

## Country filches: GERMANY

### Position of civil society involved in the Roma Civil Monitor

#### SUBSTANTIVE POLICY AREAS

##### STRENGTHS/KEY ELEMENTS OF THE MS APPROACH

##### WEAKNESSES/GAPS/RECOMMENDATIONS

#### EDUCATION

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| <ul style="list-style-type: none"> <li>• Since 1990 mediators and school counsellors are trained and placed in schools to facilitate the increase of Sinti and Roma student's performance.</li> <li>• Sinti and Roma organisations have partnered with government agencies to establish very few kindergartens for Roma children from Romania and local Sinti.</li> </ul> | <ul style="list-style-type: none"> <li>• Roma both from other EU member states and from third countries face strong barriers to education such as required documents, language barrier, lack of information or specific support that disadvantaged students need or discrimination.</li> <li>• Children from EU-mobile or third country families, including Roma, are often placed in special schools due to poor language skills, performance or behaviour interpreted as "generally retarded development". Because of direct and structural discrimination, Sinti children are also placed into special schools.</li> <li>• Ratification of the UN Convention on the Rights of Persons with Disabilities has potential to increase inclusive schooling and reduced the placement of students in special schools. Nevertheless, this process is being implemented very slowly and no substantive results can be observed.</li> <li>• The Conference of Ministers of Education (KMK) shall establish a permanent coordination body on education between the state ministries, Sinti and Roma organisations and key stakeholders.</li> </ul> |
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#### EMPLOYMENT

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| <ul style="list-style-type: none"> <li>• ESF-funded programmes targeting migrants, young people and long-term unemployed people and other disadvantaged job-seekers.</li> <li>• There are several local projects to integrate people with non-formally acquired skills, especially refugees and migrants, into the labour market.</li> <li>• There are several local dedicated programmes in deprived areas especially for youth.</li> </ul> | <ul style="list-style-type: none"> <li>• Public employment services are generally tailored to typical mainstream job-seekers (who are generally better skilled), rather than persons belonging to vulnerable groups including disadvantaged Sinti and Roma.</li> <li>• There are no safeguards to ensure that the available ESF programmes reach disadvantaged Sinti and Roma, and no monitoring of how Sinti and Roma access these.</li> <li>• There is a need to increase public employment services' capacity in basic skills training and mentoring and to strengthen the links between existing public and NGO-provided employment services.</li> <li>• Measures to improve disadvantaged Roma's access to job quality to escape the trap of low-paid precarious jobs and of labour trafficking are needed. Language trainings for EU-mobile citizens or third-country nationals are needed.</li> <li>• There is no significant governmental effort to directly monitor or address employers' unequal treatment toward Roma, while there are several NGO-led anti-discrimination initiatives.</li> </ul> |
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#### HEALTHCARE

- Formally, health insurance companies are obliged to accept people without insurance coverage, including legally resident Roma from EU or third countries.
- In North Rhine-Westphalia a three-year model project of five clearing centres was launched with a total of around 2.5 million EUR since mid-2016. Their mission is to clarify conditions for individual access to a health insurance. Clients are German citizens, other EU citizens, asylum seekers and third country nationals with secure or without status. Many of the clients are Roma. The model has been adopted by a few other cities for a currently limited period of time.
- The new law that limits access of non-citizens to social benefits (*Leistungsausschlussgesetz*), which came into force at the beginning of 2017, and severely restricts access to the healthcare.
- In practice undocumented migrants and a large number of EU citizens without health insurance (including Roma from Bulgaria, Romania) have difficulties to access health care, face full costs of medicines or they cannot access healthcare at all.
- As a temporary solution due to the current restrictions to the access to comprehensive statutory health insurance/coverage, the example of North Rhine-Westphalia clearing centres have proved helpful and could be emulated elsewhere.
- The restrictive 2017 legislation which has adverse effects upon many migrants in Germany including Roma should be reconsidered to improve their access to healthcare.

### HOUSING

- Support for access to housing for Sinti and Roma varies widely according to the policies of individual states and cities in terms of their overall housing policies, their recognition of a need of specific protection of Sinti and Roma.
- Some municipalities provide support to housing within local/regional housing projects; these include, for example, the housing access strategy of the city of Dortmund, which carries out housing brokerage for this target group in cooperation with landlords.
- In principle, there is access to both social housing and housing subsidies regardless of nationality.
- The “*Soziale Stadt*” programme, which has been running since 1999 and which uses federal, state and EU funds (ERDF and ESF), supported in few cases urban development of areas with a German Sinti and Roma population (despite the programme does not specifically target Roma).
- Initiatives supporting the housing situation of Sinti and Roma, and of citizens from Romania and Bulgaria in general depend on specific local/regional commitment and are exceptions.
- Rapidly decreasing social housing stocks and weak policies for affordable housing hit all groups with weak position on the housing market, including disadvantaged Sinti and Roma.
- New coming non-German Roma do not have access to housing allowances in the first 5 years, if they are not officially employed.
- In the field of housing, the Federal anti-discrimination law allows for an exception for unequal treatment in the rental of housing, if it serves “the creation and preservation of socially stable resident structures and balanced settlement structures and balanced economic, social and cultural conditions”. Under this pretext, homeowners often can refuse to accept Roma or other migrant or ethnic minority tenants.

## HORIZONTAL MEASURES

### STRENGTHS/KEY ELEMENTS OF THE MS APPROACH

### WEAKNESSES/GAPS/RECOMMENDATIONS

#### ANTI-DISCRIMINATION

- The General Equal Treatment Act (AGG) was adopted in 2006 and represents a full transposition of the EU Racial Equality Directive into the German law.
- In 2019, an administration court in Cologne ruled in favour of young Roma because he was placed and kept in special school against his will.
- The AGG does not provide effective protection against discrimination in education and in access to housing.
- Associations cannot file *actio popularis* and are only empowered to provide counsel to victims in court cases but not to file collective actions. Recommendations from many quarters have called to make it possible to take collective action in discrimination cases.
- Inadequate safeguards to prevent ethnic profiling, use of excessive force and discriminatory behaviour by police towards disadvantaged Roma.

- The right of asylum has been considerably limited for Roma since the countries of the Western Balkans have officially been classified as “safe countries of origin”; strong antigypsyism in the countries of origin is not a reason for providing asylum.

### FIGHTING ANTIGYPSYISM

- The phenomenon of antigypsyism is recognised by the state as a specific form of racism and the term is used in official communication. The federal government has put the fight against antigypsyism on the agenda of several national plans and strategies.
- The federal programme "Live Democracy!" has funded several projects aiming at fostering participation of Sinti and Roma. The Federal Agency for Civic Education (FACE) has taken various measures to deal with the history of Sinti and Roma in Germany, their persecution and current discrimination.
- Following guidelines set out by the Ministry of the Interior, since 2017, antigypsyist criminal offenses are recorded separately in Political Crime Statistics.
- The federal and state governments have set up the "jugendschutz.net" competence centre for youth protection on the Internet, which for some years now also documents cases of online antigypsyist hate speech.
- Civil society reports that racist and especially antigypsyist motives have been ignored by police investigations, and racial profiling remains a serious problem in police authorities. Police authorities have used antigypsyist terms in press releases, public appearances, when alerting the public, or calling for assistance in searches.
- The prosecution of antigypsyist hate speech in election campaigns has not been carried through by the German judiciary so far, despite it is punishable as “incitement” under the German Penal Code.
- There is a discrepancy between hate crime reported by CSOs and the police statistics; this discrepancy should be addressed by strengthening the police’s monitoring.
- There is no official monitoring system for antigypsyist offenses and (online) hate speech. Offenses falling under the “antigypsyist” category have only been recorded since 2017 and monitoring structures have not yet been sufficiently established.

### ADDRESSING SPECIFIC NEEDS OF MOST VULNERABLE GROUPS AMONG ROMA

- Programmes of the Ministry for Employment and Social Affairs aimed at supporting disadvantaged youth without school leaving certificate in accessing employment or vocational training are available to disadvantaged Roma and Sinti young people.
- The federal foundation “Early Assistance” provides the federal states with funding with the aim of establishing links between health care services and families, and to train family midwives who work with migrant families.
- Roma/Sinti women are not targeted by large scale/national measures. There are only sporadic/local initiatives targeting Roma and Sinti women (in the field of health care, first of all).
- Vocational training and employment programmes reach only very few young Roma and Sinti; counselling services can only support the application process.
- Although children from the age of one have a right to access day care facilities, the number of available day care places is insufficient; this phenomenon severely affects immigrant disadvantaged Roma families.

## STRUCTURAL MEASURES

### STRENGTHS/KEY ELEMENTS OF THE MS APPROACH

### WEAKNESSES/GAPS/RECOMMENDATIONS

### STAKEHOLDER INVOLVEMENT AT THE CENTRAL LEVEL

- Federal Parliament has structures that regularly debate issues concerning Sinti and Roma with NGOs representing these groups.
- In 2015, an Advisory Committee for Questions of German Sinti and Roma was established at the Federal Ministry of the Interior.
- The federal government promotes a mainstream approach and does not develop social inclusion policies targeting specifically disadvantaged Sinti and Roma; instead the policies in place have all sorts of target groups defined on social criteria.
- The NRCP has no mandate to initiate or coordinate programmes with the federal states or local administrations (as the federal government claims that this would violate the principle of subsidiarity and constitutional autonomy of states in certain policy fields) and rather fulfils communication functions in relation to the EC, governmental agencies and civil society; the coordinating role of the NRCP should be strengthened.

- Ministries at regional (Länder) level are responsible for programmes aiming at promoting social integration of disadvantaged Sinti and Roma; several regional states have concluded agreements with Sinti and Roma organisations for a better safeguarding of their minority rights.

### CIVIL PARTICIPATION AND EMPOWERMENT

- At federal level, programmes have been set up in consultation with Sinti and Roma organisations to promote the equal treatment and empowerment of disadvantaged Sinti and Roma, and to fight antigypsyism.
- Sinti and Roma organisations participate in civil society networks and consultation procedures at all levels.
- The Central Council is advocating for a permanent working group on Sinti and Roma at the Conference of Ministers of Education and Culture and for Sinti and Roma participation in broadcasting councils and state media authorities.
- In some cities, Sinti and Roma organisations expressed criticism on lack of involvement in decision processes, on the process of distribution of funds and the ethnicization of certain fields of intervention as health and education.

### MAINSTREAMING OF ROMA INCLUSION AT THE LOCAL LEVEL

- Municipalities have large autonomy in development of social integration policies and policies aimed at inclusion of disadvantaged Sinti and Roma and receive only restricted support from the federal and state governments. Therefore, local Sinti/Roma inclusion policies vary greatly according to the local governments' commitment and budgetary situation.
- The biggest efforts in policy coordination with cities have been in the field of immigration from South-Eastern Europe.
- There are few municipalities and city-states where the disadvantaged Sinti and Roma population needs are addressed in a comprehensive manner; such cases include Berlin, Munich, Dortmund and several others. Some municipalities established permanent administrative structures and permanent funding from local resources of services supporting of inclusion of disadvantaged Sinti, Roma and immigrants.
- Some larger cities have developed their local inclusion policies in reaction to challenges brought by high proportion of newly arriving socially disadvantaged citizens from South-Eastern Europe – both Roma and non-Roma; elsewhere the immigration is treated as a policing issue.

### DATA COLLECTION

- Because of the historical experience with the Nazi persecution of minorities, no data on ethnic origin is collected in Germany; this prohibition includes data on Roma and Sinti; most of the civil society supports this approach.
- There is no information on participation of Roma and Sinti or the impact of policies and programmes aimed at promotion of equal treatment and social inclusion, nor is it clear if they have prompted any change in the overall social climate that would enhance the participation of Sinti and Roma; evaluations of mainstream and targeted actions' impact on Sinti and Roma should be conducted while respecting the legal ban of ethnic data.

### FUNDING FOR CIVIL SOCIETY

- The federal and regional associations of German Sinti and Roma are in regular contact with the federal and state governments and receive regular funding from the federal government and from the regional governments.
- The Central Council has concluded binding contractual agreements between state governments and German Sinti and Roma organisations establishing states' implementation obligations, including funding, under the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages.
- Funding application procedures are as rule too complex for grassroots organisations so that they are often excluded from funding opportunities.
- Institutional and long-term funding opportunities for migrants and minority organisations should be strengthened.



- FEAD provide funding to civil society organisations' activities aimed at helping immigrants from EU, Roma included, to access services, education, and avoid homelessness.
- The federal programme *Live Democracy!*, the Foundation Remembrance, Responsibility and Future (EVZ), the Federal Office for Migration and Refugees (BAMF) and regional governments are funding projects aiming to promote participation of Sinti and Roma.
- German institutions finance also specific initiatives such as the *RomArchive* – the Digital Archive of the Roma (funded by the German Federal Cultural Foundation) or European Roma Institute for Arts and Culture (funding from the Ministry of Foreign Affairs).

#### EXAMPLE OF PROMISING PRACTICE

In Spring 2019, the German government decided to establish an Independent Expert Commission on Antigypsyism. The expert commission will investigate the diverse causes, manifestations and effects of antigypsyism in politics and society; develop strategies to combat antigypsyism and make policy proposals and recommendations to the parliament and government. Furthermore, it will commission studies that cover all socio-political spheres of life in which antigypsyism manifests itself. In order to already take concrete steps against the historically and structurally deeply embedded antigypsyism, the National Action Plan against Racism defines combating antigypsyism as one of the key priority areas, and the Family and Youth Ministry funds 5-years lasting project to combat antigypsyism with several million Euro in the program "Live Democracy!", several projects are run as empowerment projects by Sinti and Roma organizations.

#### MOST IMPORTANT PRIORITIES TO BE ADDRESSED

- Increase the fight against antigypsyism and provide long-term funding for preventive measures.
- Establish a monitoring structure for all antigypsyist incidents, even where they do not constitute a hate crime.
- Strengthen the protection against discrimination by extending the anti-discrimination law to all relevant areas, improve victims' access to assistance and introduce instruments for collection action and victims' representation in judiciary.
- Support cultural and political life of Sinti and Roma.
- Build a participatory process to develop a post-2020 German Roma strategy.