

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

COUNCIL OF EUROPE



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**Comments of the Government of Spain on the Fifth Opinion of the Advisory Committee on the implementation of the  
Framework Convention for the Protection of National Minorities by Spain**

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MINISTERIO DE  
ASUNTOS EXTERIORES  
UNIÓN EUROPEA

Y  
COOPERA  
CIÓN

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

Regarding the Fifth Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, based on the Fifth Report from Spain to the Council of Europe and on the visit to Spain of the Advisory Committee on December 2019, Spain would like to present the comments that are included below.

These comments have been prepared with the contributions of the Ministry of Social Rights and the 2030 Agenda; the Ministry of Justice; the Ministry of Inclusion, Social Security and Migration; the Ministry of Equality; the Ministry of Labour and the Social Economy; and the Spanish Ombudsperson.

As a general comment, Spain would like to recall that, although national minorities are not formally recognized in the Spanish Constitution nor in our legal system, Spain applies the provisions of the Framework Convention to the Roma Community.

In this regard, the Spanish authorities are glad that the Advisory Committee acknowledges a satisfactory level of integration of the Spanish Roma and a positive general climate of tolerance in Spain towards the Roma Community, migrants, refugees and asylum seekers, particularly nowadays with the international rise of populism, nationalism and hate speech.

Spain also appreciates the praise by the Advisory Committee of the policies implemented by the different levels of Spanish Administration, as well as the acknowledgment of the progress experienced by Roma in key areas, such as school performance and attendance, health and rehousing policies, and the recognition of our active commitment to the Roma community.

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## SUMMARY OF THE FINDINGS

### Paragraph 1.

*Spain continues to apply the provisions of the Framework Convention exclusively to Spanish citizens of the Roma community. Both the awareness and understanding of the Framework Convention remain limited in Spain. Few efforts have been made to promote it or to engage in dialogue with other groups that may wish to benefit, or have already expressed interest in benefiting, from its provisions.*

We would like to recall paragraph one of the Fourth Opinion of the Advisory Committee which recognises that “while the notion of national minorities in the sense of the Framework Convention is not recognized in the Spanish legal system, the Spanish authorities take a pragmatic approach in applying the provisions of the Framework Convention to Roma, including foreign Roma.”

In fact, national minorities are not recognized in the Spanish Constitution. According to article 14 of the Spanish Constitution, equality is guaranteed for all Spanish citizens.

Spain ratified the Convention, even without having any formal recognition of national minorities, in order to provide the Roma Community with the reinforced protection that the Convention guarantees.

The Spanish Administration is engaged in continuous dialogue with the Roma Community through institutions such as the State Council for the Roma People.

Regarding efforts to promote the publicity of the Convention, we would like to recall that the Convention is published on the website of the Ministry of Social Rights and the 2030 Agenda. On the website of the Ministry of Foreign Affairs, the European Union and Cooperation there is also a link enabling access to all the treaty instruments of the Council of Europe.

Moreover, the Spanish Ombudsperson, as the Spanish National Human Rights Institution (NHRI), is working on raising awareness and understanding of the Framework Convention, and is focusing its efforts to promote, as a priority, dialogue with the Roma Community.



## Paragraph 2.

*Generally speaking, the level of integration of the Spanish Roma and the general climate of tolerance in Spain, including towards migrants, refugees and asylum seekers, is satisfactory. At national level, there are almost no instances of hate speech against Roma in political discourse. However, the number of migrants, refugees and asylum seekers differs greatly between the various Autonomous Communities, and this may have an impact on the level of tolerance towards “visible minorities” and on manifestations and expressions of intolerance, particularly on social media and in certain political statements at local and regional level. The prevalence of negative stereotypes, including in print, the audiovisual media and official Spanish language dictionaries, also needs to be looked at in more detail.*

Spain agrees that the level of integration of the Spanish Roma and the general climate of tolerance in Spain towards the Roma Community, migrants, refugees and asylum seekers is satisfactory. However, efforts continue to be made. Spain would like to recall its many efforts in order to eliminate negative stereotypes. For instance, the Royal Academy of the Spanish Language (RAE) modified the meaning of Roma as “trickster” in the RAE dictionary, by incorporating a note on usage, describing it as “offensive and discriminatory”, in response to the request of the entities of the State Council for the Roma People.

## Paragraph 4.

*Discrimination towards persons belonging to the Roma community nevertheless persists in certain areas, such as education, rented housing and employment. Comprehensive anti-discrimination legislation has not yet been enacted and the structures in place to promote equal treatment and address individual cases of discrimination at central and regional levels require further strengthening, in particular the Spanish Ombudsperson’s office. The recognition of anti-Gypsyism as a motivated bias in data collection by the police in 2019 is a welcome step towards providing a more effective institutional detection and response to hate crimes when they occur. Such efforts now need to be consolidated and implemented throughout the country; however, anti-Gypsyism has not yet been recognised as a specific form of racism in the judicial system or included as an aggravating factor in the Criminal Code. Existing human rights and non-discrimination training for police officers (with a focus on Roma) has produced positive results and needs to continue, as the work of the police and their interaction with persons belonging to the Roma community was generally viewed positively by numerous interlocutors, with some exceptions concerning ethnic profiling by the police when asking for identity papers on the streets.*



Regarding the recommendation to amend article 22.4 of the Criminal Code (CC) so that it includes an express mention of anti-Gypsyism as an aggravating circumstance, Spain would like to state the following:

- It is already included in the generic expression “racist motives” or “discrimination referring to ethnicity” (art. 22.4 CC); in the same way as it is included in other types of criminal offence (art. 510 and following of the CC).
- From a legal technique point of view, the explanation given in paragraph 130 of the Opinion, as to why a specific mention of anti-Gypsyism as an aggravating factor is excluded from article 22.4 of the Criminal Code is correct.
- However, some of the subsequent paragraphs seem to give arguments to refute this point, although we must point out that anti-discrimination legislation is not the same as criminal law. For instance, in paragraph 135 it is stated that “*The Advisory Committee would also refer to a Council of Europe recommendation of 2017, which calls on all its member states to ‘ensur[e] that where legislative texts refer to other specific forms of discrimination targeting particular groups (for example, anti-Semitism, Islamophobia, Christianophobia, gender-based discrimination), those texts refer to anti-Gypsyism on an equal footing’.*” No part of the recommendation mentioned (Recommendation CM/Rec(2017)10 of the Committee of Ministers to member States on improving access to justice for Roma and Travellers in Europe, 17 October 2017) focuses on amending criminal legislation, so this paragraph should not be used as an argument to amend article 22.4 of the Criminal Code, as it is intended.

## Paragraph 5.

*Clearer targets, adequate funding and effective monitoring involving Roma representatives are needed to ensure that relevant policies and programmes achieve their intended effect in other specific policy areas, such as more systematically addressing school dropouts and absenteeism, reducing unemployment or rehousing Roma families who are still living in slums in certain Autonomous Communities and municipalities by means of adequate urban planning programmes. Gender equality would benefit from a more systematic mainstreamed approach in various parts of the National Roma Integration Strategy. New areas of activity should also be explored through additional independent research, such as the impact of early marriages on*



*school dropouts and absenteeism, especially in the transition from primary to secondary education, or the use of illicit drugs among young Roma people.*

In addition to the information provided in the Fifth Report, we would like to add the relevance of some of the financial programmes, forming part of the European Social Fund, which represent very substantial financial support for all activities aiming to promote social inclusion. These programmes are the “Operational Programme for Youth Employment (POEJ)” and the “Operational Programme for Social Inclusion and the Social Economy (POISES)”, and they are subject to annual implementation reports, which allow clearer targets, adequate funding and effective monitoring, as the Committee recommends. The POISES and POEJ programmes, managed by the Ministry of Labour and the Social Economy, provided very good results in the last few years.

#### **Paragraph 6.**

*The overall impression remains that the system of protection that has been developed relies on policies to combat poverty and social exclusion, whereas the development of policies of empowerment has been side-lined. Roma participation in political and public affairs remains limited, with the exception of political representation of Roma in Parliament, which increased following the 2019 general elections. Weaknesses identified previously with regard to the State Council for the Roma People have not been resolved, limiting its effectiveness and its capacity to influence policymaking. A key challenge for the future is to broaden Roma participation beyond the limited area of issues that are important for Roma themselves and to mainstream their participation in public life in all aspects of Spanish society.*

Spain does not share the general view expressed in this paragraph. Although the main policies in place aimed at Roma are mostly focused on fighting against poverty and exclusion and on promoting social inclusion through improving the living conditions of the Roma community, Spain has also carried out other types of policies regarding participation, equality, and recognition of the culture and history of the Roma Community, among others. In fact, they are already included in Spain's National Roma Integration Strategy of 2012-2020; and since the creation of the Roma Culture Institute, more initiatives related to the culture and history of Roma and their contribution to Spanish society have emerged and gained relevance.



## Paragraph 7.

*The authorities continue to support the Institute for Roma Culture and initiatives related to the culture and history of Roma, but more efforts are needed to ensure that all elements of Romani culture are preserved, promoted, and accepted as an integral part of Spanish culture, and that Roma history is more systematically included in school curricula throughout Spain.*

There has been progress in this area. For instance, the Autonomous Communities of Castilla y León and Navarra are paving the path by having already included in their school curricula Romani culture and history. Moreover, the Working Group on Education, under the aegis of the State Council for the Roma People, is currently working on including Romani culture in school curricula in order to study the possibility of including it in the future National Education Act.

## RECOMMENDATIONS

### Recommendations for immediate action

## Paragraph 10

*The Advisory Committee urges the authorities to adopt comprehensive anti-discrimination legislation, which should also apply to non-citizens; ensure better access to and increase awareness about existing legislation and legal remedies, targeting the Roma community in particular; and increase funding for legal aid.*

Work has now been underway for several months to improve the quality of the future Comprehensive Act on Equality of Treatment and Against All Forms of Discrimination. These efforts are also aimed at decisively supporting the enactment of this legislation, taking into account that non-discrimination is set forth as a basic principle of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948, as well as of the International Covenant on Civil and Political Rights, article 26 of which provides for non-discrimination as a general and autonomous right.

The future Act is being drafted in line with the vision of the Council of Europe, a body that adopted non-discrimination and tolerance as essential values with the entry into force of Protocol No. 12 to the European Convention on Human Rights, article 14 of which explicitly prohibits discrimination, specifying that the enjoyment of the rights and freedoms set forth in this



Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or any other status. The European Convention on Human Rights sets forth the general prohibition against discrimination with the mandate that the enjoyment of all the rights recognized by law be secured without discrimination of any kind, with equality and non-discrimination thus constituting an autonomous right, not dependent on any of the other rights recognized in the Convention. In addition, pursuant to the 1983 Vienna Declaration, all States are mandated to engage in a Programme of Action for combating racism, xenophobia, anti-Semitism and intolerance, and Spain, among other countries, is invited to adopt general legislation against discrimination following its recommendations.

Spain trusts that the aforementioned future Act will serve as a common reference, setting forth the fundamental definitions of Spanish anti-discrimination legislation while simultaneously providing for its basic guarantees, aware that, under current conditions, the difficulty of combating discrimination and intolerance in Spain lies not so much in recognizing the problem as it is does in providing real and effective protection to victims, combining a preventive approach with a reparative approach, and focusing in particular on historical forms of discrimination such as anti- Roma sentiment and Afrophobia.

Spain's goal is for one of the main innovations of the future Act to be the creation of a truly independent body equipped with sufficient human and budgetary resources, offering protection against discrimination and promoting compliance with anti-discrimination law. Another of our aims is to strengthen the support and information provided to victims of discrimination and intolerance. This Act will also serve as the best manner in which to transpose the purposes and objectives of Directives 2000/43/EC and 2000/78/EC, as said transposition was only partially achieved through Act 62/2003 of 30 December, on fiscal, administrative and labour-related measures.

## **Paragraph 12.**

*The Advisory Committee urges the authorities to amend Article 22.4 of the Criminal Code to include anti-Gypsyism explicitly, alongside anti-Semitism and the other aggravating circumstances already listed in the Article.*





As stated under paragraph 4, Spain would like to insist on the following:

- It is already included in the generic expression “racist motives” or “discrimination referring to ethnicity” (art. 22.4 CC); in the same way as it is included in other types of criminal offence (art. 510 and following of the CC).
- From a legal technique point of view, the explanation given in paragraph 130 of the Opinion, as to why a specific mention of anti-Gypsyism as an aggravating factor is excluded from article 22.4 of the Criminal Code is correct.
- However, some of the subsequent paragraphs seem to give arguments to refute this point, although we must point out that anti-discrimination legislation is not the same as criminal law. For instance, in paragraph 135 it is stated that “*The Advisory Committee would also refer to a Council of Europe recommendation of 2017, which calls on all its member states to ‘ensur[e] that where legislative texts refer to other specific forms of discrimination targeting particular groups (for example, anti-Semitism, Islamophobia, Christianophobia, gender-based discrimination), those texts refer to anti-Gypsyism on an equal footing’.*” No part of the recommendation mentioned (Recommendation CM/Rec(2017)10 of the Committee of Ministers to member States on improving access to justice for Roma and Travellers in Europe, 17 October 2017) focuses on amending criminal legislation, so this paragraph should not be used as an argument to amend article 22.4 of the Criminal Code, as it is intended.

### Paragraph 13

*The Advisory Committee urges the authorities to extend intercultural education and to introduce Romani history and culture into school curricula, textbooks and teaching materials at state level and in all Autonomous Communities with a view to increasing knowledge among the general population and reducing the prevalence of negative stereotypes; and to provide teacher training accordingly.*

See the comments on paragraph 7



## Further recommendations

### Paragraph 16.

*The Advisory Committee calls on the authorities to take urgent steps to set up an independent equality body or to ensure that the Council for the Elimination of Racial and Ethnic Discrimination be given its full independence, a broad mandate, sufficient resources and freedom to select its own staff in line with relevant international standards.*

Work has now been underway for several months to improve the quality of the future Comprehensive Act on Equality of Treatment and Against All Forms of Discrimination. These efforts are also aimed at decisively supporting the enactment of this legislation, taking into account that non-discrimination is set forth as a basic principle of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948, as well as of the International Covenant on Civil and Political Rights, article 26 of which provides for non-discrimination as a general and autonomous right.

The future Act is being drafted in line with the vision of the Council of Europe, a body that adopted non-discrimination and tolerance as essential values with the entry into force of Protocol No. 12 to the European Convention on Human Rights, article 14 of which explicitly prohibits discrimination, specifying that the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or any other status. The European Convention on Human Rights sets forth the general prohibition against discrimination with the mandate that the enjoyment of all the rights recognized by law be secured without discrimination of any kind, with equality and non-discrimination thus constituting an autonomous right, not dependent on any of the other rights recognized in the Convention. In addition, pursuant to the 1983 Vienna Declaration, all States are mandated to engage in a Programme of Action for combating racism, xenophobia, anti-Semitism and intolerance, and Spain, among other countries, is invited to adopt general legislation against discrimination following its recommendations.

Spain trusts that the aforementioned future Act will serve as a common reference, setting forth the fundamental definitions of Spanish anti-discrimination legislation while simultaneously

providing for its basic guarantees, aware that, under current conditions, the difficulty of combating discrimination and intolerance in Spain lies not so much in recognizing the problem as it is does in providing real and effective protection to victims, combining a preventive approach with a reparative approach, and focusing in particular on historical forms of discrimination such as anti- Roma sentiment and Afrophobia.

Spain's goal is for one of the main innovations of the future Act to be the creation of a truly independent body equipped with sufficient human and budgetary resources, offering protection against discrimination and promoting compliance with anti-discrimination law. Another of our aims is to strengthen the support and information provided to victims of discrimination and intolerance. This Act will also serve as the best manner in which to transpose the purposes and objectives of Directives 2000/43/EC and 2000/78/EC, as said transposition was only partially achieved through Act 62/2003 of 30 December, on fiscal, administrative and labour-related measures.

#### **Paragraph 19.**

*The Advisory Committee calls on the authorities to take appropriate steps so that official Spanish language dictionaries do not contain any derogatory words or convey any negative stereotypes about Roma.*

As stated under paragraph 2, the Royal Academy of the Spanish language (RAE) dictionary has been modified to avoid derogatory words to define Roma.

#### **Paragraph 21.**

*The Advisory Committee calls on the authorities to improve the representation of Roma, both men and women, in the public services at central, regional and local levels, through affirmative measures for recruitment, retention and promotion, including internships and training, and the provision of scholarships, which would enable them to apply for such positions.*

As stated in article 23 of the Spanish Constitution and in the Spanish legal framework, access to public office (to become a civil servant) is based on equality, merit and capacity, and the law only reserves a special quota for people with physical and/or mental disabilities.

There are different types of employment in the public sector. Some positions can only be accessed through a series of exams, while access to others—such as those in the “*personal laboral*” category (very similar to employees with ordinary job contracts) is more flexible. Spain is in favour of improving the representation of Roma in public office and other possibilities could be explored in terms of access to such positions, such as work contracts in Roma communities.

## **Paragraph 22.**

*The Advisory Committee calls on the authorities to improve the functioning of the State Council for the Roma People, including its mandate and resources, as well as its co-operation with the Autonomous Communities, for instance by involving Roma representatives in the Technical Group for Co-operation with the Autonomous Communities.*

The State Council for the Roma People is composed of 40 members, 20 of them representing the Central Administration and 20 of them representing Roma NGOs selected according to requirements not related to territorial criteria. The selection of Roma entities is through an objective process in which specific merits are taken into account, such as the size of the entity, its budget, its staff, number of volunteers, its experience, its reputation, among others. In addition, some Autonomous Communities already have their own Councils, which have a similar mandate and operate in those specific regions.

Moreover, apart from the State Council for the Roma People, the Ministry of Social Rights and the 2030 Agenda is in contact with the representatives of the Autonomous Communities in the Working Group dealing with Roma issues. The Roma NGOs are not represented in this Working Group, but may be invited to attend meetings.

Therefore, we consider there is good cooperation between stakeholders.

## **Follow-up to these recommendations**

## **Paragraph 24.**

*The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle opinion. It considers that follow-up dialogue to review the observations and recommendations made in this opinion would be beneficial. Furthermore, the*

*Advisory Committee stands ready to support the authorities in identifying the most efficient ways of implementing the recommendations contained in the present opinion.*

The relevant Spanish authorities agree on organizing a follow-up event after the publication of this fifth cycle opinion.

## ARTICLE-BY-ARTICLE FINDINGS

### Scope of application (article 3)

#### Paragraph 31.

*Some members of the State Council for the Roma People informed the Advisory Committee during the visit that there was an ongoing discussion among the Spanish Roma community on whether their official recognition as a 'national minority' by the state entailed any added value. Some of the interlocutors of the Advisory Committee clearly stated that such official recognition would improve the situation.*

As stated above, the Spanish Constitution does not recognise the existence of national minorities. Despite this, Spain applies the provisions of the Framework Convention to the Roma Community. The authorities dealing with Roma Community issues consider that Roma people, in general, feel satisfied with their present constitutional status, identical to that of all other Spanish citizens.

#### Paragraph 33.

*The Advisory Committee regrets that the Spanish authorities persist in their restrictive interpretation of the scope of application, whereas they could consider using its provisions to manage the challenges posed by the rich linguistic and cultural diversity across the different regions of Spain. The Advisory Committee also notes that Roma community members and associations would welcome a debate on the added value that their official recognition as a 'national minority' could entail.*

As stated in paragraph 1, the Spanish authorities do not employ a restrictive interpretation of the scope of the Convention. Just the opposite, Spain ratified the Convention even without having formally recognized any national minorities, in order to provide the Roma Community with the reinforced protection that the Convention guarantees.

Spain is a very rich and diverse country. Linguistic diversity is recognized in the Spanish Constitution and so is cultural diversity. We are very proud of our diverse heritage; it is part of our identity and our priority is to foster and encourage it.

## Legal framework for combating discrimination (Article 4)

### Paragraph 51.

*The existing anti-discrimination provisions are contained in Article 14 of the Constitution,<sup>30</sup> and in Articles 27 to 43 of Law 62/2003, which transposed EU equality directives 2000/43 and 2000/78 and amended over 50 existing laws. According to Article 14 of the Constitution and the case law of the Constitutional Court,<sup>31</sup> discrimination based on all personal or social circumstances and conditions is prohibited; however, the grounds of language, citizenship and national or ethnic origin are missing from the Constitution and from other legal provisions. In addition, the Spanish Constitution does not formally grant equal rights to all individuals, just to Spanish citizens, a point which has been regularly criticized both by the European Commission against Racism and Intolerance (ECRI)<sup>32</sup> and the United Nations Committee on the Elimination of Racial Discrimination (CERD).<sup>33</sup>*

The affirmation made in paragraph 51 is not correct. The fact that article 14 of the Spanish Constitution refers to "the Spanish people" does not mean that foreigners' rights to non-discrimination and equality before the law are not protected by the Constitution and by the legal system.

- On the one hand, article 10.2 of the Spanish Constitution, which is a mandatory, hermeneutic clause, has not been taken into account. Nor has Constitutional Court case law dating back to a very early stage (1984) which clearly affirms that: "(...) in spite of the literal wording of Article 14 of the Spanish Constitution, on the basis of the general doctrine that this Constitutional Court has determined on the subject of foreigners (...) all persons, and not only Spaniards, are guaranteed every right considered to be "indispensable for the guarantee of human dignity" (Constitutional Court Ruling 107/1984, Legal Basis 3).
- Paragraph 51 is based on the Fifth ECRI Report on Spain (footnote 32), which in return refers to the Fourth ECRI Report, whose paragraph 1, page 11, reads as follows (as this is a



document of the Council of Europe, we prefer to refer to a document from the same Organization, even though we have already done so in the past to support a similar line of reasoning):

*“In its fourth report, ECRI again recommended that the right to equality be **formally granted** by the Constitution to all individuals and not just Spanish citizens (cf. Article 14 of the Constitution). ECRI regrets that this recommendation was not implemented in the framework of the amendments made to the Constitution in 2011. ECRI recalls that Article 14 of the European Convention on Human Rights and Article 1 of Protocol No. 12 to this convention are directly applicable in Spain; these provisions provide for a general prohibition of discrimination without any distinction between nationals and foreigners. ECRI considers, that this human right and the corresponding case-law of the Constitutional Court (See for example Constitutional Court, no. 137/2000, 29.05.2000 under II.1) should be appropriately reflected in the wording of the Spanish Constitution; the latter should, according to § 2 of GPR No. 7, enshrine the principle of equal treatment, the commitment of the State to promote equality as well as the right of all individuals to be free from discrimination, without differentiating between nationals and foreigners, as Articles 13 and 14 of the Constitution currently do.”*

This paragraph contains a set of legally simplistic, simplifying and inaccurate statements:

- Despite the fact that they refer to the need to "formally grant" (equality to all individuals in the Constitution), all the arguments lead to an accusation that the right to non-discrimination is not in fact being protected.
- In Constitutional Court Ruling 137/2000, which is mentioned as an example, the Constitutional Court ruled that there had been no discrimination in a case involving an application by a French citizen to be assisted in a lawsuit contesting a decision to deny him prison leave because he failed to explain in his lawsuit why he believed he was a victim of discrimination. The Constitutional Court stated the following: *"But when it comes to explaining the reasons and the arguments that could prove discrimination in the denial of prison leave on the grounds that he is a foreigner, the lawsuit is completely silent and this silence is only interrupted by a simple invocation of equality. Therefore, the applicant has not, as he is obliged to, carried out a minimum level of activity, nor shown any*



*evidence, with the purpose of leading us to believe that he has been subject to discriminatory treatment in the application of the law".*

- Once again, it is a mistake to confuse articles 13 and 14 of the Spanish Constitution, as it will lead to a misunderstanding of the content and spirit of the Constitution when it comes to human rights.

Spain would also like to refer to the role of the Spanish Observatory on Racism and Xenophobia (OBERAXE) in tackling discrimination.

“The Spanish Observatory on Racism and Xenophobia (which operates under the aegis of the Ministry of Inclusion, Social Security and Migration) gathers information on projects, surveys, resources, reports and research promoted by the Secretary of State for Migration and other ministerial departments, entities and organisations, in order to serve as a platform offering information and analysis and spurring on work to combat racism, racial discrimination, xenophobia and other forms of intolerance, as well as hate incidents and hate crimes. The work of the Observatory is undertaken in cooperation with governmental institutions of various levels and with civil society organizations in Spain, with the European Union and other international institutions”.

## **Roma Integration Strategies (Article 4)**

### **Paragraph 84.**

*The National Contact Point for the EU in charge of co-ordinating and supervising the planning, implementation and monitoring of the Strategy and its Operational Plan is the Directorate General of Families and Child Services,<sup>67</sup> which operates under the Ministry of Health, Consumer Affairs and Social Welfare. In addition, at national level, this Directorate is responsible for analysing and disseminating information, transferring knowledge and good practices and securing the participation of Roma civil society, including in the State Council for the Roma People.*

The General-Directorate for Family and Child Services is now called the General-Directorate for Family Diversity and Social Services and forms part of the organizational structure of the Ministry of Social Rights and the 2030 Agenda. This General-Directorate continues to be the National



Roma Contact Point regarding the National Roma Integration Strategy in communications with the European Commission. We would appreciate it if the name of the Ministry and of the General-Directorate could be changed throughout the document accordingly.

#### **Paragraph 86.**

*The Technical Group for Co-operation with the Autonomous Communities on Roma was set up in 2010 to exchange information among various services about activities carried out for and with Roma, fostering greater links between the national strategy and the Autonomous Communities' local strategies. The Technical Co-operation Group is made up of representatives of the Ministry of Health, Consumer Affairs and Social Welfare and the departments of the Autonomous Communities' responsible for Roma social inclusion policies and contributes to the annual progress report of the implementation of the Strategy by reporting information about measures undertaken by the respective Autonomous Communities in favour of the Roma.*

The Autonomous Communities Working Group also plays a key role in reporting information on measures in favour of the Roma population implemented in their territories in line with the objectives of the National Strategy. This is crucial to the preparation of the annual progress report regarding Spain's National Roma Integration Strategy.

#### **Hate speech and hate crime (Article 6)**

#### **Paragraph 129, 138 and 140**

See the comments on paragraphs 4 and 12

#### **Paragraph 132.**

*The National Hate Crimes Office collects statistics on hate crime<sup>104</sup> and since 2013, has published an annual report on the evolution of incidents related to hate crimes in Spain.<sup>105</sup> Comparison between 2013 (1 172 cases) and 2018 (1 600 cases) shows an increase;<sup>106</sup> however, according to some, it might also be due to the fact that people are becoming more aware and willing to report. On the other hand, the European Union Fundamental Rights Agency (FRA) estimates that 80-90% of offences are under-reported. The grounds for hate crime are mainly linked to ideology, racism/xenophobia and LGBT. Racism is constant at around 30-37% of all hate crimes. Anti-Semitism is very low; only nine cases were reported in 2018;<sup>107</sup> however, the authorities acknowledge that there is a high level of under-reporting among the Jewish community. A slight growth in discriminatory incidents has been noted, but, according to our discussion partners, it cannot be correlated with the appearance of the far-right political party Vox. Since 2017, hate crime related to ideology has gone up.*

Regarding paragraph 132 and, in particular, the footnote on page **no. 104** (page number 19 of the Fifth Opinion), Spain would like to add the following:

ALRECO is an EU Project (2018-2021) that involves the Ministry of the Interior, the University of Barcelona, the TRABE association and OBERAXE. Its specific aims are to generate a computer tool that allows the systematic collection, compilation and analysis of hate speech propagated through new media and social networks, establish and/or strengthen synergies between institutional actors and key actors including civil society to assess the dissemination and damage caused by hate speech, to design shared strategies for work and coordinated action, as well as measures to discourage its use and to reduce and repair the damage caused. The intention is also to disseminate the project and analyse the transferability of its main products at the European level, in order to multiply its impacts, both at the national level and in other Member States.

#### **Effective participation in public affairs and decision-making processes (Article 15)**

##### **Paragraph 190.**

*The Advisory Committee calls on the authorities to improve the functioning of the State Council for the Roma People, including its mandate and resources, as well as its co-operation with the Autonomous Communities, for instance by involving Roma representatives in the Technical Group for Co-operation with the Autonomous Communities.*

See comments on paragraph 22

#### **Effective participation in socio-economic life - Access of Roma to health care (Article 15)**

##### **Paragraph 203.**

*At the local level too, since 2018, under the Agreement on Strengthening Spain's Healthy Cities Network and as part of the local implementation of the Strategy for Health Promotion and Illness Prevention<sup>181</sup>, the annual provision in the 2018-2020 Operational Plan for aid to local authorities has included an allowance for financing health improvement and prevention initiatives for Roma. Under this strategy, it has been possible to carry out a first health survey of Roma children.<sup>182</sup>*



Spain would like to state that there has been a misunderstanding regarding the last sentence of this paragraph. We believe the correct interpretation is as follows: “Under this strategy, the first Health survey of Roma children conducted in the Autonomous Community of Asturias was identified as a good practice.”

**Paragraph 208.**

*The Advisory Committee encourages the authorities, in close co-operation with Roma associations, to address specific health challenges among the Roma community through training for health professionals and targeted research, including by paying more attention to illicit drug consumption among young Roma in the next national Roma health survey.*

The Spanish authorities will analyse ways of reinforcing efforts in line with the Advisory Committee’s recommendations.