

OSCE Policy on Roma and Sinti Must Be Changed

As early as 1975, in the Helsinki Final Act, the participating States of the Conference on Security and Co-operation in Europe (CSCE) identified the protection of "national minorities" as an indispensable requirement for a democratic state under the rule of law. In the "Charter of Paris" of 21 November 1990, the Heads of State or Government of the CSCE stated: "Determined to foster the rich contribution of national minorities to the life of our societies, we undertake further to improve their situation (...) We further acknowledge that the rights of persons belonging to national minorities, must be fully respected as part of universal human rights."¹

A Critical Comment on the OSCE Council of Ministers

There has been no willingness up to now on the part of the various participating States to recognize that Roma and Sinti essentially enjoy the same rights as other national minorities. Nor are they treated as such by OSCE bodies and other international organizations. At all of the regular review conferences and meetings on the human dimension a formal distinction has been made between matters concerning "national minorities" and "Roma and Sinti".

Based on the traditional prejudices and clichés about "travelling gypsies", the Roma and Sinti continue to be classified as alleged "marginal social groups" while Roma and Sinti issues are treated as "social problems".

With regard to the policy of the individual European countries towards the Roma and Sinti minorities, who have lived in these countries since time immemorial, the Ministerial Council of the OSCE recently - on 3 December 1998 - drew up a "Decision on Enhancement of the OSCE's Operational Capacities Regarding Roma and Sinti Issues".² The decision contains a blanket description of the entire Roma and Sinti population in Europe as being an "integration problem". The Central Council of German Sinti and Roma criticized this decision at the supplementary OSCE human dimension meeting on 6 September 1999 in Vienna as disparaging and exclusionary towards the Roma and Sinti who in their various homelands have always lived as integrated national minorities. In its decision, the Ministerial Council calls on

1 Charter of Paris for a New Europe, Paris, 21 November 1990, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 537-566, here: p. 542.

2 Seventh Meeting of the OSCE Ministerial Council, Oslo, 2-3 December 1998, in the present volume, pp. 455-549, here: pp. 464-465.

OSCE participating States "to develop (...) common approaches designed to facilitate full integration of Roma and Sinti communities into the societies they live in".³ There is no other minority in Europe which the OSCE Ministerial Council would characterize in this way, referring to them merely as "communities" rather than as national minorities.

In place of this exclusionary policy the Central Council calls for an OSCE decision to recognize and realize minority rights for the Roma and Sinti such as are contained in two documents of the Council of Europe, namely the "Framework Convention for the Protection of National Minorities" and the "European Charter for Regional or Minority Languages".

Work of the "Office for Democratic Institutions and Human Rights" (ODIHR) in Warsaw

Following the Budapest Summit Meeting of the Heads of State or Government in 1994 the so-called "Contact Point for Roma and Sinti Issues" was established at the "Office for Democratic Institutions and Human Rights" in Warsaw, but this did not lead to the change in the former OSCE policy towards the Roma and Sinti that the Central Council demanded. Apart from arranging seminars, the work of the "Contact Point" consists mainly in developing a data bank containing addresses and collecting publications in all their diversity. That has of course not contributed to a changed attitude towards the Roma and Sinti.

In 1994, at the first meeting where the "Contact Point" was established, the ODIHR asked the Central Council of German Sinti and Roma to write an article for the "OSCE ODIHR Bulletin", which appeared in the spring 1995 edition under the title "Sinti and Roma as National Minorities in the Countries of Europe".⁴ In this article the Central Council calls upon the ODIHR to recommend to OSCE participating States that they formally recognize their Roma and Sinti minorities as national minorities, like other minorities, under the terms of the "Framework Convention for the Protection of National Minorities" and that their minority language is protected in accordance with the legally binding Part III of the "European Charter for Regional or Minority Languages".

Rather than persuading the ODIHR to adopt their recommendations evidently these statements were a cause for annoyance. For that reason, the ODIHR gave precedence to a paper presumably meant to present the views of the OSCE by publishing it ahead of the Central Council article.⁵ After making abstruse analyses of the Roma and Sinti, the argument was made - clearly in

3 Ibid. p. 465.

4 Romani Rose, Sinti and Roma as National Minorities in the Countries of Europe, in: OSCE ODIHR Bulletin 2/1995, pp. 41-45.

5 Nicolae Gheorghe/Thomas Acton, Dealing with Multiculturalism: Minority, Ethnic, National and Human Rights, in: *ibid.* pp. 30-40.

ignorance of the international agreements on the protection of minorities - that the concept of "national minority" which "Stalin (1942) codified for Communist countries" was now being "used much more randomly in the West".

This ODIHR attitude - particularly loud at the beginning of the nineties - is hardly surprising. The ODIHR works closely with offices of the Council of Europe in Strasbourg which pursued a highly prejudiced policy towards "gypsies" even in the seventies and eighties and repeatedly made corresponding recommendations and resolutions. In resolution 249/1993 of 18 March 1993, for example, the Council of Europe wrote in the jargon of colonial politics about "gypsies in Europe": "The Standing Conference of Local and Regional Authorities of Europe calls on the Roma/Gypsies themselves to ensure that regulations of countries where they live are observed." It is hard to imagine a clearer social exclusion or stigmatization by European organizations. Imagine public appeals of this kind from the Council of Europe to the Jewish communities in Europe asking them to "observe the regulations of countries where they live".

The report of that time by the CSCE High Commissioner on National Minorities, Max van der Stoep, on the Roma contained similar reflections. In his official report at the meeting of the Committee of Senior Officials on 21 September 1993 he stated in sweeping terms that to the "Roma in the CSCE region" "alternative resources may become increasingly attractive, including delinquency, begging, prostitution and sophisticated use of available social resources", than their regular sources of income.

At the time this kind of racist denigration and defamation of millions of people in Europe was accepted by everyone unconditionally - except the Central Council of German Sinti and Roma.

Demands for a Different OSCE Policy

It must be the responsibility and obligation of the OSCE - as well as the Council of Europe and the European Union - to ensure in an effective way that the fundamental rights protecting the Roma and Sinti minorities are observed.

The "Framework Convention for the Protection of National Minorities"⁶ is a fundamental convention through which the European countries undertake a binding obligation "to protect within their respective territories the existence of national minorities". The Preamble of the Framework Convention refers expressly to the CSCE Copenhagen Document of 29 June 1990. However, up to now, it has not been applied acceptably for the Roma and Sinti and there is no country in which it is employed adequately.

6 Council of Europe, Framework Convention for the Protection of National Minorities, Strasbourg, 1 November 1995, European Treaty Series No. 157.

The provisions of the Framework Convention include the most important rights and freedoms which "(p)ersons belonging to national minorities may exercise (...) and enjoy (...) individually as well as in community with others". When they are ratified in the individual member States they become part of domestic law and can be enforced. They contain a catalogue of anti-discrimination rules "to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law". Article 4, Paragraph 1 states: "In this respect, any discrimination based on belonging to a national minority shall be prohibited."

Furthermore, the Framework Convention provides for an obligation on the part of governments to take the necessary steps "to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority". This includes minorities' involvement in the political decision-making processes to the extent that these affect their affairs. In addition there is a provision for the participation of minority representatives in state bodies dealing with education, research and the media (e.g. radio and television councils).

The Committee of Ministers of the Council of Europe established a committee to monitor the Framework Convention. It asks for regular reports from the States and hears complaints from national minorities affected.

The Framework Convention guarantees that every person belonging to a national minority has the right freely to choose whether to be treated or not to be treated as such (Article 3, Paragraph 1). This regulation prohibits the kind of special registration of Roma and Sinti still frequently performed by the Bavarian police.

The Central Council of German Sinti and Roma expects the Ministerial Council of the OSCE to call on all participating States to sign the Framework Convention.

Applying the Minority Language Charter

The "European Charter for Regional or Minority Languages"⁷ also refers in its Preamble to the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE in 1990 and, in addition, to the 1975 Helsinki Final Act of the CSCE.

The Charter requires that for each recognized minority language every State party to the treaty "undertakes to apply a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter" and that this be recorded for the international community in the ratification document (Article 2, Paragraph 2).

7 Council of Europe, European Charter for Regional or Minority Languages, Strasbourg, 5 November 1992, European Treaty Series No. 148.

The objective of the Charter, taking into account the required application of these regulations for the recognition of a minority language, is to guarantee "the protection and promotion of regional or minority languages (...) within the framework of national sovereignty".

The Romanes language of the German Roma and Sinti, for example, has its own language area in the territory of the Federal Republic of Germany. It has been in use for 600 years and along with German is spoken by the Roma and Sinti from their childhood on. As a minority language, the German Romanes is to be distinguished from the language of the Roma who live in Spain or France and also from the language of the Roma minorities living in Hungary and Romania. The protection of the Charter is of particular importance for Romanes in view of the fact that the Roma and Sinti, under the racist policies of the National Socialists, have already been excluded once from society as a so-called "non-European foreign race" and they as well as their culture and language were to be completely destroyed.

The "Measures to promote the use of regional or minority languages in public life" that are listed in Part III of the Charter provide a comprehensive catalogue of protective and promotional measures. Geared towards the individual situations in the member States of the Council of Europe, the catalogue extends from basic provisions to protect persons belonging to minorities and their language in public, legal and political life to detailed administrative procedures, arrangements and the texts of local sign posts in particular regions, insofar as this is appropriate. The various measures in the fields of education, culture and the media are arranged such that - depending on varying circumstances - they can only be partially assumed by member States. In accordance with the underlying idea of the Charter and for effective ratification, adoption or approval, at least 35 paragraphs or sub-paragraphs selected from the provisions of Part III of the Charter must be applied by member States to the minority languages denominated at the time of ratification, adoption or approval. Of these 35 paragraphs and sub-paragraphs, at least three must be from Articles 8 (education) and 12 (cultural activities and facilities) and one each from Articles 9 (judicial authorities), 10 (administrative authorities and public service), 11 (media) and 13 (economic and social life) - (Article 2, Paragraph 2).

The measures are intended to make it possible for members of minorities to retain their language within the family and pass it on to their children. Beyond that, inclusion in the Charter makes the minority and its language politically visible and manifest in a binding way. The inclusion of at least 35 protective provisions for Romanes in the ratification document would work against the exclusionary cliché of the "homeless gypsies".

The Central Council of German Sinti and Roma expects the OSCE Ministerial Council to make a recommendation along these lines with regard to the implementation of this fundamental convention on the protection of minorities.

The Central Council is opposed to any kind of special status, special settlement, or special institutions for the Roma and Sinti which in reality would lead to exclusion because it would - fifty years after the National Socialist genocide - be tantamount to the creation of second class minority rights for the Roma and Sinti.

The Central Council is critical of the recommendations of the Council of Europe, which the OSCE has expressly taken over in a variety of papers. Recommendation 1203/1993 of the Council of Europe uses the formulation "Gypsies" are "a minority that does not fit in the definitions of national or linguistic minorities". The consequence of this is that member States refuse to offer the protection to the Roma and Sinti minorities they would receive under the appropriate conventions. Nor is it any longer acceptable when the Roma and Sinti minorities are described in wholesale terms as "migrants" and "nomads". The classification of the minority languages of the Roma and Sinti into so-called "non-territorial languages" is equally intolerable. This is done to exclude them entirely from Part III of the "European Charter for Regional or Minority Languages" which is legally binding.

Political and Financial Reinforcement of Democratic Roma and Sinti Organizations

In working together with the Council of Europe and the European Union, the OSCE must use its resources to support the organizations of the Roma and Sinti in the various countries where they live so that they will be in a position to carry out their initiatives against racism and discrimination. Support from the funds of international organizations should be a part of this in cases where the individual countries are not yet in a position to provide their own support.

The ethnic conflicts that are escalating dangerously at the present time in a number of countries have led to a dramatic weakening of state power. Historical experience has shown that it is the minorities that suffer first when the authority of the state and public morality disintegrate while the willingness to use force grows. The Roma and Sinti minorities are old, established national minorities in the various countries where they live. The attitude towards life of the 70,000 German Roma and Sinti, for example, does not differ from that of the majority of Germans regarding such matters as housing, professions, education, religion, etc. They pursue their trades as businessmen, artisans, factory workers, employees, academics, public officials and artists from their places of residence.

In many countries, however, a large number of Roma are exposed to massive discrimination and, in a situation that is in any event characterized by terrible deprivation, suffer more than other people by being excluded and disadvantaged.

Refugee families who leave their country because of persecution and racist violence - as is happening now in Kosovo - must be given appropriate assistance, not least by the OSCE. The same holds true for the comparatively small number of people who have long been stateless. This is the only realistic policy and the only one that has a perspective.

The Situation of the Roma Minorities in a Number of OSCE Countries

It is with the greatest concern that the Central Council of German Sinti and Roma regard the situation of the Roma minority in Kosovo. Since June of 1999 there has been a proliferation of reports on murders, acts of violence, plundering and the burning of houses belonging to Roma families in Kosovo. At the OSCE meeting on 6 September 1999 in Vienna, the Central Council therefore called for a formal decision by the Heads of State or Government of OSCE participating States, at their Summit Meeting in Istanbul in November 1999, to provide protection and uphold the minority rights of the Roma in Kosovo.

Despite the presence of the KFOR troops, thousands of Roma families have flown from their home villages. With increasing frequency, even children, women and old people are becoming victims of torture and systematic, lawless violence. German members of KFOR have said these events can certainly not be viewed as "acts of vengeance". The Central Council expressly rejects the fraudulent justification of Albanian nationalists that these acts of violence are no more than "retaliatory measures".

As they begin to build a system of administration and law in Kosovo, the OSCE and the United Nations must from the start ensure that the minority rights of the approximately 150,000 Roma who live in this country are acknowledged. It is impermissible that there should be systematic expulsion from all parts of the country and that Kosovo should be divided into Albanian and Serbian segments while the Roma and other minorities lose their rights.

German Foreign Minister Fischer wrote to the Central Council on 24 June 1999 that "great importance has been attached to the protection of the rights of national minorities", as reflected in the Rambouillet Agreement and "would constitute a basis for the future peace settlement in Kosovo". The representative of the UN High Commissioner for Refugees in Germany, Jean-Noel Wetterwald, expressed, in a report of 7 July 1999 which the Central Council had requested, "great concern" over the "expulsion of the Roma from their home villages and cities" in Kosovo.

As a consequence the Central Council, on 9 July 1999, sent a public appeal to the Interior Ministers of the German states asking them not to deport Roma who had come from Kosovo. Roma from Kosovo have been living as refugees in other European countries as well.

There continues to be widespread racism against the Roma and Sinti in OSCE States, both induced or tolerated by governments, and there are repeated violent crimes by right-wing radicals against individual members of the Roma minorities.

During the summer of 1996 the Czech city of Kladno prohibited "Roma children under 15 years of age" from using the swimming pools with the racist justification that Roma children must be regarded as disease carriers. The Roma families in Kladno filed complaint but the county court upheld the racist prohibition in February 1997. Another court in the Czech Republic in August 1999 acquitted two young people because their plan to throw Roma children out of the window of a moving train showed "no identifiable racist motivation".

Until 1998 the Czech government rejected any formal acceptance of the Roma minority within the "Framework Convention for the Protection of National Minorities". This discriminatory policy and practice in the Czech Republic is still being used by radical right-wing thugs as a licence to commit acts of violence against Roma. In February 1998 radical right-wing skinheads in the Czech Republic threw a 26 year old Roma woman in the Elbe where she drowned in ice-cold water. In January and February 1998 unknown persons in Ostrava and in a village in North Moravia threw fire bombs into the apartments of Czech Roma families, some of whom were injured. In July 1997 a senator of the Czech governing party made a public appeal calling for the termination of rental contracts with Roma families in Prague. In July the Commission of the European Union considered it a "problem" that the Czech Republic was not adequately guaranteeing human rights and minority protection for the Roma of this country.

At the same time, skinheads attacked the Jewish senior Rabbi in the Slovakian city of Bratislava, seriously injuring him and shouting "Jews get out". Skinheads have also made repeated attacks against the Slovakian Roma minority. In December 1996 a Roma was murdered on his way home for Christmas vacation and another was seriously injured. The situation of the surviving victims of the flood catastrophe in eastern Slovakia in July 1998 provides a horrible example of discrimination. Although the Roma families lost their property and suffered 55 deaths, most of whom were children, they were disqualified from any public assistance. For them, greater involvement on the part of the community of OSCE States as well as the EU is necessary.

The Central Council is also familiar with the discrimination suffered by the Roma in Bulgaria; they are acutely impoverished in that country. The Bulgarian constitution prohibits the Roma minority from founding a political party of their own and in doing so violates the principles of the OSCE as well as the "Framework Convention for the Protection of National Minorities".

Murderous and violent attacks have also been carried out against members of the Roma minorities in Belgrade and in a number of Italian cities, as well as in Germany.

Stigmatization in the Press and the Media

One important reason for this public mood of violence and prejudice against the Roma and Sinti is that public authorities pass on racist and stigmatizing reports to the press, not only in Western European countries such as Germany, France, Spain and Italy but also in Eastern European ones such as Bulgaria and Romania. It is the common practice of many authorities to publicly identify minority groups when reporting on accused individuals in the press. This was a significant element in Nazi racial propaganda against Jews, as well as Roma and Sinti, and foments prejudice against the entire Roma and Sinti population. For that reason the Central Council of German Sinti and Roma demands that the OSCE, the German government and also the German states, prohibit discrimination in the laws governing civil servants and the press. Considering the Holocaust against the Roma and Sinti and the ensuing special responsibility for the Roma and Sinti minority, Germany should set a positive example to other European States by banning discrimination legally. Former Federal President Roman Herzog, speaking on the Holocaust against the Roma and Sinti on 16 March 1997 at the opening of the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg, said: "The genocide against the Roma and Sinti was carried out with the same motive of racial madness, the same intention and the same will to deliberate and final destruction, as that against the Jews. Throughout the entire area under National Socialist influence they were systematically murdered, family by family, from small children to the elderly."

The Development of a Minority Policy in Germany

It was only after massive public and international protests by the Central Council against the original refusal of the federal government and the governments of the German states to accord the Roma and Sinti the same recognition granted to the Sorb, Frisian and Danish minorities, that the governments changed their political decision. On 25 February 1995 the Federal Ministry of the Interior issued a public statement of the Federal Republic of Germany on the forthcoming signing of the "Framework Convention for the Protection of National Minorities" at the Council of Europe. Within the framework of this agreement and with the approval of all of the states, the Frisians, the Danes, the Sorbs and the German Roma and Sinti are acknowledged as national minorities. With its ratification in February 1998 the German Parliament, for the first time, achieved this recognition through law. However, the ratification law for the Minority Language Charter initially provided guaranteed protection only for the languages of the Danish, Sorb and Frisian minorities and the lower German dialect, but not for the Romanes of the German Roma and Sinti. The federal government and the German

states had not been prepared up to that time to accept the minimum 35 protective provisions necessary for the recognition of German Romanes required by the Charter. It was not until the cabinet decision of the state government of Hessen, initiated by the then Minister-President Hans Eichel on 14 July 1998, that the Romanes of the Roma and Sinti living on the territory of the state of Hessen was recognized, protected and promoted by acceptance of the requisite number of protective provisions. The implementation of the Minority Language Charter throughout Germany by means of a simple addition to its ratification law by the *Bundestag* (lower house of German Parliament) and *Bundesrat* (upper house of German Parliament) has still not been made because the Interior Ministry has up to now refused to introduce a corresponding bill to the Cabinet and then the *Bundestag*. The former spokesman of the Hessian state government, Klaus-Peter Schmidt-Deguelle, justified the Hessian initiative at a joint press conference with the Central Council of German Sinti and Roma on 14 July 1998 on the grounds that as a result of the Holocaust the preservation and development of the German Roma and Sinti language had suffered immensely.

Since 1982 the German government has financed the office of the Central Council of German Sinti and Roma in Heidelberg which comprises a total of five employees. On 16 March 1997 the then President of Germany, Roman Herzog, opened the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg with a permanent exhibition on the Holocaust against the Roma and Sinti. This Centre is also supported by the German federal government and the government of the state of Baden-Württemberg.

Despite these fundamental steps towards political recognition and support, significant forms of discrimination against the minority continue to exist. The Central Council of German Sinti and Roma is opposed to any kind of special registration in the data files of the police and other authorities. This practice of special registration is being continued, in particular, by the Bavarian police authorities. Roma and Sinti are specially identified by the shorthand expression "type of person - Roma and Sinti" (formerly "Gypsy type"). For a long time the Bavarian Commissioner for protection of data did nothing against this practice, arguing that registration was done "only on the basis of the outward appearance" of people.

In April 1999 the International Artists against Racism and the Central Council of German Sinti and Roma, along with a number of personalities such as Simon Wiesenthal, Ignatz Bubis, Gregory Peck, Tim Robbins, Armin Mueller-Stahl, Vanessa Redgrave, Senta Berger, Hannelore Elsner and Siegfried Lenz, published an international appeal to the Minister-President of Bavaria, Edmund Stoiber, encouraging the abolishment of this special registration of Roma and Sinti in police records in the New York Times and the German newspaper Die Welt. In July 1998 the Central Council filed a constitutional complaint and taxpayer suit with the Bavarian Constitutional Court calling for the elimination of registration practices based on traditional clichés and

stereotypes about an alleged "Roma/Sinti Type" or "Gypsy Type" and demanded that all data be destroyed.

In the meantime the Bavarian Commissioner for the protection of data, in his report of 16 December 1998, confirmed the criticism of the Central Council - namely that Roma and Sinti, without cause or legal reason, are generally registered in Bavaria and that even the licence plate numbers of their cars and other personal data are included. According to reports, the police justify these practices as being "preventive crime fighting" because Roma and Sinti "could represent a public danger".

At the supplementary human dimension meeting on 6 September 1999 in Vienna the Central Council called on the OSCE Ministerial Council for action saying that just as the community of states after 1945 had prevented such defamations and registrations of "Jewish type", this would now have to be done in connection with the continuation of these Bavarian registration practices.

The Central Council of German Sinti and Roma welcomed it when the OSCE High Commissioner on National Minorities, Max van der Stoep, made a proposal to this OSCE meeting in Vienna that the OSCE States hold a special conference to deal with existing police practices involving special registration of Roma and Sinti - practices which exist in other European countries as well. Furthermore, they welcome proposals, which have also been taken up in OSCE bodies, for laws against the kind of discrimination contained in the stigmatizing description of accused persons like "Roma", "Sinti", "Gypsy" and other synonyms used in reporting by public authorities and the media. And it is not only the Central Council of German Sinti and Roma that has regularly supported such a prohibition - at OSCE and other meetings - but a similar proposal was made by the US delegation to the OSCE in a statement on 12 November 1996 on the occasion of the OSCE review conference in Warsaw. In it the Chairman of the US Commission for Security and Cooperation in Europe, Ambassador Christopher Smith, said: "Guilt by association has no place in objective journalism. This kind of racist stereotyping must be challenged head on."

This ought to persuade even the bodies of the Council of Europe, which in their misguided racism have looked for "statistics" to use in supposed "scientific studies" of a presumed "gypsy crime rates", to change their policies.