data Protection Directive, Art 2.

<sup>22</sup> For example, presentation of the Chair of the Board of Directors of the Roma National Congress, Mr Rudko Kawczynski, at press conference launch of EUMAP report on Germany, Berlin, 24 January 2003.

<sup>23</sup> European Charter for Regional or Minority Languages, Initial Periodical Report by Germany presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter on 15.11.00 (MIN-LANG/PR (2000) 1) , Romany, Article 8 (Education). Accessed on the web at < [http://www.coe.int/T/E/Legal\\_Affairs/Local\\_and\\_regional\\_Democracy/Regional\\_or\\_Minority\\_languages/](http://www.coe.int/T/E/Legal_Affairs/Local_and_regional_Democracy/Regional_or_Minority_languages/) > (last accessed on 8 January 2004).

<sup>24</sup> First Report submitted by the Federal Republic of Germany under Article 25, paragraph 1, of the Council of Europe's Framework Convention for the Protection of National Minorities, 1999 ACFC/SR (2000)001 (hereafter “State Report”), p. 10. Accessed on the web at < [http://www.coe.int/T/e/human%5Frights/Minorities/2%2E%5FFRAMEWORK%5FCONVENTION%5F%28MONITORING%29/2%2E%5FMonitoring%5Fmechanism/3%2E%5FState%5Freports/ACFC\\_SR\(2000\)001%20E%20state%20report%20Germany.asp#TopOfPage](http://www.coe.int/T/e/human%5Frights/Minorities/2%2E%5FFRAMEWORK%5FCONVENTION%5F%28MONITORING%29/2%2E%5FMonitoring%5Fmechanism/3%2E%5FState%5Freports/ACFC_SR(2000)001%20E%20state%20report%20Germany.asp#TopOfPage) > (last accessed on 5 January 2004).

after World War II or at various times since. Some Sinti and Roma in Germany are itinerant. The Romani community includes German citizens, nationals of other European Union States (who as a result of European Union (EU) rules have a more privileged legal status than persons coming from non-EU States), recognised refugees and long-term residents.

Two types of administrative status prevalent among Sinti and Roma in Germany are of particular cause for concern:

(i) In the first place, instances of the phenomenon of statelessness have been reported among Sinti and Roma in Germany from after World War II until recent years.<sup>25</sup>

(ii) Many factually long-term and very long term resident Roma in Germany are sheltered under a temporary protection mechanism called "tolerated" ("duldung"). A "duldung" is not a residence permit, it is merely a stop on expulsion, and it must be renewed at very frequent intervals, in some instances after only several weeks.<sup>26</sup> The "duldung" status also generally includes restrictions on freedom of movement, access to employment and various forms of social protection, although provisions vary by state. ERRC and EUMAP researchers met numerous Romani individuals who had had no other administrative status other than a "duldung" for periods sometimes longer than ten years. The repeated provision of extremely short-term "duldung" status has effectively prevented tens of thousands of foreign Roma in Germany from integration in Germany, although such persons may have children who are born in Germany (and those children may be enrolled in and regularly attending German schools) and have formed extensive real and factual ties to Germany. Persons provided with the "duldung" status may labour under extreme conditions of stress due both to the ever-present threat of expulsion from Germany, as well as near-constant interaction with hostile public officials responsible for allocation of the "duldung".<sup>27</sup> As such, long term use of the "duldung" may itself constitute a form of cruel and degrading treatment as banned under a number of international human rights instruments.<sup>28</sup> In addition, there are

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<sup>25</sup> Citizenship laws in Germany were until 1999, based solely on descent and included no provision for the acquisition of citizenship through birth on German territory and cases of statelessness were reported regularly. For example, *Pogrom*, the periodical of the Göttingen-based human rights organization *Gesellschaft für bedrohte Völker (GfbV)*, recently reported on Ms Kraus, a Roma woman born in the Sudetenland, in today's Czech Republic, in the early 1940s. At the end of World War II, she and her family were expelled from Sudetenland by the Czechoslovakian authorities, along with millions of ethnic Germans. According to the *GfbV*, Ms Kraus received German citizenship after World War II. In the 1980s, however, she was ordered by the German authorities to give up her German papers and was instead issued a document certifying her as stateless. Her possession of a German passport was, according to the *GfbV*, not considered sufficient evidence of her German citizenship.

<sup>26</sup> A number of international monitoring bodies have expressed concerns at the treatment of non-citizens in Germany. For example, the UN Committee against Elimination of Racial Discrimination has expressed concerns about the absence of any protection accorded to populous *de facto* minority groups resident in Germany for longer periods of time, CERD/C/338/Add.14, 10 August 2000. The Council of Europe's European Commission against Racism and Intolerance (ECRI) noted that around nine percent of the entire population (c. 7,000,000 persons) do not have German citizenship and called for regularisation of status of long-term foreign residents. See ECRI Report 2000, CRI (2001) 36 p. 9, (hereafter "ECRI report"), accessed on the web at < [http://www.coe.int/t/E/human\\_rights/ecri/1-ECRI/2-Country-by-country\\_approach/Germany/Germany\\_CBC\\_2.asp#TopOfPage](http://www.coe.int/t/E/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Germany/Germany_CBC_2.asp#TopOfPage) > (last accessed on 9 January 2004).

<sup>27</sup> Many Roma in Germany report that officials responsible for prolonging the "duldung" are frequently very rude, and that generally a component of the process includes sharp discussions with officials including questions such as "Why haven't you left yet?" and "What are you still doing in Germany?" Interviews carried out by ERRC in Germany (1996), Serbia and Montenegro (2002 and 2003) and Romania (2002 and 2003).

widespread and plausible allegations that Roma are more likely to be provided with a "duldung" (rather than a more durable status including accrued rights) than non-Romani foreigners, in violation of Germany's commitments banning racial discrimination.<sup>29</sup> Finally, the stress and anxiety due to uncertainty and non-integration arising from long-term existence under the "duldung" regime, arguably has a specific and pernicious impact in particular on Romani women, in many instances the primary care-giver in the Romani household.

Since 1989, Germany has repeatedly expelled Romani foreigners, particularly Romani foreigners from Romania and the countries of the former Yugoslavia. In some instances, expulsions undertaken have been massive, comprising many thousands of persons over the course of a number of months.<sup>30</sup>

There is a high degree of anti-Romani sentiment in Germany.<sup>31</sup> A poll conducted in 1992 by the Allensbach Demoscopic Institute indicated that 64 percent of Germans had an unfavourable opinion of Roma – a higher percentage than for any other racial, ethnic or religious groups.<sup>32</sup> A survey conducted in 1994 by the EMNID Institute indicated that some 68 percent of Germans did not wish to have Sinti and Roma as neighbours.<sup>33</sup> A 1995 poll conducted in German schools indicated the presence of strong anti-Romani attitudes even among the younger generation: 38 percent of students in Western and 60.4 percent in Eastern Germany expressed negative attitudes toward Sinti and Roma.<sup>34</sup> There is no indication that attitudes toward Sinti and Roma have improved in recent years. Indeed, the Government has acknowledged that societal attitudes are only “gradually evol[ing] towards acceptance of German Sinti and Roma,” and that “the process has undergone a positive development, but is not yet completed [...]”.<sup>35</sup>

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<sup>28</sup> Germany is bound by a number of international law provisions banning cruel and inhuman or degrading treatment or punishment, including but not limited to those provided under Article 7 of the International Covenant on Civil and Political Rights, Article 16 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and Article 3 of the European Convention on Human Rights. See for example European Roma Rights Center, "Written comments concerning the Federal Republic of Germany for consideration by the Committee on the Rights of the Child (“the Committee”) at its thirty-fifth session", available on the web at < <http://errc.org> >.

<sup>29</sup> Germany has recently reaffirmed its commitments to eliminating all forms of racial discrimination on a number of occasions, including *inter alia* in 2001, when in the context of the World Conference Against Racism in Durban, South Africa, it made the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, making possible complaints by individuals before the UN Committee on the Elimination of Racial Discrimination.

<sup>30</sup> Issues relating to the large-scale expulsion of Roma from Germany are detailed in European Roma Rights Center, "Written comments concerning the Federal Republic of Germany for consideration by the Committee on the Rights of the Child (“the Committee”) at its thirty-fifth session"..

<sup>31</sup> On anti-Romani sentiment in Germany, see especially Tebbutt, Susan, ed., *Sinti and Roma: Gypsies in German-Speaking Society and Literature*, New York and Oxford: Berghahn Books, 1998.

<sup>32</sup> Seventeen percent had an unfavourable opinion of Muslims; of Indians, 14 percent; of guest workers, 12 percent; of dark-skinned persons, 8 percent, and of Jews, 7 percent. Cited in G. Margalit, “Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?”. Accessed on the web at <<http://sicsa.huji.ac.il/9gilad.htm>>, (last accessed on 9 April 2002).

<sup>33</sup> Cited in D. Strauss, “Anti-Gypsyism in German Society and Literature” in Tebbutt, S., p. 89.

<sup>34</sup> Information from Sebastijan Kurtisi of the Roma Union Grenzland, OSI Roundtable Meeting, Hamburg 8 April 2002. See also B. Orthmeyer, E. Peters, D. Strauss, *Antiziganismus – Geschichte und Gegenwart deutscher Sinti und Roma*, Wiesbaden: HeLP, 1998.

Anti-Romani sentiment has a long history in Germany. Official policies of persecution and expulsion began soon after the arrival of the first Romani groups on the territory of today's Germany in the late Middle Ages. These policies continued in the succeeding centuries<sup>36</sup> and anti-Romani policies were pursued to the extreme during the Nazi era, when Sinti and Roma, like Jews, were targeted for racial extermination policies.<sup>37</sup> Sinti and Roma activists estimate that as many as 500,000 European Sinti and Roma were killed during the Holocaust. Those who survived the genocide were subjected to continued harassment and humiliation at the hands of the police and other authorities, as a number of pre-war anti-Gypsy laws and institutions remained in force.<sup>38</sup> The genocide of Sinti and Roma was acknowledged officially in 1982. However even after this, Roma and Sinti were frequently treated as "second-class victims".<sup>39</sup>

Sinti and Roma who possess German citizenship are recognised as a national minority by the German Government.<sup>40</sup> Apart from raw issues such as expulsion and threat of expulsion, however, it is difficult to clearly separate the problems faced by Roma and Sinti women citizens on the one hand and foreign Romani women on the other, given the prevalence of anti-Romani sentiment in Germany and the tendency of German officials to treat citizen and non-citizen Sinti and Roma as "Gypsies", regardless of citizenship.

## **5. Convention concerns related to the situation of Sinti and Roma women and girls in Germany**

This section addresses some of the main problems faced by Sinti and Roma women and girls in gaining the protection from violations of rights secured under the Convention. Key points are outlined under the following articles of the Convention:

- Article 2 Measures for the elimination of discrimination against women
- Article 7 Participation of Sinti and Roma women in political and public life
- Article 10 Education of Sinti and Roma girls and women
- Article 11 Employment of Sinti and Roma women
- Article 12 Health of Sinti and Roma women and girls

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<sup>35</sup> State FCNM Report, pp. 26-27.

<sup>36</sup> On the persecution of Sinti and Roma in Germany from the 15<sup>th</sup> century, see, I. Hancock, "Gypsy History in Germany and Neighbouring Lands: A Chronology Leading to the Holocaust and Beyond," in D. M. Crowe, and J. Kolsti, eds., *The Gypsies of Eastern Europe*, Armonk, NY: M.E. Sharpe, 1991, pp. 395-396; Over 120 specific "anti-Gypsy" laws were passed between 1551 and 1751; see S. Tebbutt, ed., *Roma and Sinti: Gypsies in German-Speaking Society and Literature*, Oxford: Berghahn Books, 1998, p. 2.

<sup>37</sup> On the Holocaust of Roma and Sinti, see I. Hancock in Crowe and Kolsti, above; D. Kenrick and G. Puxton, *Gypsies under Swastika*, Hatfield: University of Hertfordshire Press, 1995; R. Rose, ed., *The Nazi Genocide of the Roma and Sinti*, Heidelberg: Documentation and Cultural Centre, 1995; S. Milton, "Holocaust: The Gypsies" in W. S. Parsons, I. Charny and S. Totten, eds. *Genocide in the Twentieth Century*, New York, London: Garland Publishing, 1995, pp. 209-264.

<sup>38</sup> EUMAP Germany Report p.149.

<sup>39</sup> See R. Kuder, *Recent Trends in German Ethnic Politics: the Sinti*, MA thesis presented to the International Studies programme of the Graduate School of the University of Oregon, June 2000, p. 24.

<sup>40</sup> State FCNM Report p. 10.

## Article 2: Measures for the elimination of discrimination against women

The main points addressed under Article 2 pertain to legislative measures to provide comprehensive protection against intersectional discrimination, lack of accurate disaggregated statistics on racially motivated violence against women and discriminatory and/or degrading treatment of Sinti and Roma women and girls by police personnel.

### Background

Article 2 of the Convention envisions the development of comprehensive measures, including legislation, to eliminate discrimination against women. EUMAP and the ERRC also draw the attention of the Committee to the Preamble of the Convention, however, which emphasises that the eradication of "all forms of racism, racial discrimination ... is essential to the full enjoyment of the rights of men and women." This link between gender discrimination and racial or ethnic discrimination is particularly important for women from minority groups.

Romani women activists have been alert to, and have on a number of occasions spoken out about, the fact that the widespread racism that their community encounters creates serious disadvantages for them that women belonging to the majority communities do not face.<sup>41</sup> In assessing the specific situation of Sinti and Roma women in Germany with reference to the provisions of the Convention, the phenomenon of multiple, or *intersectional discrimination*,<sup>42</sup> whereby the effects of both gender and ethnic or racial discrimination are cumulated, is therefore a particularly important factor.

Under Article 2(b) of the Convention, States Parties agree to adopt "appropriate legislative and other measures, ... prohibiting all discrimination against women".<sup>43</sup> Despite the existence of a range of measures addressing gender discrimination, for Sinti and Roma women in Germany, the lack of a comprehensive legal framework addressing the effects of intersectional discrimination tends to mitigate the effectiveness of provisions combating gender discrimination alone. In this sense, it is of serious concern that despite the expiry of 2003 deadlines for doing so, Germany has yet to adopt comprehensive discrimination laws banning racial and ethnic discrimination, as required by binding European Union directives. Germany has also yet to ratify Protocol 12 to the European Convention on Human Rights, which once in effect will provide a comprehensive ban on discrimination in the realisation of any right guaranteed by law.

Under Article 2(d) of the Convention, State Parties also specifically undertake to ensure that public authorities and institutions act in conformity with the obligation not to discriminate

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<sup>41</sup> See generally: Bitu, Nicoleta, "The Challenges for and of Romani Women" in Roma Rights No.4 2003 (forthcoming); Kocze, Angela, "Double Discrimination Face by Romani Women in Europe," Presentation before the Committee on Women's Rights and Equal Opportunities meeting of the European Parliament on 26 November 2003; Oprea, Alexandra, "The Erasure of Romani Women in Statistical Data: Limits of the Race-versus-Gender Approach," April 2003, accessed on the web at < [www.eumap.org/features](http://www.eumap.org/features) > (last accessed on 20 December 2003) ; Ceneda, Sophia, "Romani Women from Central and Eastern Europe: A 'Fourth World', or Experience of Multiple Discrimination", Refugee Women's Resource Project, Asylum Aid , accessed on the web at < <http://www.asylumaid.org.uk/Publications/Roma%20reports/ROMANI%20WOMEN'S%20RIGHTS%20A%20Fourth%20World.doc> > (last accessed 7 January 2004).

<sup>42</sup> United Nations Division for the Advancement of Women of the United Nations, *Report of the Expert Group Meeting on Gender and Racial Discrimination*, 21-24 November 2000, Zagreb, Croatia (hereafter "UN Expert Group Report"), Section C. Accessed on the web at < [www.un.org/womenwatch/daw/csw/genrac/report.htm](http://www.un.org/womenwatch/daw/csw/genrac/report.htm) > (last accessed on 25 November 2003)

<sup>43</sup> Convention, Article 2(b).

against women.<sup>44</sup> However, many Sinti and Roma women reportedly continue to confront racial prejudice and stereotypes or even discriminatory and/or degrading treatment on the part of police personnel.

Finally, under General Recommendation no. 12 the Committee requires States Parties to "protect women against violence of any kind occurring within the family, at the work place or in any other area of social life".<sup>45</sup> General Recommendation no. 12 notwithstanding, Sinti and Roma have been targets of racist and xenophobic violence in recent years and there are concerns that foreign Roma may be particularly exposed to such attacks, due to the segregated and exposed nature of some of the types of housing provided to or availed by non-citizens. Although Roma and Sinti individuals who are German citizens have reportedly been the target of such attacks, the concentration of foreign Roma in temporary settlements such as camping facilities that are not adequately protected, has in the recent past made them the target of racially-motivated arson attacks.<sup>46</sup> Female Romani foreigners appear to be particularly vulnerable to such attacks, since they tend to spend more time on the premises with children and therefore in the case of arson or other attacks are more likely to be hurt.

Addressing the problem of violence against women, in its concluding comments on Germany's last State reports, the Committee called on the Government to:

“improve the collection of data and statistics disaggregated by sex and race/ethnicity of the victims of violence motivated by xenophobia and racism, to put in place adequate protection mechanisms and to ensure that foreign women victims of such attacks are made aware of their rights and have access to effective remedies.”<sup>47</sup>

To date, however, the Government has not acted to provide such data or information on protection mechanisms available for foreign female victims of racist violence. In its Fifth State Report, the Government admits that “continually kept statistics containing information on the gender, as well as the ethnic origin of the victims of right-wing oriented violence is at present incomplete”.<sup>48</sup> The ERRC and EUMAP urge the Committee to impress upon the German government the need for comprehensive and accurate data in this area.

### **Legislative measures to provide comprehensive protection against intersectional discrimination**

General protection against both gender and ethnic or racial discrimination is stipulated in the Basic Law (Grundgesetz), the Federal Republic of Germany's constitution.<sup>49</sup> Legal provisions

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<sup>44</sup> Convention, Article 2(d).

<sup>45</sup> Violence against women can be considered under Articles 2, 5, 11, 12 and 16 of the Convention. General Recommendation no 12, made by the Committee (Eighth Session, 1989) – Violence against women. Accessed on the web at < <http://www.un.org/womenwatch/daw/cedaw/recomm.htm> > (last accessed on 16 December 2003).

<sup>46</sup> For example, on 30 July 2001 in Wildau, in the state of Brandenburg, a camping site at which some 40 Roma refugees were settled was bombed with at least three Molotov-cocktails and set on fire.” Newsletter *Aktiv gegen Rechts*, 30 July 2001.

<sup>47</sup> Committee 22<sup>nd</sup> Session, Report of the Committee, para 318.

<sup>48</sup> Fifth State Report, p. 15, Statement on the Consideration of the Committee for the Elimination of Discrimination against Women, Re para. 31 and 32.

<sup>49</sup> Article 3 (Equality before the law) of the German Basic Law states that: "(1) All persons are equal before the law. (2) Men and women have equal rights. (3) No one may be prejudiced or favoured because of his sex, his

addressing specifically gender discrimination are found in an array of laws, and the Fifth State Report enumerates in detail a number of these provisions, including new developments since the last periodic report.

Provisions concerning ethnic /racial discrimination or intersectional discrimination on the basis of both gender and race or ethnicity are, however, far less developed. This is significant because it is often difficult to clearly separate the effects of each form of discrimination. The Report of the Expert Group meeting on Gender and Racial Discrimination, convened by the UN Division for the Advancement of Women of (UN Expert Group Report) notes, for example, that:

"factors relating to women's social identities such as class, caste, race, colour, ethnicity, religion, national origin are 'differences that make a difference' in the ways in which groups of women experience discrimination. These factors can create problems and vulnerabilities that are unique to particular groups of women or that disproportionately affect some women relative to others."<sup>50</sup>

The German legislative framework does not provide comprehensive and effective protection against the phenomenon of intersectional discrimination. Unlike gender discrimination, neither ethnic/racial discrimination or intersectional gender and ethnic/racial discrimination are adequately addressed under German legislation. Individuals remain dangerously exposed to these phenomena and unsheltered by adequate legal protections available in practice for redress of the very serious harms of racial discrimination and/or intersectional discrimination.

EUMAP and the ERRC welcome the fact that in 2001 Germany made a Declaration under Article 14 of the UN Convention on the Elimination of All Forms of Racial Discrimination (ICERD), making possible individual petitions before the UN Committee on the Elimination of Racial Discrimination.<sup>51</sup> To date however, Germany has not yet transposed a number of the provisions of the EU Anti-Discrimination Directives into its domestic law. Germany has also not yet ratified Protocol 12 to the European Convention on Human Rights, which once in effect would provide a comprehensive ban on discrimination on a broad range of grounds, in the realisation of any right secured by law.

At present, as noted by a number of observers, German anti-discrimination law lacks a number of specific provisions both required by EU regulations and necessary such that victims of discrimination may have sufficient possibilities for redress when they have suffered discrimination.<sup>52</sup> There is no comprehensive anti-discrimination legislation prohibiting discrimination.<sup>53</sup> Furthermore, to date there is no official body in Germany with the specific

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parentage, his race, his language, his homeland and origin, his faith or his religious or political opinions." Accessed on the web at < <http://www.constitution.org/cons/germany.txt> > ( last accessed 17 December 2003).

<sup>50</sup> United Nations Division for the Advancement of Women (DAW), Office of the High Commissioner for Human Rights (OHCHR), United Nations Development Fund for Women (UNIFEM), Gender and racial discrimination, Report of the Expert Group Meeting 21-24 November 2000, Zagreb, Croatia, Section C. Accessed on the web at < <http://www.un.org/womenwatch/daw/csw/genrac/report.htm> > (last accessed on 5 January 2004).

<sup>51</sup> United Nations Treaty Collection [as of February 2002], Declarations recognizing the competence of the Committee on the Elimination of Racial Discrimination, in accordance with article 14 of the Convention < [http://www.unhcr.ch/html/menu3/b/treaty2\\_esp.htm](http://www.unhcr.ch/html/menu3/b/treaty2_esp.htm) > (last accessed 15 December 2003).

<sup>52</sup> See for example European Monitoring Centre on Racism and Xenophobia (EUMC), Anti-Discrimination Legislation in EU Member States – Germany, Vienna, 2002, at < [http://eumc.eu.int/eumc/material/pub/Art13/ART13\\_Germany-en.pdf](http://eumc.eu.int/eumc/material/pub/Art13/ART13_Germany-en.pdf) > (last accessed on 8 January 2004).

mandate to deal with allegations of discrimination on the basis of race and gender. The consequences of an inadequate legal framework against discrimination are reflected in many areas of the life of Sinti and Roma women and girls in Germany.

### **Discriminatory and/or degrading treatment of Sinti and Roma women and girls by law enforcement officials**

With respect to the specific problem of violence against women, under General Recommendation no. 12, the Committee requires States Parties to act to protect women against “violence of any kind occurring within the family, at the work place or in any other area of social life”.<sup>54</sup> There are a number of allegations by individual Sinti and Roma women that they often confront racial prejudice and stereotypes on the part of police personnel.<sup>55</sup> Some Roma and Sinti representatives have stated that they believe even the courts are not entirely free of anti-Romani prejudice.

There are repeated allegations that Sinti and Roma women are more likely to be stopped, searched, arrested or detained by the police.<sup>56</sup> Police personnel are reportedly also more likely to be disrespectful towards Sinti and Roma women than either in relation to women from the majority population or in relation to Sinti and Roma men. Interviewed women also alleged that individual police officers sometimes use insulting and racist language.<sup>57</sup>

Some cases allegedly even result in physical mistreatment of Sinti and Roma women by police personnel. For example, one incident received wide publicity occurred in Bavaria, where several police officers reportedly forced their way into the apartment of Ms L.D., an elderly Sinti woman, looking for her son, who had allegedly defaulted in paying traffic or parking violation fines. These police officers allegedly behaved provocatively and, in particular, used abusive language referring to the woman’s ethnic origin. During the incident, Ms L.D.’s hand was broken. Although the reaction on the part of the police officers would appear to be disproportionate, the court decided otherwise, finding no violation on the part of law enforcement officers.<sup>58</sup>

The most serious case of discriminatory treatment encountered in the preparation of this report concerns an allegedly systematic practice of degrading treatment of Romani refugee girls under the age of 14, at the hands of the Cologne police, documented by the Cologne-based NGO *Rom e.V.* These cases concern children who are allegedly brought by police officers to police stations on charges of petty theft or begging. Here, allegedly in order to assess the cleanliness

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<sup>53</sup> Matthias Mahlman, *Executive Summary on the Race Equality Directive: State of Play in Germany*, 22 October 2003, < [http://europa.eu.int/comm/employment\\_social/fundamental\\_rights/pdf/legisl/msracequality/germany.pdf](http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/legisl/msracequality/germany.pdf) > (last accessed on 4 December 2003).

<sup>54</sup> General Recommendation no 12, made by the Committee (Eighth Session, 1989) - Violence against women. Accessed on the web at <http://www.un.org/womenwatch/daw/cedaw/recomm.htm> (last accessed on 16 December 2003). NB. Violence against women can be considered under Articles 2, 5, 11, 12 and 16 of the Convention.

<sup>55</sup> Interviews in Hesse, 22 November 2003; North Rhine Westphalia, 23-24 November 2003; Lower Saxony, 27 November 2003, and Berlin-Brandenburg, 28-29 November 2003.

<sup>56</sup> Interviews in Hesse, 22 November 2003; North Rhine Westphalia, 23-24 November 2003; Lower Saxony, 27 November 2003, and Berlin-Brandenburg, 28-29 November 2003.

<sup>57</sup> Interviews in Hesse, 22 November 2003; North Rhine Westphalia, 23-24 November 2003; Lower Saxony, 27 November 2003, and Berlin-Brandenburg, 28-29 November 2003.

<sup>58</sup> Cited in EUMAP Germany Report, p. 192.

and hygiene of these children, the children have their clothes removed and are physically inspected, without the presence, or permission, of parents or social workers.

Police have also allegedly taken photographs of some children, including girls, either while they were wearing only underwear or with their underwear lowered.<sup>59</sup> Children were ordered to lower their underwear and were photographed in this condition. These photographs, with detailed descriptions, were subsequently reportedly used by the police in courts to press charges against parents for failure to fulfil their parental duties, with the purpose of removing children from parental care. Allegedly, the authorities hope that Romani families threatened with such prospects would leave Cologne and in some reported cases, this does indeed seem to have been the response of some parents.<sup>60</sup>

These allegations are not new. Similar practices were documented in the course of research toward an EUMAP report on Germany in 2002.<sup>61</sup> Interviewed lawyers who represented Romani families in such cases stated that, in their experience, no children or adults from other ethnic or social groups have ever been treated in such a degrading manner. According to some legal experts, in such cases, police breach the German Penal Code, which forbids the physical search of underage children.<sup>62</sup>

Additional allegations were made that in some instances, police have X-rayed the wrists of Romani children, including girls who allegedly claimed to be underage, and hence not subject to criminal prosecution, but did not have on them documents to prove their age. X-raying is reportedly one means used to establish the age of a person, but a court order is necessary for this to be carried out. Again, in the case of Romani children, police reportedly do not follow the correct procedure of obtaining the permission of the court to carry out such X-ray examinations.

Such cases serve to reinforce the perception of many Sinti and Roma women that they do not enjoy the equal protection of the law in Germany.

## **Article 7: Participation of Sinti and Roma women in political and public life**

### **Background**

In its Fifth State Report, the German Government has acknowledged that despite progress to date, there is still a long way to go towards ensuring the full equality of women in political and public life.<sup>63</sup> ERRC/EUMAP research indicates that the disadvantage suffered by women in general is exacerbated in the case of women belonging to Sinti and Roma communities.

In its General Recommendation no. 23 on Article 7, the Committee observed that:

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<sup>59</sup> Copies of cases, police reports and photographs on file with EUMAP and ERRC.

<sup>60</sup> Interview with members of Rom e.V., Cologne, 24 November 2003. Also, Press-release of Rom e.V, on file with EUMAP and ERRC.

<sup>61</sup> EUMAP Germany Report, p. 192.

<sup>62</sup> Letter from the lawyer on file with EUMAP.

<sup>63</sup> Fifth State Report, p.72

“the concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both.”<sup>64</sup>

However, the Government has previously acknowledged the limited participation of Sinti and Roma in the political life of the country:

“(o)n account of their widely dispersed homes, direct participation of the German Sinti and Roma in political life is more difficult than in the case of the other minorities with a more compact form of grouped settlement.”<sup>65</sup>

The participation of Sinti and Roma women in the political life of Germany appears to be even more limited. There are no known Sinti or Roma women in any political structures of the State, no known organisations devoted to the gender-specific concerns of Sinti and Roma women and no comprehensive action plan for improving the situation of Sinti and Roma in Germany.

The Committee has clarified that the concept of public and political participation also includes participation in many aspects of civil society.<sup>66</sup> By contrast with levels of political participation, there is a much stronger participation of Sinti and Roma women in civil society organisations, such as minority NGOs, which demonstrates their interest to participate in public life, if given the chance. There is particular interest in the model of Sinti and Roma mediators introduced in some schools and with respect to other public services. However, no funding is known to be allocated to minority NGOs or to programmes devoted specifically to Sinti and Roma women’s issues. This is a factor which has tended to hinder the proliferation of such models of good practice in other schools and also limit the possibilities for Sinti and Roma women to participate more fully in public life in Germany.

### **Participation of Sinti and Roma women in political life**

Although several Sinti and Roma men have reportedly succeeded in being elected or employed at least in lower levels of local administration,<sup>67</sup> there are reportedly no Sinti or Roma women in any official structures. Although there are a handful of prominent and outspoken Sinti and Roma women leaders and personalities in Germany,<sup>68</sup> the participation or visibility of Sinti and Roma women in political and public life appears insignificant.

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<sup>64</sup> General Recommendation no.23 (16<sup>th</sup> session, 1997), accessed on the web at <[www.un.org/womenwatch/daw/cedaw/recomm.htm](http://www.un.org/womenwatch/daw/cedaw/recomm.htm)> (last accessed on 4 November 2003).

<sup>65</sup> State FCNM Report, p. 115.

<sup>66</sup> “The political and public life of a country is a broad concept... The concept also includes many aspects of civil society, including public boards and local councils and the activities of organisations such as political parties, trade unions, professional or industry associations, women's organisations, community-based organisations and other organisations concerned with public and political life.” CEDAW General Recommendation no.23 (16<sup>th</sup> session, 1997). < [www.un.org/womenwatch/daw/cedaw/recomm.htm](http://www.un.org/womenwatch/daw/cedaw/recomm.htm) > (last accessed on 4 November 2003).

<sup>67</sup> The State FCNM Report indicates that there are no known Sinti or Roma representatives in either the Federal or state legislatures, although it asserts that a number of Sinti have been elected to municipal/parish councils, State FCNM report p. 115. The EUMAP Germany Report notes that there are no Roma or Sinti representatives in the executive branch or courts, EUMAP Germany Report p. 47.

<sup>68</sup> At present, there is only one female chair of the State Associations under the umbrella of the officially recognized Central Council of German Roma and Sinti, Petra Rosenberg of the Berlin-Brandenburg State Association of Sinti and Roma. In general, Roma and Sinti women work with Sinti NGOs as mediators, assistants and volunteers, undertaking grassroots work, but reportedly having a limited say in formulating the agenda of these organisations.

State programmes devoted to women's issues appear to overlook the situation of Sinti and Roma women<sup>69</sup> and there is no comprehensive action plan for improving the situation of Sinti and Roma in Germany. Although the State does appear to consult its officially designated interlocutor on Sinti and Roma issues, the Central Council of German Roma and Sinti, on selected minority matters, there is no information available concerning the input of Sinti and Roma women in such consultations. Thus, it can be said that Sinti and Roma women do not appear to feature in either the formulation of Governmental policy or its implementation, despite the protections available under Article 7 of the Convention.

Although Sinti and Roma women who are German citizens are eligible to vote, it appears that many do not exercise this right. Non-participation is reportedly often caused by lack of education or information, together with a reported distrust in the willingness and determination of politicians to work towards improving their situation.<sup>70</sup> Lack of adequate education (detailed herein under Article 10) and hence of prospects for career opportunities, including in the political sphere, is also a key factor restricting the participation of women in public life. It also severely limits the chances for the vast majority of Sinti and Roma women to pursue the specific agenda of minority women through the democratic process, for example by participating in established political parties and movements or holding public office.

Given this situation, there is a need for initiatives aimed at improving the political awareness and education of Sinti and Roma women and encouraging their political participation. Any such initiatives, however, need to be complemented by providing training to public officials, with the purpose of increasing awareness among all levels of the authorities about the history and culture of minority communities in Germany and the duty of public authorities not to discriminate.

In the absence of such complementary programmes, even increased levels of political participation of Sinti and Roma women may not *per se* be sufficient to overcome their exclusion and to bring their concerns to more prominence on the current political agenda. In fact, the Government has already launched a number of initiatives aimed at sensitising public servants about diversity and multiculturalism.<sup>71</sup> Such initiatives should in the future be extended, with representatives of minority groups, in particular Sinti and Roma, more directly involved in formulation and development.

Another issue particularly affecting the Sinti and Roma communities in Germany is the fact that formal political participation is beyond the reach of a vast majority of female Romani foreigners, most of whom lack the legal status which would provide them with the right to vote. This includes Roma from a number of Central and Southeastern European countries, many of whom have been resident in Germany for long periods, in many cases over ten years. The fact that many Roma in Germany are not able to vote or stand in elections severely limits the ability of the Roma community as a whole to participate fully in political life. It also reduces the ability of this minority group to successfully highlight issues of particular concern and contribute to the decision-making process in key policy areas.

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<sup>69</sup> Fifth State Report, Annex.

<sup>70</sup> Interviews in North Rhine Westphalia, 23 November 2003; Berlin, 28 November 2003.

<sup>71</sup> State FCNM Report, p. 47.

## Participation in civil society

The Committee has clarified that the concept of public and political participation also includes participation in many aspects of civil society.<sup>72</sup> The participation of Sinti and Roma women in a range of civil society organisations stands in stark contrast to their virtual absence in political organisations or public administration. This would appear to indicate the interest and capacity of many women to take on a more prominent role in public life, if given the opportunity.

Sinti and Roma women are increasingly engaged in non-Governmental organisations (NGOs) working on behalf of minority communities, in roles such as mediators between the authorities and service users. For example, in Kiel, in the State of Schleswig-Holstein, two Sinti women mediators are employed as staff in one school, working both with families and school administration to encourage Romani children to attend school.<sup>73</sup> Similarly, in the German State of North Rhine Westphalia, Romani women mediators have assisted the integration of foreign Romani children at school.<sup>74</sup>

Interviewed women working in minority NGOs stated, however, that lack of State support often limits the possibilities of extending such successful initiatives. For example, in the German state of Lower Saxony, despite attempts to set up similar school mediator projects as those effectively functioning for several years in the Kiel project mentioned above and the "Schaworalle" project in Frankfurt on the Main, the initiative reportedly came to a standstill because of resource constraints.<sup>75</sup> Even in Schleswig-Holstein, the Kiel model project is evidently too small and cannot reach out to all schools in Kiel, not to mention other cities, towns and villages in the rest of the State of Schleswig-Holstein.<sup>76</sup>

State support for NGO projects for addressing the gender-specific concerns of Sinti and Roma women appear to still be very limited, especially in light of the extent of need for such initiatives. Although state support is currently provided to some Roma and Sinti organisations, this is insufficient to ensure adequate support for minority women's initiatives in particular. Mainstream minority organisations, including Sinti and Roma NGOs, have a wide range of concerns and tend to overlook minority women's issues.

The participation of Sinti and Roma women in "grassroots" civil society initiatives and projects detailed above is important not only in terms of the immediate benefits to the women and children directly concerned. In the longer term, such initiatives could help facilitate the formulation and local implementation of State programmes and action plans aimed at improving the situation of the Sinti and Roma minority in Germany. They could also serve as a first step towards increasing the participation of Sinti and Roma women in the wider public and political life of Germany.

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<sup>72</sup> "The political and public life of a country is a broad concept... The concept also includes many aspects of civil society, including public boards and local councils and the activities of organisations such as political parties, trade unions, professional or industry associations, women's organisations, community-based organisations and other organizations concerned with public and political life." CEDAW General Recommendation no.23 (16<sup>th</sup> session, 1997). Accessed on the web at < [www.un.org/womenwatch/daw/cedaw/recomm.htm](http://www.un.org/womenwatch/daw/cedaw/recomm.htm) > (last accessed on 4. November 2003).

<sup>73</sup> Radio programme Bildungsreport, "Zwei Sinti-Mutter helfen an einer Kieler Schule bei der Integration von Sinti- und Roma-Kindern", broadcast on 25 May 2002. Transcript on file with EUMAP and ERRC.

<sup>74</sup> Interviews in North Rhine Westphalia, 24 November 2003. Also, EUMAP German Report, p. 166.

<sup>75</sup> Interviews in Hanover, 27 November 2003.

<sup>76</sup> Interviews in Kiel, 26 November 2003.

## **Article 10: Education of Sinti and Roma girls and women**

The main points addressed under Article 10 are the lack of dis-aggregated education statistics, the poor school attendance of Sinti and Roma girls, and their over-representation in so-called “special schools”.<sup>77</sup>

### **Background**

Article 10(a) of the Convention calls States Parties on take measures to ensure, on the basis of equality between women and men:

"the same conditions for ... access to studies and for the achievement of diplomas in educational establishments of all categories... in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training."<sup>78</sup>

Insofar as Sinti and Roma girls still do not appear to enjoy equal access to education, it cannot be said that the Government has fulfilled its obligations in this area.

The lack of detailed data on the situation of Sinti and Roma women and girls in the German education system, disaggregated by gender and ethnicity, again poses an important constraint on detailed analysis, and researchers had to rely on empirical data gathered from interviews carried out in Germany. The results of this research, however, clearly indicate serious educational under-achievement among Sinti and Roma girls and women.

The poor educational attainment of Sinti and Roma girls is indicated by high rates of absenteeism and school abandonment and the segregation of Sinti and Roma children, including girls, into “special schools”. Young mothers and girls from travelling families face additional problems in accessing education, which are not being adequately addressed. Prejudice and negative stereotypes are important factors discouraging Sinti and Roma girls from pursuing their studies. While minority NGOs have developed some interesting initiatives to encourage school attendance, lack of adequate state funding has hindered such models from being more widely applied.

The Fifth State Report does not directly address the specific problems faced by minority girls in the German educational system. Although in the past the Government has acknowledged the particular educational problems faced by Sinti and Roma communities in Germany, it does not appear to have fully comprehended the extent and/or the complex nature of these problems. In particular, the Government appears to rely on its own failure to collect and process disaggregated data to justify its inaction with respect to implementing specific measures to improve the educational attainment levels of Sinti and Roma girls. For example, in its comments on the Opinion of the FCNM Advisory Committee, referring to the reportedly high representation of Sinti and Roma pupils in special schools, the Government held that there was “no reliable statistical evidence to suggest that this group of pupils has a lower rate of participation in education”.<sup>79</sup>

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<sup>77</sup> Special schools (*Sonderschule*), also known as schools for the mentally-disabled (*Geistigbehinderteschule*), and “promoting schools” (*Förderschule*) are intended for children with consistently lower levels of academic achievement, or for children who come from difficult social backgrounds, manifest behavioural problems, or have difficulty coping in the school environment. See EUMAP Germany Report, p. 160.

<sup>78</sup> Convention, Art. 10(a).

The Government also seems to emphasise the responsibilities of parents, and downplays those of the State. For example, referring to the higher rates of absenteeism of Sinti and Roma children, the Government notes that “it is necessary for the individual families of this group of pupils to make sure their children attend school regularly.”<sup>80</sup> Similarly, the Government formulates the nature of Romani problems in education as follows:

"[O]n the one hand, the difficult transition from the traditional perception of the family being an all-embracing social community, to the concepts of modern society, with compulsory education and vocational training ... outside the family. On the other hand, defensive reactions on the part of the parents or grandparents *vis-à-vis* the publicly maintained school ... stem(ming) from the marginalisation of these persons and from their negative experience during their school days, and from subsequently being denied all educational opportunities during the persecution suffered under the Nazi régime .”<sup>81</sup>

This focus on the purported deficiencies of Sinti and Roma families as the key to explaining educational issues related to Sinti and Roma children stands in marked contrast to the approach taken other international monitoring bodies. For example, the 2000 OSCE Report on the situation of Roma and Sinti in the OSCE Area recommends that Governments “consider supporting pre-school programs that help prepare Romani children for primary school.”<sup>82</sup> Similarly, the 2000 European Commission against Racism and Intolerance (ECRI) Second Report on Germany (“ECRI Report”) recommends that the Government should investigate the over-representation of minority children in “special schools for underachievers” and “corresponding under-representation in intermediate and grammar schools.”<sup>83</sup>

### **School attendance of Sinti and Roma girls**

Sinti and Roma representatives and NGOs working on behalf of Roma and Sinti in Germany have reported that rates of school abandonment among Sinti and Roma children are already very high at the primary school level.<sup>84</sup> The situation appears to vary from State to State, but in the worst cases reported it would appear that only half of Roma and Sinti children attend school at all.<sup>85</sup> Of those who do attend school, a high number reportedly attend “special schools”.<sup>86</sup>

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<sup>79</sup> Comments by the Federal Republic of Germany on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the Federal Republic of Germany (GVT/COM/INF/OP/I (2002) 008), 19 July 2002, No. 90. Accessed on the web at < [http://www.coe.int/T/e/human%5Frights/Minorities/2%2E%5FFRAMEWORK%5FCONVENTION%5F%28MONITORING%29/2. Monitoring mechanism/5. Comments by the States concerned/GVT-COM-INF-OP-I\(2002\)008%20E%20Germany.asp#TopOfPage](http://www.coe.int/T/e/human%5Frights/Minorities/2%2E%5FFRAMEWORK%5FCONVENTION%5F%28MONITORING%29/2. Monitoring mechanism/5. Comments by the States concerned/GVT-COM-INF-OP-I(2002)008%20E%20Germany.asp#TopOfPage) > (last accessed on 6 January 2004).

<sup>80</sup> *Ibid.*

<sup>81</sup> State FCNM Report, p. 99.

<sup>82</sup> Organisation for Security and Cooperation in Europe, High Commissioner on National Minorities, *Report on the Situation of Roma and Sinti in the OSCE Area*, Hague: Office of the OSCE HCNM, March 2000, p. 69. Accessed on the web at < <http://www.osce.org/hcnm/documents/reports> > (last accessed on 7 January 2004).

<sup>83</sup> ECRI Report, p. 11.

<sup>84</sup> EUMAP Germany Report, pp.168-169.

<sup>85</sup> Interviews in North Rhine Westphalia, 24 November 2003; Hamburg, 25 November 2003; Schleswig-Holstein, 26 November; Lower Saxony, 27 November, and Berlin, 28 November 2003.

<sup>86</sup> Interviews in: Hesse, 22 November 2003; North Rhine Westphalia, 23-24 November; Hamburg, 25 November 2003; Schleswig-Holstein, 26 November 2003; Lower Saxony, 27 November 2003.

For Sinti and Roma girls, the estimated rates of school abandonment are reportedly even higher than for Sinti and Roma boys. Although it is difficult to generalise, as the situation differs from family to family among both Sinti and Roma communities, it appears still prevalent that women occupy a subordinate role in a conservative family structure. Girls thus tend to marry earlier and often abandon school at the same time, especially if their mothers also married early and did not attend school. In such cases, girls are reportedly unlikely to receive education beyond the primary level. With maternity, Sinti and Roma women reportedly no longer have the time, opportunity, or energy for personal advancement. As one Sinti woman told researchers, “life is practically over at the age of 30.”<sup>87</sup>

Sinti and Roma girls from families who travel during the year, mainly for work reasons, suffer additional problems in attending school. Although there are a number of international instruments which urge States to ensure equal access to education for children of occupational travellers<sup>88</sup>, to date Sinti and Roma girls from such travelling families still do not enjoy equal access to education and would appear to be even worse off than the rest of their peers. In particular, when travelling, children from such families are in principle allowed to enrol in nearby schools. In practice, however, school authorities allegedly refuse enrolment, for example on grounds that the school is full and no more places are available. In such cases, parents reportedly have no opportunity to verify whether this is actually the case, nor do they have readily available avenues through which to effectively challenge such refusals of enrolment. As a consequence, the regular access of children in travelling families to schooling is impeded.

Even when girls do appear to be resolved to benefit from education, they are allegedly faced with similar stereotypes and prejudices as those encountered by Sinti and Roma boys, including discrimination and bullying by schoolmates and schoolmates’ parents. Even teachers and school administrators may themselves be in need of more education and information on diversity and multiculturalism. Programmes aimed at sensitising school personnel about minority culture could help overcome predominantly negative stereotypes about Sinti and Roma in the general population.

To date, however, there have not been any State-supported initiatives to reduce Roma and Sinti female dropout rates and organise special programmes for girls and women who have left school prematurely, the requirements of Article 10(f) of the Convention notwithstanding. Some Sinti and Roma NGOs have led initiatives aimed at encouraging school attendance and preventing school abandonment. In Schleswig-Holstein, for example, two Roma mediators employed as staff at one school, work both with parents and the school administration to ensure that Romani children attend the school, which combines an elementary school and a “special school”. Members of the State Association of Schleswig-Holstein admit, however, that they are understaffed and physically unable to reach out to all children in Schleswig-Holstein who could benefit from similar assistance.<sup>89</sup>

Contrary to prevalent clichés, many Sinti and Roma do appreciate the importance, value and need for education in overcoming centuries-long discrimination and exclusion, as well as for

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<sup>87</sup> Interview with Ms L.S., a Sinti woman in Northern Germany, November 2003.

<sup>88</sup> For example, the EU Resolution “On School Provision for Gypsy and Traveller Children”, passed by the Council of Ministers of Education in May 1989, 89/C 153/02. Accessed on the web at <[http://www.romanothan.ro/engleza/romarights/intern/eu/doc\\_rrom/res89.htm](http://www.romanothan.ro/engleza/romarights/intern/eu/doc_rrom/res89.htm)> (last accessed on 5 January 2004).

<sup>89</sup> Interviews in Schleswig-Holstein, 26 November 2003.

being able to articulate and defend their rights.<sup>90</sup> In order not to be pushed deeper into poverty and exclusion, many aspire that their children receive modern education and vocational training. Female Sinti and Roma NGO representatives, in particular, stated that they view education as an opportunity to break out of the cycle of poverty and exclusion and benefit from opportunities to work for the community.

Due to the high school abandonment rates at primary and secondary levels, it is reported that few Sinti and Roma reach secondary education level and only a handful go on to higher education.<sup>91</sup> This, in turn, later impacts on such factors as the access of Sinti and Roma women to employment and their ability to participate in political and public life. Hence, most Sinti and Roma women may not have been able to share in the progress that women in general have made in education over the past decade in Germany, as stated in the State Report.<sup>92</sup>

### **Over-representation of Sinti and Roma girls in “special schools”**

An issue of particular concern for Sinti and Roma children, including girls, is their reported significant over-representation in "special schools". Although official statistics do not exist and the situation varies from State to State, estimates are consistently high. For example, research conducted several years ago in Hamburg delivered the figure of 70 percent of Sinti children of school age reportedly attending special schools.<sup>93</sup> In Schleswig-Holstein, some interviewed representatives estimated that up to 60 percent of Sinti and Roma children may be in special schools<sup>94</sup> and in Hesse and Lower Saxony, up to 80 percent may be in such schools.<sup>95</sup> Although such estimates are not a substitute for comprehensive and accurate data, the fact that so many sources give such consistently high figures, several times higher than the national average, gives reasons for concern that the school system is failing the needs of this minority group<sup>96</sup>.

In principle, referral to a “special school” in Germany takes place only after a number of other options have been exhausted and with a number of procedural safeguards. Only when it is apparent that the child has genuine learning difficulties should he or she be referred to a “special school” and the written consent of the parents or legal guardians is required to implement this measure.<sup>97</sup> In the case of Sinti and Roma children, however, the procedure for referral is reportedly not always stringently followed. In some instances, referrals reportedly take place as early as two or three months after admission to primary school, without any additional steps being taken to assist the child instead of moving to exclude her and place her

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<sup>90</sup> Interviews in Hesse, 22 November 2003; North Rhine Westphalia, 23-24 November 2003; Hamburg, 25 and 27 November 2003; Schleswig-Holstein, 26 November 2003; Lower Saxony, 27 November 2003; Berlin and Brandenburg, 28-29 November 2003.

<sup>91</sup> EUMAP Germany Report, p. 160.

<sup>92</sup> Fifth State Report, pp. 31-36.

<sup>93</sup> Cited in EUMAP Germany Report, p. 161.

<sup>94</sup> Interviews 26 November 2003

<sup>95</sup> Interviews 27-28 November 2003.

<sup>96</sup> EUMAP Germany Report, p. 161.

<sup>97</sup> In cases where parents are opposed, a commission consisting of teachers, psychologists and other specialists may be summoned to decide on transfer and the parents' will may be overridden by the commission

in segregated special schooling.<sup>98</sup> Many Sinti and Roma interviewed in the course of EUMAP/ERRC research asserted that the referral of Sinti and Roma children to special schools is in many instances arbitrary, or even “automatic”.<sup>99</sup>

Prejudices allegedly play a decisive role in the frequent placement of Sinti and Roma children in “special schools”. Teachers reportedly act on stereotypes, including that Sinti and Roma children are “not meant for school” since in their communities it is widely held that education is not valued or that Romani families are traditionally afraid of the school system or may feel jealous of their children’s educational achievement.<sup>100</sup>

Allegedly, Sinti and Roma children may also sometimes be regarded as a “distraction to the normal educational process”<sup>101</sup> and teachers reportedly tend not to try hard to keep or bring Roma and Sinti pupils into mainstream schools, as is the case with non-Romani children. Some teachers may allegedly even feel relieved when these children simply drop out.<sup>102</sup> In Berlin, Ms S.R., a Sinti mother, stated that she decided to urgently transfer her daughter to another school following the alleged constant down-grading of her daughter’s marks by the teacher, who reportedly told the mother that it was “time to separate wheat from the chaff.”<sup>103</sup>

Although some parents have tried to challenge the referral of their children to “special schools”, a majority of families reportedly submit to the decisions made by teachers or other school authorities concerning their children’s education. Another factor that also tends to favour the over-representation of Sinti and Roma in “special schools” is that once one child from a family or community has been transferred to a “special school”, it is reportedly common that families let other children also go to the same school. This, both to avoid separating their children and due to concerns at leaving a child isolated in a possibly minority-unfriendly school environment.<sup>104</sup>

## **Article 11: Employment of Sinti and Roma women**

### **Background**

Under Article 11(b) of the Convention, the States Parties should ensure that women benefit from the right to the same employment opportunities as men.<sup>105</sup> However, the absence of data disaggregated on the basis of both gender and ethnicity precludes an accurate assessment of access to employment among Sinti and Roma women. Even for Sinti and Roma generally, official figures for levels of unemployment are not available, although it is widely reported that Sinti and Roma endure higher rates of unemployment than the population at large of the Federal Republic of Germany. For example, the problem of equal access to the labour market

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<sup>98</sup> “Romakinder werden zu schnell in die Sonderschule überwiesen” in *Roma-Nachrichten*, a news-letter of the Cologne-based NGO Rom e.V., July 2001.

<sup>99</sup> EUMAP Germany Report, pp. 161-164.

<sup>100</sup> *Idem*, pp. 166-168.

<sup>101</sup> EUMAP roundtable meeting, Hamburg, 8 April 2002.

<sup>102</sup> EUMAP roundtable meeting, Hamburg, 8 April 2002.

<sup>103</sup> Interviews in Berlin, 28 November 2003.

<sup>104</sup> EUMAP report, p. 161.

<sup>105</sup> Convention, Article 10(b).

for Sinti and Roma in Germany was noted by the FCNM Advisory Committee in its Opinion on Germany:

“the lack of good statistical data makes it difficult for the German authorities to ensure that the full and effective equality of national minorities is promoted effectively, including as concerns the situation of the Roma/Sinti on the labour market.”<sup>106</sup>

As outlined under Article 2, Sinti and Roma women face problems of intersectional discrimination and there are indications that their rates of employment may be even lower than for Sinti and Roma men. Lack of adequate education is a particularly important barrier, as outlined under Article 10. In addition, many Romani women are barred by law from the labour market because they are not in possession of an administrative status which would include the right to work. This latter category includes women who may have been factually in Germany for more than ten years, have children who are born in Germany, and who in many other ways may have established real and effective ties to Germany.

The Fifth State Report states that a number of initiatives have been launched to enable vocational training specifically for women.<sup>107</sup> However, although there have been occasional attempts to develop job projects for Sinti and Roma men,<sup>108</sup> there have not been any specific programmes tailored to enable Sinti and Roma women to pursue vocational training in such a way as to successfully combine employment with family. Although the State Report does refer to various initiatives aimed at helping women reconcile work and family responsibilities and promoting the responsibilities of fathers<sup>109</sup>, these may have less significance for Sinti and Roma women than for the majority female population.

### **Employment of Sinti and Roma women**

The discrimination that Sinti and Roma in general face in accessing employment opportunities has been commented upon by a number of monitoring bodies.<sup>110</sup> The employment rate of Sinti and Roma men of working age is reportedly many times lower than that for the majority male population.<sup>111</sup> The FCNM Advisory Committee highlighted evidence that, “that members of the Roma/Sinti minority, in particular, find it significantly more difficult than the rest of the population to find work”.<sup>112</sup> Sinti and Roma therefore appear to be correspondingly over-represented among recipients of social welfare.

Sinti and Roma women are apparently unable to access employment opportunities on an equal footing with other groups, including men belonging to the Sinti and Roma minority. There are a range of factors which contribute to their low employment rates, including housing that is located in remote and inaccessible areas and a lack of education reportedly on a scale higher than Sinti and Roma men. In addition, they are in most cases likely to be responsible for

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<sup>106</sup> FCNM Opinion on Germany, para. 75.

<sup>107</sup> Fifth State Report, p.29-30

<sup>108</sup> Reportedly, without much success. See EUMAP report, p. 175.

<sup>109</sup> Fifth State Report, p.111

<sup>110</sup> For example, ECRI Report, para 30.

<sup>111</sup> EUMAP Germany Report, p. 174

<sup>112</sup> FCNM Opinion on Germany, para. 24.

domestic activities, which, in the absence of adequate childcare facilities, preclude them accessing many employment options.

It is difficult to generalise about gender relations within Sinti and Roma families. However, it appears that although particularly in the younger generations, women are becoming more assertive, Sinti and Roma women still tend to be subordinated to men where issues such as taking up employment outside of the family are concerned. In many cases Sinti and Roma women reportedly often need the consent and the goodwill of their parents or spouses to be able to pursue careers.

Some Sinti and Roma women interviewed in the course of the research for this shadow report stated that if there were acceptable alternatives, such as kindergartens sensitive to Sinti and Roma children, then it is likely that more minority women would pursue vocational training and seek employment opportunities.<sup>113</sup> There also seems to be a great deal of interest among Sinti and Roma women to work as mediators, for example in schools or with social welfare offices, whereby they could still stay in touch with their families and help their communities and at the same time pursue employment.

### **Article 12: Health of Sinti and Roma women and girls**

The main points addressed under Article 12 are the lack of disaggregated health-related statistics, discriminatory treatment of Sinti and Roma women in healthcare provision, health and housing concerns, health issues specific to foreign Romani women in Germany and health education for Sinti and Roma women and girls.

#### **Background**

In its General Recommendation no. 24 on Article 12, the Committee has noted that “special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups”.<sup>114</sup> However, the absence of health-related statistics disaggregated on the basis of gender and ethnicity precludes an accurate assessment of health concerns of Sinti and Roma women. In particular, there is practically no data on key health indicators such as birth rates, infant mortality rates or life expectancy, or concerning other healthcare issues among these communities.

The State has not adopted any measures to investigate or address the possible specific health concerns of Sinti and Roma women. There are, nonetheless, indications that serious healthcare concerns do exist among members of Sinti and Roma communities in general, and Sinti and Roma women in particular. Germany's Fifth State Report places emphasis on the “Report on the Health Situation of Women in Germany” and refers to its findings.<sup>115</sup> Unfortunately, it is not clear whether this report addresses the health concerns of women belonging to marginalized minority groups, such as the Sinti and Roma.

A collaborative effort between the OSCE Office of the High Commissioner, the European Monitoring Centre on Racism and Xenophobia (EUMC) and the Council of Europe's

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<sup>113</sup> Interviews in North Rhine Westphalia, 24 November 2003; Schleswig-Holstein, 26 November 2003, and Berlin and Brandenburg, 28 November 2003.

<sup>114</sup> CEDAW Committee General Recommendation No.24 (20<sup>th</sup> session, 1999), para 6. Accessed on the web at <[www.un.org/womenwatch/daw/cedaw/recomm.htm](http://www.un.org/womenwatch/daw/cedaw/recomm.htm)> (last accessed on 25 November 2003).

<sup>115</sup> Fifth State Report, p.120.

Migration and Roma/Gypsy Division resulted in a joint report “Breaking the Barriers – Romani Women and Access to Public Health Care” (hereinafter “EUMC report”).<sup>116</sup> This report found that across Europe the access of Roma women to healthcare is seriously impaired due to of a complex set of factors. These include the absence of decent living conditions, poverty and low levels of education, as well as alleged discrimination in the provision of health care and lack of cultural sensitivity on the part of health-care personnel.<sup>117</sup> Although the EUMC report is not based on research conducted in Germany, EUMAP/ERRC field research in Germany indicates that many of the findings of the EUMC report are valid for Sinti and Roma women in Germany. As detailed below, a main factor impacting on the health of many Sinti and Roma women in Germany is their inadequate housing and precarious living conditions, compounded by a lack of adequate education and resulting high levels of unemployment and poverty. Similarly, discrimination and lack of understanding of Roma and Sinti culture on the part of medical personnel may prevent Sinti and Roma women in Germany from effectively accessing healthcare or health education. Finally, the health situation of foreign Romani women in Germany merits particular attention.

### **Discriminatory treatment of Sinti and Roma women in healthcare provision**

Sinti and Roma reportedly only reluctantly entrust themselves as in-patients to the care of public health facilities such as hospitals, a tradition which has reportedly less to do with “superstition” or “taboo” than with deeply-rooted fears that members of their communities may be discriminated against or even mistreated. For example, due to concerns about the wellbeing of their family members in an alien and potentially hostile environment, together with the fact that family ties form a very important part of Romani cultural identity, Sinti and Roma families reportedly try not to leave patients alone in hospitals. However, visits to hospitals by large numbers of family members have reportedly sometimes lead to tensions with medical personnel.<sup>118</sup>

Going beyond problems based on a lack of understanding of Sinti and Roma culture and history, women may also encounter more direct ethnic or racial discrimination on the part of medical personnel. For example, some interviewees have claimed that individual doctors only reluctantly touch such patients and allegedly at times make remarks irrelevant to treatment, such as that patients have “typical Gypsy pigmented spots,” etc. There are allegations that doctors do not always treat Roma and Sinti patients in good faith, because they believe that such patients will not follow the correct procedures if prescribed complicated treatments, such as regularly taking medication or do not take adequate care of their health anyway. “It is hard to describe,” stated Ms S.L., an interviewed woman in Lower Saxony, “but we feel it, when doctors or nurses just take a sudden step back when they realise we are ‘Gypsies’, we feel it.”<sup>119</sup> In the end, many Sinti and Roma women reportedly go to see a doctor only when they are very ill.

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<sup>116</sup> See generally European Monitoring Centre on Racism and Xenophobia (EUMC) and the Council of Europe’s Migration and Roma/Gypsy Division, “Breaking the Barriers – Romani Women and Access to Public Health Care”, July 2003. Accessed on the web at < [http://ww.coe.int/T/F/Com/Dossiers/Evenements/2003-09-femmes-Roms/e\\_rapport.asp](http://ww.coe.int/T/F/Com/Dossiers/Evenements/2003-09-femmes-Roms/e_rapport.asp) > (last accessed 15 December 2003).

<sup>117</sup> *Ibid*

<sup>118</sup> Interviews in Hesse, 22 November 2003, North Rhine Westphalia, 23 and 24 November 2003, Hamburg, 25 November 2003, and Lower Saxony, 27 November 2003.

<sup>119</sup> Interviews in Lower Saxony, 27 November 2003.

The confidence of the Sinti and Roma communities in the good faith of medical personnel has also been undermined by instances when medical personnel have collaborated with the authorities or police. For example, in Cologne the entire male population of a Romani settlement was reportedly forced to undergo DNA-sampling as a means of establishing paternity. It was claimed that Romani mothers generally married according to Romani custom, not registering with the authorities as married, and were, thus, fraudulently claiming single mother allowance.<sup>120</sup> Coercive DNA sample collections of this type have also been reported in other German States as well.<sup>121</sup> Although claims of abuse of social security entitlements are not infrequent among members of the majority population, there have never been any similar reports of the application by authorities of such humiliating measure. This raises concerns that the measure was discriminatory, as well as culturally insensitive.<sup>122</sup>

Foreign Romani women and girls may also face discrimination and lack of cultural sensitivity on the part of medical personnel. For example, on April 13, 1995, 150 German policemen reportedly raided a Romani refugee residence in Cologne in order to investigate a case of an abandoned baby who, according to a doctor, had 'pigmentation common to Gypsies.'<sup>123</sup> With doctors allegedly collaborating with the police, some 40 women were reportedly forced to undergo blood tests and have their pictures and fingerprints taken. Four young unmarried girls were also reportedly forced to have a gynaecological inspection at the local University Hospital. Despite this, the identity of the mother of the abandoned baby was not established.

It appears advisable, therefore, that medical personnel should receive training in the legal provisions on the protection of personal data. Such training should also aim at raising the awareness of doctors and nurses about the history and culture of minority communities in Germany, in order to sensitise medical personnel and ensure smoother communication with members of marginalized communities, such as the Sinti and Roma women.

As the EUMC Report notes, "as patient populations diversify in terms of traditions and lifestyles, institutions must take on the challenge to guarantee access to care in a non-discriminatory manner."<sup>124</sup> In fact, several European countries have already implemented diverse measures ranging from developing Roma-specific health strategies, training Roma health care workers to training public health professionals in Roma culture and practices.<sup>125</sup> These measures could perhaps serve as useful models for establishing similar approaches in the German context.

### **Health and housing concerns**

There is a nexus between the ability of individuals to realise the right to adequate housing and their effective realisation of the right to the highest attainable standards of physical and mental health. In its General recommendations no. 24 on Article 12, the Committee has noted this link and has called upon the States:

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<sup>120</sup> EUMAP Germany Report, p. 191.

<sup>121</sup> EUMAP roundtable meeting, Hamburg, 8 April 2002.

<sup>122</sup> EUMAP Germany Report, p. 191.

<sup>123</sup> "'Wir hatten gehofft, dass es in Deutschland keinen Rassismus mehr gibt...'" Dokumentation zur Polizei-Razzia gegen Roma-Frauen am 14.04.95 in Köln". Information from *Rom e.V.*, Cologne.

<sup>124</sup> EUMC Germany Report, pp.102-103.

<sup>125</sup> *Ibid.*

“to take all appropriate measures to ensure adequate living conditions, particularly housing, sanitation, electricity and water supply, transport and communications, all of which are critical for the prevention of disease and the promotion of good health care.”

The field research carried out for this report indicates that habitable living conditions are not available to a very significant number of Sinti and Roma women and girls in Germany. In particular, a number of Sinti and Roma settlements are located in the vicinity of polluting industries, highways or heavily trafficked roads, city garbage dumps or toxic/hazardous waste sites. Women’s health may be particularly affected, given that they may often stay at home for longer periods of time than men, so may be more exposed to environmental hazards.

For example, the Sinti settlement Georgwerderring, on the outskirts of Hamburg, is located on a former toxic waste dump. The site was reportedly considered uninhabitable in the mid-1970s. Nevertheless, in the mid-1980s the local authorities selected this plot of land for building homes for Sinti families and presently there are over 200 persons living in this area. There have been allegations that, despite the fact that the dump was levelled, ground water may have brought toxic waste to the surface, contaminating the land and air in the settlement.

Of particular concern when addressing the question of women’s health is the claim of some experts that, over time, the rates of still-born babies and birth defects, as well as the rates of illness, in this settlement have dramatically increased.<sup>126</sup> There is, however, no recent official report on this matter. Residents appear to be either uninformed or very reluctant to raise the issue with authorities, mainly because they do not want to risk resettlement elsewhere in worse conditions (such as barracks), because at least in Georgwerderring the houses are in good condition.<sup>127</sup>

In a similar case, the “Henkel-Terosonstrasse” Sinti settlement in Heidelberg is located across the street from the Henkel chemical factory. Although both the land and groundwater are widely believed to be contaminated, there is no official information on the impact such potential environmental hazards may have had on health of the residents.<sup>128</sup>

Foreign Roma similarly encounter problems of inadequate housing. For example, Cologne authorities initially carried out a forced resettlement of Roma refugees to the Kalk facility. However, the hazardous conditions at Kalk, the former site of a chemical plant, had posed a serious threat to the health of the inhabitants, including women and children. Soil tests indicated a dangerous concentration of arsenic, lead and other heavy metals.<sup>129</sup> Following a protest campaign by the NGO *Rom e.V.*, the refugees were resettled to a ship where they remained for almost a year in equally inadequate conditions. There were reported accidents of children, including one death. At the time of the visit of the reporter in November 2003, the refugees had been re-housed in refugee hostels.

To date there has been no official inquiry into the possible effects of environmental hazards or inadequate housing conditions on the health of Sinti and Roma communities. Some Sinti and Roma representatives stated that they believe that authorities prefer not to make inquiries into possibly dangerous sites, so as not have to deal with the expensive consequences of possible

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<sup>126</sup> EUMAP roundtable meeting, Hamburg, 8 April 2002.

<sup>127</sup> Visit to the settlement, 16 May 2002.

<sup>128</sup> EUMAP Germany Report, p. 187.

<sup>129</sup> EUMAP Germany Report, pp. 183-184. Test results on file with EUMAP and ERRC.

discoveries.<sup>130</sup> Many Sinti, in particular, expressed concern that in too many instances they continue to be perceived and treated by the housing authorities as a "problematic" group, which perpetuates, *inter alia*, their precarious living conditions.

Even in the absence of possible environmental risks, however, the conditions of many Sinti and Roma settlements appear to be sub-standard. For instance, the Sinti settlement in Bochum, North Rhine Westphalia, consists of several caravans ("Wohnwagen"). Sinti residents told researchers that they are long-term unemployed and that, for some, these caravans have been their permanent homes for the past 15 years. They reportedly live in the caravans due to the lack of any other housing options. Reportedly, authorities have not allocated resources for building normal houses for them, while finding commercial housing was a difficult task due to widespread discrimination.<sup>131</sup> At the time of the visit by researchers, the settlement lacked administrative recognition and the Sinti residents therefore lived permanently under the threat of forced eviction. In addition, infrastructure in the settlement was almost non-existent. There was no adequate heating or facilities for solid waste removal and a source used for drinking water was located precariously close to a public toilet, the only one in the settlement.<sup>132</sup>

The UN Committee on Economic, Social and Cultural Rights has identified seven elements, which must be taken into account when assessing conditions of "adequate housing": habitability, security of tenure, availability of services, materials, facilities and infrastructure and adequacy.<sup>133</sup> Taking into account these factors, it would seem that many Sinti and Roma women in Germany cannot be judged to be living in adequate housing conditions. The health consequences for these women of this situation merit the particular attention of the German authorities.

### **Health issues specific to foreign Romani women in Germany**

The health situation of foreign Roma in Germany warrants particular attention. In addition to the factors that can lead to potential health problems and a lack of effective access to healthcare for Sinti and Roma German citizens, foreign Romani women also face additional problems. Language barriers, for example, can be an important barrier to communication and may also impede access to healthcare.

Similarly, an additional element related to the health of foreign Romani women is the fact that non-citizens from non-EU countries are even more dependent on welfare benefits than Sinti and Roma women who are German or other citizens of other EU countries, due to limited possibilities of employment for foreigners. The German authorities have, however, in a number of cases, reduced benefits to such persons, allegedly in an effort to compel them to leave Germany. However, there are no special measures for pregnant foreign women, so as to guarantee adequate nutrition during pregnancy and lactation.

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<sup>130</sup> Interviews in: Hesse, 22 November 2003; Hamburg, 25 November 2003, and Schleswig-Holstein, 26 November 2003.

<sup>131</sup> Bochum is also the site of an incident in which a landlord denied housing to a Roma family on explicit ethnic grounds, while the Court ruled in his favor, arguing that Roma were "not suitable tenants." Cited in EUMAP Germany Report, p. 181.

<sup>132</sup> Visit to the settlement, 23 November 2003. Also, photographs on file with EUMAP and ERRC.

<sup>133</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 4, The Right to Adequate Housing, Sixth session, 1991, paras. 8(a), 8(b), 8(d) and 8(g). Accessed on the web at <http://www1.umn.edu/humanrts/gencomm/epcomm4.htm> (last accessed on 6 January 2004).

As a result of a potentially inadequate nutrition or lack of effective access to healthcare, foreign Romani women may encounter serious consequences for the health of their newborn infants. For example, a physician who had attended to some 400 foreign Romani children since 1987 reported that at birth many showed signs of problems not generally observed among other groups of children, including dystrophy, anaemia and caries. The physician stated that these health problems could have been caused by, or at least exacerbated by, a lack of effective access to healthcare on the part of many Romani women.<sup>134</sup>

Many foreign Roma women also often suffer depression linked to experiences in their country of origin, in particularly if they have fled ethnic conflict in Bosnia or Kosovo. In fact, Roma mediators working for the Romani NGO *Rom e.V.* told researchers that 80 to 90 percent of foreign Romani women suffer from severe forms of depression.<sup>135</sup> Many have allegedly only been prescribed with painkillers to cope with this condition. Aside from a handful of Romani women mediators, however, there are no known programmes of psychological or psychiatric help for women refugees, many of whom have been victims of abuse, rape or other forms of violence, including gender-specific violence.

Finally, foreign Romani women must also cope with living with the constant fear of expulsion or deportation, which in itself may be a source of stress and depression. Allegedly, some women have even been expelled from Germany while pregnant, with the result that their own health, as well as that of their unborn children, may have been placed at excessive risk, given the stress of such a procedure. There is, however, no reliable data on the number of such expulsions, or information about the health situation of these women before and after their expulsion from Germany.

### **Health education for Sinti and Roma women and girls**

It is difficult to generalise about the level of awareness among Sinti and Roma women about available healthcare institutions and procedures and information relevant to healthcare in general and family planning and healthcare during pregnancy, and in the post-natal period in particular.

The younger generation appears to have more access to healthcare information through school. In the case of middle-aged or older women, illiteracy is often a major barrier to regular access to healthcare, particularly preventive care. Some older Roma also reportedly do not have a sufficient command of the German language to receive adequate healthcare information. According to some persons interviewed in the course of research, women sometimes lack knowledge about the physiological functioning of their bodies. At the same time, topics such as sex and pregnancy, are taboo subjects for discussion in some families. Thus, pregnant women reportedly in some instances are not aware that they are pregnant until a few months into terms of pregnancy. Some pregnant Sinti and Roma women may not be aware of their nutritional needs during pregnancy, or may disregard the importance of taking care of their own health during pregnancy because they are primary care-takers in the family and have other responsibilities to worry about. Reportedly, as a consequence some Roma and Sinti women face complications at birth.<sup>136</sup>

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<sup>134</sup> Letter of a pediatrician in Cologne dated 6 May 2003. On file with EUMAP and ERRC.

<sup>135</sup> Interviews in Cologne, 24 November 2003.

<sup>136</sup> Interviews in North Rhine Westphalia, 24 November 2003; Schleswig-Holstein, 26 November 2003, and Berlin and Brandenburg, 28 and 29 November 2003.

Family planning and sex education are therefore very important elements of health education for Sinti and Roma women, as they enable them to better pursue opportunities for education and employment. However, these are of course areas which must be approached with much sensitivity. For instance, measures such as the *ad hoc* attempts of individual social workers to distribute contraceptives as a means of birth control are often met with suspicion and distrust. Not only may such attempts in certain contexts be perceived as culturally insensitive, but they may also prompt accusations of prejudice.

Instead, a more comprehensive and long-term approach, encompassing confidence-building measures and, importantly, the close involvement of Sinti and Roma women themselves, is much more likely to prove effective in improving the level of health education of this minority group. In some instances Roma and Sinti women mediators have been trained to act as an interface between members of their communities and medical personnel providing healthcare and health education and this type of model could benefit from wider application.