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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF SPAIN  
ON THE FOURTH OPINION OF THE ADVISORY COMMITTEE  
ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION  
FOR THE PROTECTION OF NATIONAL MINORITIES  
BY SPAIN**

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(received on 12 June)

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## **COMMENTS OF THE GOVERNMENT OF SPAIN ON THE FOURTH OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES BY SPAIN**

The following comments are made regarding the fourth opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, based on the Fourth Report from Spain to the Council of Europe and on the visit to Spain of the Advisory Committee on July 2014.

This report has been prepared by the General Directorate of Services for Family and Childhood (Ministry of Health, Social Services and Equality), with the collaboration of the Sub-Directorate General of Equal Opportunities (Institute for Women and Equal Opportunities), the Ministry of Education, Culture and Sports, the Spanish Observatory on Racism and Xenophobia (OBERAXE), the Secretary of State for Employment (Ministry of Employment and Social Security) and the Ombudsperson.

Spain appreciates the praise by the Advisory Committee of the policies that are being implemented by the different levels of Spanish Administration, as well as the acknowledgment of the progress experienced by Roma in key areas of social inclusion, such as education, health, employment and housing, in spite of the effects of the economic crisis, and the existing gap with the situation of the majority of the population.

As for the content of the fourth Opinion, Spain would like to add the following additional information and/or clarifications:

### **EXECUTIVE SUMMARY**

With regard to the atmosphere of tolerance in Spain, and particularly to the existence of prejudice and intolerance expressed in Internet and the media, the following points should be noted:

The Secretary General of Immigration and Emigration promotes the preparation of surveys and reports to disseminate knowledge about the situation of racism, racial discrimination, xenophobia and intolerance in Spain. In this sense, it is worth mentioning the Annual Reports 2008, 2009, 2010, 2011, 2012 and 2013 on the Evolution of Racism, Xenophobia and related intolerance in



Spain by the Spanish Observatory on Racism and Xenophobia (OBERAXE), that analyze the surveys carried out by the Center for Sociological Research (CIS) "*Attitudes towards immigration*".

These reports are an essential tool both to describe the evolution of the Spanish society, its perceptions and attitudes towards immigration and to guide public policies in the field of integration of immigrants and the fight against racism, racial discrimination, xenophobia and intolerance. Through the analysis of the data contained in these reports it is possible to improve the indicators used for measuring racism and xenophobia in Spain and in comparison with EU countries as well as to adopt of measures aimed at the integration of immigrants in Spain.

The forthcoming report based on the survey for 2014 shows that Spanish society is evolving towards a higher level of tolerance and acceptance of immigration. It is possible to detect as well the positive effect of years of coexistence, which has resulted in a blurring of unsubstantiated prejudices and in advances in the interactions between immigrants and the host society.

It is noteworthy the increase in 2014 of xenophobic, racist or intolerant insults having been prosecuted.

The economic and financial crisis did not led to the appearance of parties of a racist or xenophobic ideology. Political parties that include in their political programs or speeches racist, xenophobic or intolerant arguments have no representation in Spanish representative institutions.

In any case, the report shows that the Spanish society is evolving towards an increasing rejection of the various manifestations of racism, xenophobia and intolerance.

## I. KEY FINDINGS

### Monitoring process

2. Efforts have been made in order to increase knowledge about the Framework Convention and to disseminate the results of its monitoring process. In this sense, all documents referring to the III cycle of monitoring, as well as the IV report on Spain, translated all of them into Spanish, are available in the web page of the Ministry of Health, Social Services and Equality, in the following



link.

<http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/ConvenioMarpocparalProtecciondelasMinoriasNacionales.htm>

In addition to this, these documents have been circulated among the members of the State Council of the Roma People, and among the relevant Ministries. They have also been discussed in different meetings of the State Council of the Roma People, and within the Group for Technical Cooperation on Roma Population with the Autonomous Communities.

### **Assessment of measures taken to implement the further recommendations from the third cycle**

7. See comment in the executive summary in relation to political life in Spain.

9. As for the weaknesses of the State Council of the Roma People (CEPG) detected by the Advisory Committee, it should be noted that dialogue with Roma civil society is one of the key aspects highlighted both in the Spanish National Roma Integration Strategy (NRIS) and in its Operational Plan 2014-2016. The State Council for the Roma People receives the active support from the Ministry of Health, Social Services and Equality. The main Roma civil society organizations are represented in this Council, which allows for a very active participation in the policy cycle. In 2014, for instance, the CEPG had the opportunity to participate in one of the meetings of the Group for Technical Cooperation on Roma Population with the Autonomous Communities and local authorities and to make specific proposals to the following policy documents:

-Spanish NRIS Operational Plan 2014-2016.

-Partnership Agreement of the European Structural and Investment Funds 2014-2020.

-Indicators proposal by the EU Fundamental Rights Agency.

-Guide on recommendations on the implementation of the equality and non-discrimination horizontal principle in the European Structural and Investment Funds 2014-2020 drafted by the Institute for Women and Equal Opportunities of the Ministry of Health, Social Services and Equality.

-Evaluation Report of the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and other forms of Intolerance.



-Proposal to change the definition of the word "Roma" in the dictionary of the Royal Spanish Language Academy.

-Visit by the European Union Economic and Social Committee related to the project "Better Roma inclusion through civil society initiatives".

-Report to the Committee on the Elimination of Racial Discrimination.

-IV Cycle State Report to the Framework Convention for the Protection of National Minorities and the Advisory Committee on the Framework Convention (ACFC) visit to Spain.

-Report to the European Commission on the implementation of NRIS 2013 and 2014.

## II. ARTICLE BY ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### **Scope of application of the Framework Convention**

**10-15.** In relation to the comments in paragraphs 10-15 of the Opinion of the Advisory Committees, regarding the scope of application of the Framework Convention for the Protection of National Minorities, the Government of Spain considers that there are no new circumstances that would lead to conclude that the compensatory mechanisms of protection under the Framework Convention should be applied to other individuals or groups of individuals other than Roma.

### Article 4 of the Framework Convention

#### **Legislative and institutional framework against discrimination**

**16 and recommendation 22.** Regarding legislative and institutional framework against discrimination, the Spanish Ombudsperson shares the opinion of the Committee about the urgent need for adopting a comprehensive anti-discrimination legislation. According to the Ombudsperson, a comprehensive bill on equal treatment and non-discrimination is needed in order to tackle some of the shortcomings of the transposition of the Directive 2000/43/EC implementing the principle of equal treatment irrespective of the racial or ethnic origin of people and the Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.



Both Directives 2000/43 and 2000/78 were jointly transposed in Law 62/2003 of 30 December on fiscal, administrative and social measures.

**17 and recommendation 23.** As for the Council for the promotion of equal treatment and non-discrimination, it should be noted that it was created to transpose the Directive 2.000/43 CE. This Directive foresees a series of functions that have to be performed independently, but it does not establish the number of organisms that should be created, nor their composition or adscription. Therefore, Member States, when transposing the directive are free to determine how it should be done.

In this sense, in Europe there is a wide range of organisms performing the aforementioned functions. Furthermore, the plural composition of the equality body (model chosen by Spain) allows complying with some of the obligations of the Directive, such as fostering the dialogue with non-governmental organizations that have a legitimate interest in contributing to the fight against discrimination on grounds of ethnic or racial origin.

It should be noted that even though the current Council against Racial or Ethnic Discrimination is attached to a Ministry, (as is the case also, for instance, of other member states' equality bodies such as Germany, Austria, Italy, Portugal, among others.), steps have been taken in order to ensure its autonomy.

First, the Council has been attached to the Institute for Women and For Equal Opportunities, which is the body for gender equal treatment. As an autonomous organism, it enjoys a high level of independence when performing its functions.

On the other hand, Law 15/2014, 16 September 2014, for the *Rationalization of the public sector and other measures of administrative reform*, has amended article 33 of Law 62/2003, of 30 December 2003, of fiscal, administrative and social order measures, by which the Council was created. This amendment aims mainly at adapting the Council to the new administrative framework so as to foster a better and easier access for the population as a whole, in particular for potential victims of discrimination, to make its areas of action clearer and to mention explicitly the principle of independence when performing its functions, as required by article 13 of the EU Directive).



Regarding the **Council for the Promotion of Equal Treatment**, the Spanish Ombudsperson remarks, nevertheless that, as the Advisory Committee points out (pars. 17 and 23), the Council remains integrated as part of the Ministry of Health, Social Services and Equality rather than being a fully independent body.

**19 and recommendation 23.** In addition to the comments made under paragraph 17, it should be clarified that, as for the voluntary basis on which they carry out their functions, it corresponds to the members of the Plenary of the Council to determine its lines of action, subsequently put in practice by the Secretariat of the Council. The activities of the members that are not part of the Secretariat do not imply any costs.

In this sense, it should be noted that the number of civil servants of the Secretariat has remained stable in the past years. On the other hand, as mentioned in the report, the budget allocated for producing reports, assistance to victims, as well as for training and aware raising activities has been increased.

As for the capacity to litigate on behalf of victims with lack of resources, it should be noted that every person living in Spain can benefit from legal aid, in accordance with Law 1/1996, 10 of January 1996, of Legal Aid.

Moreover, it should be noted that EU legislation does not include among the functions of equality bodies the capacity to litigate on behalf of victims, nor that of having internal procedures to sanction or mediate in cases of discrimination. The only mandatory functions are to provide services of assistance and counseling to the victims of discrimination. These are carried out by the Council through the Network of Assistance to Victims of Discrimination.

**21 and recommendation 24.** The Government shares the concern about the low level of claims against discrimination in general, and particularly in the case of Roma population. To this effect, the Government has launched a series of initiatives that aim at facilitating access to the reporting mechanisms against discriminatory and hate-motivated incidents, including the following:

- Action Protocol of the security forces against hate crimes.



- The setting in motion of the national network of hate crime Prosecutors.
- Thematic guides on how to report discrimination and hate-motivated incidents.

In this regard, it is worth mentioning Law 4/2015, April 27, of the Statute of the Victim of Crime, through which EU directives are transposed and which brings together in a single legislative text the full catalogue of rights of all victims of crimes, both procedural and extra-procedural. This new regulation includes many of the objectives and actions identified by the comprehensive strategy against racism, racial discrimination, xenophobia and intolerance.

The Law provides minimum standards on the rights, support and protection for the public authorities to give adequate support to victims, not only by repairing the damage in the framework of criminal proceedings, but also by minimizing morally traumatic effects.

It is also worth mentioning, on the other hand that Article 23.2.b) .VII of the Law, provides that the establishment of the protective measures that should be taken to prevent damages that may arise from the process will be made after an assessment of the particular circumstances of each victim. Thus, the situation of those victims of "Crimes with a racist, anti-Semitic or other causes related to ideology, religion or belief motivation, family situation, ethnicity, race or nation, national origin, gender, sexual orientation or identity, illness or disability", will be assessed.

## Equality data

**26 and recommendation 28.** It should be noted that better knowledge on the situation of the Roma population in different areas is one of the lines of action of the Spanish NRIS, developed in the Operational Program 2014-2016. To this effect, and in order to implement the suggested measure *improving the Support for studies that improve social-demographic knowledge of the Roma, encouraging collaboration with administration bodies in charge of official statistics*, two meetings on data collection have been held between the NRCP and the National Statistical Office in 2014 and 2015.

Furthermore, and regarding the statement of the committee that the authorities refer to research carried out by other bodies, explicitly mentioning the Centre for Sociological Research (CIS), and *Fundación Secretariado Gitano*, it should be noted that the general survey carried out by the CIS in





2007 was the result of an agreement of collaboration between this public body and the Ministry of Labour and Social Affairs. The report that further explained the results of the survey was published by the Ministry of Health, Social Policy and Equality<sup>i</sup>. On the other hand, most of these surveys are funded and prepared in collaboration with the different Ministries and regional or local authorities. In this regard, the Ministry of Health, Social Services and Equality published in March 2015 the Second Roma Health National Survey, and the National Roma Contact Point (NRCP) launched a tender for the replication of the Map on Housing, which is expected to be published by the end of 2016. A new line of action adopted this year by the Working Group of Social Action, Equality and Non Discrimination and the European Agenda of the State Council for the Roma People will lead to a report on the effects of the economic crisis on Roma Population as pointed out by Roma NGOs participating in the Council.

### **Promotion of full and effective equality of the Roma**

**30 and recommendations 33 and 34.** With regard to the monitoring of the various Action Plans in favour of Roma, and the allegedly little involvement of Roma in the evaluation process, it should be noted that both the Action Plan for the Development of the Roma Population 2010-2012 and the Operational Plan 2014-2016 of the NRIS have been monitored, with the active involvement of the State Council of the Roma People. An ad hoc working group on indicators was established within the Council, leading to three monitoring reports being produced (initial, intermediate and final). These reports were circulated among the members of the Council and discussed in different meetings of its standing committee and the plenary. As for the monitoring of the NRIS, apart from the intermediate evaluation that will be carried out in 2016, a first monitoring of the Operational Plan 2014-2016 of the NRIS took place in 2015. It does cover not only actions implemented at national level, but also those at regional level, with an extensive collaboration of the autonomous communities. It has also been circulated among the members of the Roma State Council, and discussed in the meeting of its standing committee and of the plenary of January and February 2015<sup>ii</sup>. It should also be noted that, by including the different actions carried out by the autonomous communities, the government contributes to meeting the measure foreseen in the NRIS: *Fostering the circulation of best practice and the exchange of experience and knowledge transfer between various territories and entities, with particular attention to local level initiatives*. These examples of best practices have also been included in the progress report on implementing the NRIS sent to the European Commission in January 2015<sup>iii</sup>.



Moreover, the Roma Development Plan (*Crédito Plan de Desarrollo Gitano*), consisting on the cofunding of integral projects aimed at promoting the social inclusion of Roma by the three levels of Public Administration, is evaluated annually, and the resulting reports are published in the website of the Ministry of Health, Social Services and Equality<sup>iv</sup>.

As for the data gathered for the monitoring of the NRIS and its intermediate targets, as stated above, a new Roma Health Survey has been published in 2015, and the results of the replication of the Map on Housing are expected to be available by the end of 2015. Other actions are being planned and put into practice in order to meet this goal, for instance, the one linked to the implementation of the European Union Agency for Fundamental Rights “Structure Process Outcome” framework of indicators adopted early this year.

Finally, and as stated above, a new line of action related to the effects of the economic crisis on the Roma Population has been adopted this year by the Working Group of Social Action, Equality and Non Discrimination and the European Agenda of the State Council for the Roma People. A report that would summarize the effects detected by the different Roma NGOs part of the Council will be issued and will give a clearer image of those effects. This will lead to the adoption of measures to redress the problems detected.

**31 and recommendation 33.** Regarding the budgetary framework of the Operational Plan and the allegedly lack of earmarked funding in it, it should be highlighted that such an exercise remains highly complicated due to various reasons, i.e. the responsibility sharing of the actions included among the three levels of administration involved, together with the importance of the mainstream measures in the achieving of targets (and not only of targeted measures, which are easier to isolate and identify). As for the reference to the excessive reliance on projects implemented by NGOs, as a sign of a low level of assumption of responsibility by public authorities, it must be stressed that the projects carried out by NGOs are mostly funded by public authorities, by call of grants that define the priorities to be addressed at within those projects, in the framework of Roma policy measures.

### **Article 5 of the Framework Convention**



**35 and recommendation 37.** Apart from the activities carried out by the Roma Culture Institute Foundation (*Fundación Instituto de Cultura Gitana*), a special mention should be made to the VIII Roma Culture Contest Awards Ceremony, Roma Culture, held on April 8, 2015, which has become a model followed by various regional and local institutions, gaining institutional recognition and international prestige, and to the collaboration with the Academy of Flamenco Sciences and Arts (*Academia de las Ciencias y las Artes del Flamenco*) in order to organize a conference on this subject. Furthermore, the Institute participates together with other institutions such as the Ministry of Health, Social Services and Equality, Madrid City Council and the State Council of the Roma People in the celebration of the International Roma Day and in the activities of the working group on culture of the State Council of the Roma People (*Consejo Estatal del Pueblo Gitano*).

In this line of dissemination, training sessions for students will be organized in collaboration with the Directorate General of Evaluation and Territorial Cooperation (Ministry of Education, Culture and Sport) and Roma associations. Various training courses specifically addressed to Roma youngsters, tackling Roma culture from different approaches (historical, linguistic, artistic...) will take place during 2015.

**36 and Recommendations 37 and 38.** With regard to the measures aimed at the preservation and promotion of Roma culture, the consolidation of partnerships with institutions for the promotion and dissemination of Roma language and culture is a priority for 2015. To this end, an agreement with the University of Alcalá de Henares has been signed, with a view to promoting and consolidating activities that have been successfully developed for several years, such as the programme of this University "Roma in Spain: History and Culture", and the planned opening in 2015 of the Library of the Roma People in the Trinitarian Library (1,100 catalogued volumes open to the public). A fellow selected under the training program FORMARTE of the Directorate General for Cultural Industries and of the Book (Ministry of Education, Culture and Sport) will be based at the Library of the Roma Culture Institute during 2015.

The creation of a Documentation Centre was contemplated as one of the objectives of the Roma Cultural Institute (*Fundación Instituto de Cultura Gitana*). This will be a center capable of treating oral, written and multimedia documents, and of interacting with other documentation centers. The collaboration with the University of Alcalá de Henares as well as the Directorate General of Evaluation and Territorial Cooperation whose Director General is part of the Board of the Institute



has proved decisive. The collection of materials donated to the Institute by researchers will continue, together with the correct cataloguing of them.

With regard to the dissemination of Roma culture, a new issue of *Cuadernos Gitanos* will be released this year. It will be possible to download it from the website of the Roma Culture Institute. Two new titles will be added to the collection of books of poetry *I Balval Phurdel* (The wind).

The website of the Roma Culture Institute Foundation will be improved and the presence of the Roma Cultural Institute in social networks like Facebook and Twitter will be promoted.

Some other initiatives carried out by several regions with the aim of promoting and disseminating Roma Culture, and of teaching Romanó language should be mentioned.

In Andalusia, the 22nd of November marks the celebration of the *Day of the Andalusian Roma*. The Roma Andalusian Award, for the social and cultural promotion of the Roma community, aims to acknowledge the work of individuals and institutions with an outstanding activity in favour of the Andalusian Roma, thus contributing to a better understanding an interethnic coexistence in Andalusia.

In Castile and Leon seminars, round tables and other activities are organized in order to disseminate cultural and social aspects of the Roma community, making them more accessible to the majority of the population. Every year they celebrate the International Roma Day, with activities aimed at the society as whole, institutions, politicians and professionals. It emphasizes the reality of the Roma population, with a view to preserving the richness of the Roma Culture and its identity, as well as modifying persisting prejudices.

In Catalonia, the autonomous government finances four courses for learning romanó aimed at primary and secondary school students. It is also worth mentioning the initiative *Museo Virtual del Pueblo Gitano* (Virtual Museum of the Roma People), whose goal is the dissemination of Roma Culture from a positive, diverse and heterogeneous approach, for it to be used as a educational tool both for Roma and non Roma. The project *Promoción Escolar* aims at fostering the visibility and promoting the values of the Roma culture in the school curriculum.



In La Rioja the autonomous government commemorates the International Roma Day and also supports cultural events.

In Melilla, cultural events are also supported.

**Recommendation 37.** Fundraising to ensure the dissemination and promotion of Roma culture is also looked for through European Union funded programs. A project about Roma music and its influence on European classical music was submitted to the last tender of the *Creative Europe* program of the European Commission.. Unfortunately, the grant was not approved.

The Ministry of Culture, Education and Sports has submitted a project for the recovery of historical memory focused on Roma Samudaripen, within the European program of citizenship.

## **Article 6 of the Framework Convention**

### **Combating racism and intolerance**

**39.** In 2013 the Spanish Ombudsperson started an investigation before the Royal Spanish Language Academy to remove the insulting entries of the word “gitano” (gypsy) and “gitanada” (gypsy trick) labelled in the Dictionary of the Spanish Language. The pejorative entries of “gitanada” and “gitano” in the twenty-second edition of the Dictionary of the Royal Academy were contemptuous and degrading. One of the entries of “gypsy” was synonymous with cheating and lying. And “gitanada” was labelled as cajolery.

These meanings that appear in the 22nd edition of Royal Spanish Language Academy Dictionary involve the attribution to a group of people of a negative behaviour, specifically deception and cheating. According to the Criminal Code both terms are criminal offenses, in addition to a discriminatory characterization of a particular minority which contributes to racist and xenophobic social attitudes.

The Royal Spanish Language Academy sent a report to the Spanish Ombudsperson stressing that the negative stereotypes about the Roma population had been removed in the latest edition of Royal Spanish Language Academy Dictionary (the 23rd).



However, the Ombudsperson has pointed out that the new entry of "gitanada" is chicanery and one of the meanings of the term "gypsy" is "a person who commits chicanery". Therefore, the Ombudsperson will continue its investigation until all the pejorative, discriminatory and negative terms related to the Roma community will be removed from the Royal Spanish Language Academy Dictionary.

As additional information, representatives of the State Council of the Roma People and the Roma Culture Institute Foundation met in April 2015 with representatives of the Royal Spanish Language Academy in order to discuss the possible revision of the term "gitanada". The representatives of the Royal Spanish Language Academy agreed to establish a line of collaboration with the Council and the Roma Culture Institute, to study and update references to Roma in the Dictionary.

The Government of Spain is also going to promote before the Royal Spanish Language Academy the revision of definition of "Gitano/a" in order to move forward in the field of lexicographic studies and to improve the way the lexic related to the Roma population is addressed.

**45 and recommendation 49.** The Council for the Prevention of Racial or Ethnic Discrimination has launched, with the occasion of the regional and local elections of 24<sup>th</sup> May 2015, the recommendation *Avoiding the use of discriminatory, racist or xenophobic discourses in electoral campaigns*<sup>v</sup>.

**46.** In this regard it should be noted that the Secretary General of Immigration and Emigration (MEYSS) is finalizing the evaluation and monitoring report of the Comprehensive Strategy against racism, racial discrimination, xenophobia and intolerance (period 2011 - 2014). This report has been submitted to the State Council of the Roma People, the Council for the Prevention of Racial and Ethnic Discrimination as well as the Forum for the Social Integration of Immigrants.

**47.** The OBERAXE (Spanish Observatory on Racism and Xenophobia) is still attached to the Ministry of Employment and Social Security, through the Secretary General for Immigration and Emigration.



## Media, Internet and social media networks

### 51, 52, 53 and *recommendation 54*

With regard to the presence of Roma and the way Roma are portrayed in the media, it is worth mentioning the project of the Federation of Andalusian Roma Women (FAKALI), funded within the framework of the call for grants for projects of general interest, under the name *Social discrimination of the Roma community: from stereotypes to the mass media and antigypsism*. It includes disseminating, informative and assistance actions, *by* means of establishing an observatory on discrimination in the social networks, aiming at tackling difficulties regarding the control of social networks and serving as an instrument for the assistance of the victims of discrimination. This association is currently working in the document "*Pact against antigypsism: action protocol*".

In the framework of the campaign "No Prejudices", against discrimination and hate speech in the media and internet, fostered by the Federation of Roma Women, Kamira, , a working group, composed by Roma NGOs, journalists and public authorities, (including the Institute for Women and Equal Opportunities, OBERAXE, Andalusian Council for Audiovisual Media, Catalanian Council for Audiovisual Media, etc), has been created in order to work in a set of recommendations about the way Roma should be portrayed in the media. ([www.noprejuicios.com](http://www.noprejuicios.com)).

## Combating Hate Crime

**57 and recommendation 62.** The Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and other related forms of intolerance also foresees the need for improving the systems collecting institutional statistical information by means of:

- The registration of "racist and xenophobic incidents" understood as "any incident which is perceived to be racist by the victim or any other person".
- The collection of data on the number of complaints reported and the type of criminal offenses recorded in the Criminology Statistical System of the Security Forces.
- The development of specific actions aimed at training officials in the Administration of Justice and Security Forces, emphasizing the proper collection and recording of "racist incidents".



Since 2012, and in compliance with these objectives and the recommendations of the European institutions, the Ministry of Interior has been collecting and publishing the number of racist or xenophobic incidents.

The preparation of an Action Protocol to the Security Forces by the Ministry of the Interior was another result of this process.. This Protocol was created as a result of a series of training courses aimed at the State Security Forces, and under one of the objectives set out in the Strategy: "Promoting mechanisms of detection and protocols of intervention in the event of incidents or racist, xenophobic or discriminatory attitudes".

The 2014 Report on Hate Crimes in Spain has recently been presented. It includes incidents involving hate crimes with racist, anti-Semitic, religious or belief, sexual orientation, illness or disability motivations and other discriminatory acts, recorded by the Security Forces in 2014.

This report is the result of an initiative launched by the Ministry of the Interior in 2012 that has resulted in a better knowledge of the reality of hate crimes in our country and in an adequate police protection and assistance to victims or witnesses of such incidents.

The notion of "hate crimes" covers a wide range of behaviors and facts, ranging from the set of criminal offenses described in our Criminal Code to the offenses contemplated by different administrative regulations.

In total, the Security Forces have recorded 1,285 hate crimes in Spain, in the following areas:

- 513: orientation and sexual identity
- 475: racism / xenophobia
- 199: disability
- 63: crimes against religious beliefs or practices
- 24: anti-semitism
- 11: aporofobia (hate, fear, disgust or hostility to the poor, who have no resources or who are helpless)





The Guide for the training of Security Forces has been the basis for training more than 20,000 agents.

It also should be noted that in the same framework of the Comprehensive Strategy against racism, racial discrimination and intolerance, the Secretariat General of Immigration and Emigration has taken the first steps with regard to training and awareness raising actions aimed at civil servants, prosecutors, judges and legal practitioners, in the field of hate crimes, with the support of the Prosecution Service. The preparation of an inter-ministerial agreement, to be signed soon, will involve: - the General Council of the Judiciary, - the Office of the Prosecutor, - the Centre for Legal Studies, - the Ministry of Justice, - the Ministry of Health, Social Services and Equality and - the Ministry of Employment and Social Security.

According to the 2014 Report on Hate Crimes in Spain, published by the Ministry of Interior, 65,6% of a total of 1,285 hate crimes have been prosecuted in Spain in 2014.

**Recommendation 61.** The Criminal Code has already been approved, promulgated and published (Organic Law 1/2015, 30 of March 2015, and it will come into force on July 1, 2015, as provided by disposal 8 of that Law. Ref. BOE -A- 2015-3439. In addition, the amendments made by the Organic Law 2/2015, 30 of March 2015, will also come into force on July 1, 2015, as established its disposal 3. Ref. BOE- a- 2015 -3440).

### **Conduct of law-enforcement officials**

**64 and 65.** Organic Law 4/2015, 30 of March 2015, for the Protection of Citizens Security, in its Article 16 provides explicitly for the respect for the principle of equal treatment and non-discrimination on racial or ethnic origin in the practice of police checks, in addition to what is established by the Circular 1/2012 regarding ethnic profiling.

Nevertheless, despite the guarantee of this principle of equal treatment and non-discrimination, the Spanish Ombudsperson has received complaints about the generalized use of identity checks against foreign nationals by the police.

The Ombudsperson has carried an extensive investigation with the Directorate General of Police concerning the identification checks carried out on the basis of ethnic and racial profiling.



The investigation gave rise to five recommendations to the Directorate General of the Police with the purpose of setting out the use of identification record forms stating the ethnic background, race and/or nationality of the person whose identity is being checked and the reason for this identification. It was recommended that the use of these forms be explained in a procedure Guide for all National Police Force officers and that a statistical system be prepared for compiling and monitoring data, broken down by race, ethnic background and/or nationality.

It was also recommended that the officers be provided with specific training on the subject of cultural diversity and on practical skills as to how to conduct identification checks in accordance with the principle of equality and non-discrimination. It was recommended that a complaint mechanism be set up to receive individual complaints from individuals on whom this type of identification checks have been carried out in order to guarantee actual safeguarding against discrimination.

The Directorate General of the Police informed the Ombudsperson as to the difficulties which the Data Protection Law was causing them with regard to compiling the data on the suggested forms. In spite of those difficulties, specific departments of the Ministry of Interior are currently working on the drafting of "identification forms" in compliance with the Data Protection legal framework.

**Recommendation 67.** See comments under paragraph 57



## **Article 9 of the Framework Convention**

### **Roma access to the media**

**71 and recommendation 73.** See comments under article 6 (51, 52, 53 y 54)

## **Article 12 of the Framework Convention**

### **Equal Access to education**

**75.** In its Opinion the Advisory Committee says that the education authorities have not provided detailed responses to the request of the Ombudsperson on school segregation affecting Roma. In this regard, it should be noted that both the Ministry of Education, Culture and Sports and the Ministry of Health, Social Services and Equality have answered and sent information to the Ombudsperson.

**76.** In this paragraph, the Advisory Committee mentions projects on schools as learning communities (*comunidades de aprendizaje*). In this regard, it should be noted that there are other examples of community learning projects outside Andalusia. There are currently fifteen community learning projects, being Andalusia, Catalonia and the Basque Country the regions with a higher number of centers implementing this educational project.

<http://utopiadream.info/ca/>

**78 and recommendation 80.** The Operational Plan 2014-2016 of the NRIS includes, among other lines of action, the following: “Design and programming of actions to reduce early school leaving” funded by the European Union.

### **Intercultural education**

**83 and recommendation 87.** A study is to be carried out this year on the presence of Roma culture and history in textbooks, as an action performed by the Working Group on education of the State Council of the Roma People.



**85.** On July 2014, the first education seminar for the Roma Population took place under the title “*Implementation of educational policies on the Roma community: Proposals for action and methodology*”. It was coordinated by the Ministry of Education, Culture and Sport with the support of the working group of education of the State Council of the Roma People, the Ministry of Health, Social Services and Equality, and the autonomous communities. In 2015, a second education seminar for Roma will be organized, followed by a meeting of the working group on education of the State Council of the Roma People.

The Ministry of Education, Culture and Sport supports the annual Conference of *Enseñantes con Gitanos*, (Teachers with Roma), by recognizing the attendance to these conferences as training merits in teachers curricula.

The project "Training for the prevention and detection of racism, xenophobia and related intolerance in classrooms", under the PROGRESS Programme on Employment and Solidarity of the European Commission, started in 2014. It is being supported by the Secretary General of Immigration and Emigration of the Ministry of Employment and Social Security in collaboration with the National Center for Educational Research and Innovation (CNIIE) of the Ministry of Education, Culture and Sport.

This PROGRESS programme pursues the following objectives (set out in the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Intolerance, the National Integration Strategy for the inclusion of Roma in Spain 2012-2020, the Master Plan for coexistence and improvement of school safety and the Second National Strategic Plan for Children and Adolescents 2013-2016):

- Dissemination of information and provision of training for teachers, school principals and the whole educational community in key areas such as human rights, racism, xenophobia and intolerance.
- Prevention, detection and courses of action against racist and xenophobic incidents in the school environment.
- Development of prevention and protective measures aimed at victims of Racism, xenophobia and hate crimes.



Two training sessions for teachers and other relevant stakeholders are taking place in coordination with the Autonomous Communities

**88.** The Secretary General of Immigration and Emigration is implementing the aforementioned project “Training for the prevention and detection of racism, xenophobia and intolerance in the classroom” in the framework of the PROGRESS programme of the European Union. There are several stakeholders involved, including the Ministry of Education and the Autonomous Communities, as well as other key actors in the education community. The aims are:

- Training of teachers and education community in human rights, racism, xenophobia and intolerance.
- Working in schools in the prevention of racism, xenophobia and other forms of intolerance.
- Detection of and response to racist or xenophobic incidents in the school environment.

## **Article 15 of the Framework Convention**

### **Participation of Roma in public affairs**

**93.** Regional and local elections were held on 24<sup>th</sup> May 2015. *Union Romaní* prepares, prior to every electoral process, a list of candidates of Roma origin that they circulate and publish on their website, with information provided largely by the candidates themselves<sup>vi</sup>. As for the Roma members in the national and regional parliaments, and taking into account ethnicity is not officially registered and thus voluntarily declared, there are currently two Roma members of parliament, one in the Cortes Generales, the other in a regional parliament.

**95 and recommendation 99.** With regard to the statement according to which the Council and its working groups rarely meet, the terms of reference of the Council establish two meetings per year of the plenary, the standing committee and its working groups. In the years 2009-2014 (taking into account that 2012 was an exceptional year, due to the renewal of the Council, which implied almost stopping its activities), the Council has met a minimum of 6 times per year, an average of 8 meetings per year, with the highest number of meetings in 2014, with a total of 15 meetings.



Apart from these meetings, the secretary of the Council, i.e. the Sub-directorate General for Social Programs, sends information about issues of possible interest to the members of the Council, such as international and national conferences and events, calls for grants and job opportunities in international organizations. The Council, through its Standing Commission, is consulted regularly on various issues (see point 9) and it is also asked to appoint representatives of the Council in international and national conferences and events and on the occasion of the visits of delegations and monitoring missions.

**96 and recommendation 99.** The procedures established for the selection of members of the State Council for the Roma People is the one followed by the Administration for the nomination of members of this type of consultative bodies. Transparency is guaranteed and objective selection criteria are applied. Regarding the contacts of the Administration with Roma associations that are not part of the Council, these are assured by the Directorate General for Services to Family and Children. In this regard, grants financed through the 0,7 % of the personal income tax are awarded every year to around 30 NGOs, that do not necessarily coincide with the 20 Roma associations being part of the Council. Meetings with other associations are held and the secretariat of the Council regularly sends information on various issues to a large number of associations, that may also be invited to events.

**97 and recommendation 100.** Many regional and local authorities have specific dialogue mechanisms with Roma civil society, through which the latter can be more involved in the planning, implementation and monitoring of regional and local policies (e.g. Andalusia, Aragon, Asturias, Basque Country, Castile La Mancha, Castile and Leon, Catalonia, Extremadura, Galicia, Murcia, Melilla).

### **Participation of Roma in socio-economic life: employment**

#### **101 and 103, and recommendations 104 and 105**

With regard to the contribution of the European Social Fund (ESF) to the socio-economic inclusion of Roma in Spain, we must first refer to the Spanish Partnership Agreement of the European Union Structural and Investment Funds 2014-2020 that will combine a targeted and mainstream approach when implementing the funds. Firstly, Roma are listed as one of the main vulnerable



groups that need to benefit from the funds. Besides, the investment priority "Socio-economic integration of marginalised communities such as the Roma" under Thematic Objective 9 "promoting social inclusion, combating poverty and any discrimination" has been selected to carry out specific and targeted actions. The allocation of funds to investment priorities has not been finalized, which means that we can only give general figures on the percentage allocated to social inclusion, which is 25.62%. Apart from that, there are also references to Roma population and their needs, under Thematic Objective 3 (Enhancing the competitiveness of SMEs, the agricultural sector (concerning EAFRD) and the fisheries and aquaculture sector (concerning EMFF), itinerant trading, specially in street markets, an economic activity that helps to support broad sectors of the Roma population. There are references also to their occupation in other sectors such as scrap collection and temporary jobs in the agriculture sector). Itinerant trading, focused in selling food, clothes and shoes, shall be eligible for support measures aimed at SMEs foreseen in this thematic objective. Similarly, the initiatives for eradication of slums and areas of high degradation are mentioned in the SWOT analysis of the spatial analysis of the Partnership Agreement.

Although the planning phase of European Structural and Investment Fund (ESIF) has not been finalised, at national level, the Operational Programme Social Inclusion and Social Economy, (POISES) includes the investment priority on Roma. Therefore it is through this operational programme that specific measures for Roma inclusion will be promoted. This operational programme provides an ESIF allocation of around 800 million Euros (2.5 % more than in the previous 2007-2013 period), and it is based on a two-pronged approach:

1) integration, which addresses the needs of the Roma population in health, household, employment and social areas on a twofold strategy: by setting up actions focusing specifically on people (vulnerable groups themselves) and on systems and structures (labour market, social policies, companies, etc.).

2) specific, which targets Roma inclusion through:

- i) personalised integration pathways specifically addressed to Roma population;
- ii) employability projects for Roma women in order to increase their access to and continuity in employment;
- iii) support measures to regulate the economic activity of the Roma population;
- iv) promotion of social economy as an employment opportunity for Roma;
- v) reinforcement measures to increase the level of education of Roma pupils and their families in order to prevent school dropouts;



vi) implementation of integrated assistance programmes to adequate the public services to the Roma needs (e.g. health, household, employment and social services).

The most relevant actions, aimed at Systems and/or Structures, are:

- 1) awareness-raising and communication campaigns to fight against stereotypes;
- 2) capacity building of public services staff in order to make them aware of the specific needs of the Roma population, mainly women;
- 3) support to the economic, social and physical regeneration of the most deprived urban and rural areas in which Roma population concentrates (in conjunction with ERDF).

This operational programme has been planned in full compliance with the partnership principle, inviting all relevant stakeholders and, in particular, Roma and pro Roma associations.

At the regional level, seven regions have foreseen specific actions targeted at Roma under the specific investment priority "socio-economic inclusion of marginalised communities such as the Roma" in their Regional Operational Programme ESIF 2014-2020.

The Operational Programme Employment, Education and Training and the Operational Programme for Youth Employment do not foresee measures specifically targeted at Roma. However, as Roma is one of the vulnerable groups prioritised in the Partnership Agreement, intermediate bodies will be encouraged to ensure that Roma are among the beneficiaries. In this sense, the Ministry of Health, Social services and Equality organized in November 2014 a seminar under the title Youth guarantee and Roma Population, aimed at identifying the actions that could be included in the framework of the Youth guarantee schemes to benefit young Roma population, shortcomings and difficulties in the access of Roma to the programs, and possible solutions<sup>vii</sup>.

We should also mention the potential impact of the Interfund Committee, whose setting in motion was foreseen in the NRIS, and that met twice with representatives of the NRCP, ESF, ERDF, and EARDF. It is a space for reflection and exchange of experiences that facilitates synergies among the Spanish national managing authorities of European Union funds, in favor of Roma population.

It is also worth mentioning that employment projects are a priority under the call for grants for NGOs coming from 0,7 % of Personal Income Tax (IRPF) and, in this sense, employment projects awarded represent more than 25 % of the total of funds for projects aimed at the Roma population.





## Participation of Roma Population in socio-economic life: housing

**107 and 109.** As mentioned before, the Ministry of Health, Social Services and Equality, (DG for Services to Family and Children), has launched a tender for the replication of the Map on Housing, which is expected to be published by the end of 2016, which will allow to have updated data on the situation of the Roma population related to housing conditions.

Spain is planning to use ESIF for housing projects aimed at the Roma. In this regard, at the national level, the ERDF Operational Programme for Sustainable Growth includes the pillar on "Integrated and Sustainable Urban Development" with an allocation of 1,000 million Euros, 20% of which is reserved for activities under Thematic Objective 9. Municipalities with more than 2,000 inhabitants are eligible to apply to these funds at the regional level: some regions have programmed specific activities, especially in the area of housing although as all programmes have not been approved and it is too early to have more specific information.

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[http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/docs/diagnosticosocial\\_autores.pdf](http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/docs/diagnosticosocial_autores.pdf)

ii <http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/PlanOperativo.htm>

iii <http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/home.htm>

iv <http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/MemoriasEvaluacion.htm>

v

[http://www.igualdadynodiscriminacion.msssi.es/novedades/novedades/2015/pdf/Recomendacion\\_Evitar\\_uso\\_discursos\\_racistas\\_07052015.pdf](http://www.igualdadynodiscriminacion.msssi.es/novedades/novedades/2015/pdf/Recomendacion_Evitar_uso_discursos_racistas_07052015.pdf)

vi <http://www.unionromani.org/notis/2015/noti2015-05-04.htm>

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[http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/docs/resumen\\_jornada\\_garanti\\_ajuvenil\\_gitanos.pdf](http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/docs/resumen_jornada_garanti_ajuvenil_gitanos.pdf)

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