European Commission against Racism and Intolerance

ECRI

Commission européenne contre le racisme et l'intolérance

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

CRI(2018)2

ECRI REPORT ON SPAIN

(fifth monitoring cycle)

Adopted on 5 December 2017

Published on 27 February 2018

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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 22 June 2017; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fourth report on Spain on 7 December 2010, progress has been made in a number of fields.

The hate crime provisions have been strengthened and the racist motivation of criminal offences is now an aggravating circumstance. Spain has ratified the Additional Protocol to the Convention on Cybercrime and, in 2010, set up a Network of Centres of Assistance for Victims of Racial or Ethnic Discrimination. The Spanish Ombudsperson intensified its activities in the field of equality.

The authorities and civil society have seriously started collecting, improving and fine-tuning statistics on hate speech and other hate crime. Hate speech is not common in the Spanish mainstream political discourse and far-right groups and parties do not have significant impact. In 2011, the Council of Ministers adopted an anti-racism strategy and the Council for the Promotion of Equal Treatment (CERED) issued a recommendation for avoiding hate speech in election campaigns. The authorities recently presented plans to combat bullying and violence in schools and in 2013 a new commission was set up to keep racist content out of audio-visual media.

The Spanish Supreme Court confirmed the dissolution of two racist organisations and a country-wide network of hate crime prosecutors was set up. The police services have developed a protocol for handling hate crime cases. Two hundred police officers focus on this issue and victim's rights have recently been strengthened.

The rapid acquisition of Spanish citizenship for some groups of migrants facilitates their integration. The employment rate among non-nationals has significantly increased after the waning of the economic crises and the authorities are developing an action plan on the education of migrant children. The Roma strategy contains clear objectives, indicators and target values and its targets have almost been achieved in the field of housing. Almost all Roma children are enrolled in pre- and primary school and good practices have developed to prevent school-absenteeism and early school drop-out.

There is a high degree of openness towards LGBT persons and Spain was the third country in the world to legalise, in 2005, same-sex marriage. Spain thus granted equal rights to married homosexual couples, including adopting children. Several autonomous communities have adopted additional legislation and action plans, and entrusted authorities with promoting LGBT rights.

ECRI welcomes these positive developments in Spain. However, despite the progress achieved, some issues give rise to concern.

The Spanish Constitution restricts the right to equality of foreigners and the hate crime provisions do not explicitly mention the grounds of colour, language and citizenship. The existing anti-discrimination provisions are hidden and almost no discrimination cases have been brought to court. A 2011 bill on new anti-discrimination legislation was not enacted. The anti-discrimination body (the CERED) is not independent, does not have an infrastructure of its own and has ceased almost all own activities.

Prejudice exists in particular towards Muslims, Roma and LGBT persons. The police statistics on hate crime suffer from underreporting and inconsistencies in the data collection, and are not sufficiently linked with the judicial statistics. Thus, they do not yet provide a realistic picture of the extent of this type of crime and cannot be fully used to improve their investigation. In the political debate, anti-immigrant and anti-Roma discourse is present and some media spread negative views of migrants and prejudice about Roma. Hate speech on the Internet and social media has risen sharply.

Due to drastic budget cuts implementation of the anti-racism strategy has slowed down and few measures have been implemented as from 2015 to prevent racism and hate speech. The (self)regulatory mechanisms for the media contribute little to prevent the publication of xenophobic and racist content. Victims of hate crime still find it difficult to contact the police and specialised prosecutors to file a complaint and the police have

difficulties in obtaining from Internet providers the necessary information for investigating hate speech.

There is no central integration strategy for the years as from 2017. It is difficult to measure the impact of the previous integration policies, as there is no consistent system of integration indicators in place. Many migrants are at risk of poverty and/or social exclusion and 44.2% of the migrants originating from other countries than the EU leave school early. The employment rates of people from Morocco and sub-Saharan countries is particularly low. Migrant children receive only limited support in learning Spanish and the other official languages and catching up academically. Due to the 2012 health reform, many non-nationals were excluded from the public health system.

The rehousing of Roma has contributed to residential and school segregation. School attendance among Roma children drops sharply towards the end of compulsory schooling and only 45% complete compulsory education, 10% secondary and 2 % tertiary education.

There is still a considerable amount of prejudice and discrimination towards LGBT persons and many are not open about their sexual orientation or gender identity. At national level, there is no comprehensive strategy or action plan for LGBT issues and no authority is in charge of coordinating LGBT related polices. Transgender persons need to prove they have received medical treatment for at least two years before they can change their first name or gender.

In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.

The authorities should criminalise all discrimination in the exercise of one's public office and adopt new comprehensive anti-discrimination legislation. They should also take urgent steps to set up a strong independent equality body.*

The authorities should update their anti-racism strategy and raise awareness about the existence of ethical codes and (self) regulatory bodies for the media and their competence for dealing with hate speech. The law enforcement authorities should further improve the system for recording and monitoring hate speech and other hate crime, intensify and institutionalise sustainable dialogue with vulnerable groups, and focus on cyber hate speech.

The authorities should update their integration policies in a strategic document and develop a coherent system of integration indicators. Special focus should be put on activities that help children with a migration background to complete compulsory schooling. Special measures should be developed for the groups of migrants facing the greatest difficulties in the labour market and the authorities should thoroughly assess the impact of the health reform on migrants. With regard to the integration of Roma, the authorities should ensure that the numbers of Roma children completing compulsory education quickly increases.* The authorities should also strengthen Roma civil society and involve it in the further development and implementation of Roma-related activities.

The authorities should intensify support and protection for young LGBT persons and implement, in particular in schools, measures to promote understanding and respect for LGBT persons. The authorities should also lower the conditions for transgender persons to change their name and gender.

* This recommendation will be subject to a process of interim-follow-up by ECRI not later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Common topics

1. Legislation against racism[1] and discrimination[2]

- General legislative framework

1. 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[3] 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.

- Criminal law

2. ECRI is pleased to note that the Spanish authorities adopted extensive amendments to their Criminal Code (CC) in 2015, which brought it further in line with §§ 18 to 23 of ECRI's General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination. Spain also ratified the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, which entered into force on 1 April 2015.

3. Article 510.1.a CC now expressly penalises public incitement to violence, hatred or discrimination, in line with § 18a of GPR No. 7. ECRI however regrets that this and other hate crime provisions of the Spanish CC do not explicitly mention the grounds of colour, language and citizenship. While the authorities are of the opinion that the grounds of language and skin colour are covered by the grounds of race and national origin, they have not indicated any case-law on this issue. For clarity, ECRI considers that all three grounds should be explicitly inserted into the hate crime provisions.

4. Racist insults, defamation and threats (§ 18b and c of GPR No. 7) are punishable under the general norms on defamation (Articles 205 to 207 CC), insults (Articles 208 to 210 CC) and threats (Article 169 CC) in combination with article 22.4 CC on aggravating circumstances (see § 9 below). In addition, Article 170 CC provides for increased penalties if threats are intended to frighten members of a population, ethnic, cultural or religious group, or social or professional group or any other group of people.

5. Article 510.2.a CC makes it a criminal offence to infringe the dignity of people through actions involving humiliation, contempt or disparagement on the ground of their belonging to an ethnic group, race or nation, national origin or sexual

[1] According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

[2] According to GPR No. 7 "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

[3] See for example Constitutional Court, no. 137/2000, 29.05.2000 under II.1.

orientation.[4] It will depend on the interpretation of this provision by the judiciary as to whether it covers the recommendation made in § 18d of GPR No. 7 to criminalise the public expression of an ideology which claims the superiority of, or which depreciates or denigrates a grouping of persons on the grounds of race, colour, language, religion, citizenship, or national or ethnic origin.

6. Article 510.1.c criminalises the public denial, trivialisation and glorification of crimes of genocide, crimes against humanity or against persons protected in armed conflicts. ECRI regrets that this provision is not fully in line with § 18e of its GPR No. 7, as it contains the restriction that acts are only punishable if they promote or encourage a climate of violence, hostility, hatred or discrimination.[5] In practice, this element could be more difficult to prove than the requirement of a racist aim in § 18e of GPR No. 7, and thus constitute a loophole in the criminal protection against genocide denial.

7. Article 510.1.b CC is fully in line with § 18f of GPR No. 7 on the production, storage and dissemination of racist material. Articles 515 to 517 CC criminalise founders, leaders and active members of organisations that are intended to commit criminal offences – including criminal hate speech and hate crime - or to promote or incite to hatred. This is almost fully in line with § 18g of GPR No. 7, which in addition recommends penalising support for racist organisations. Unfortunately, the ground of gender identity is missing from these provisions.

8. Article 511 CC makes it a criminal offence for anyone in charge of a public service to deny a person a benefit to which he/she is entitled on the grounds of ethnicity or race, national origin, sexual orientation or gender. According to Article 512 CC, a penalty of disqualification from their professional activity shall be imposed on persons who deny another person a benefit in a discriminatory way in the exercise of their professional or business activities. These provisions are not fully in line with the recommendation made in § 18h of GPR No. 7, according to which any racial discrimination in the exercise of one's public office or private occupation should be criminalised, as they only deal with denying a benefit, but not with other kinds of unjustified differentiation, such as for example racial profiling by the police.[6]

9. Article 607 CC criminalises, in line with § 19 of GPR No. 7, genocide. Articles 15 et seq. CC contain general norms on instigating, aiding, abetting or attempting to commit criminal offences (§ 20 of GPR No. 7). In line with § 21 of GPR No. 7, it constitutes an aggravating circumstance to commit an offence on the grounds of racism, antisemitism, the religion or beliefs of the victim, or his/her ethnicity, citizenship, gender, sexual orientation or gender identity. ECRI furthermore takes positive note of the provisions in Article 510.3 and 4 CC, which provide for higher penalties if the act is committed via the Internet or if it is likely to disturb public peace or to create a serious sense of insecurity or fear among the members of a vulnerable group. Legal persons are only held responsible where the Criminal Code expressly so provides. Unfortunately, this is not the case for all acts punishable under general norms such as the provisions on insults, defamation and threats cited in § 4 of this report, and this is not fully in line with § 22 of GPR No. 7. In line with § 23 of GPR No. 7, the Criminal Code provides for effective sanctions in the relevant criminal provisions and for the possibility to

[4] Issues related to sexual orientation and gender identity will be further analysed in §§ 94 et seq. of the report.

[5] ECRI is well aware that this restriction is in line with Article 1.1.d of the EU Council Framework Decision 2008/913/JHA on combating racism and xenophobia by means of criminal law.

[6] On racial profiling see e.g. the study cited in CERED 2015a: § 55, according to which people belonging to ethnic minorities are two times more likely to be subject of identity controls by the police. See also ECHR B.S. v. Spain, no. 47159/08, 24 July 2012 and Rights International Spain 2017.

destroy racist material and to block racist content on the Internet (Article 510.6 CC).

10. ECRI recommends that the Spanish authorities bring their criminal law into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should (i) include the grounds of colour, language, citizenship and gender identity in all relevant provisions, (ii) criminalise the support for groups that promote racism, and (iii) criminalise all racial discrimination in the exercise of one's public office or occupation.

- **Civil and administrative law**

11. In its fourth report, ECRI recommended that the authorities adopt new legislation on equal treatment and non-discrimination as soon as possible. In 2016, the UN Committee on the Elimination of Racial Discrimination made a similar recommendation.[7] ECRI regrets that a bill containing comprehensive anti-discrimination legislation, which was presented to Parliament in 2011, was not enacted, as the Parliament was dissolved before the successful completion of the legislative procedure. No new bill has been presented to Parliament since then. At the same time, ECRI takes positive note of a new draft law on equal treatment, which has been tabled at national level[8], and of the adoption of anti-discrimination legislation by several Autonomous Communities.[9] The analysis below is focused on the existing national legislation.

12. The existing anti-discrimination provisions are contained in the Constitution as well as Articles 27 to 43 of Law 62/2003, which transposed the EU equality directives 2000/43 and 2000/78 and amended over 50 existing laws. Already in its last report on Spain, ECRI noted that practically no cases have been brought to court under these provisions, as a result of the law's relative obscurity and a general lack of awareness about it.[10]

13. Article 28.1 of Law 62/2003 defines and prohibits, in line with § 4 of GPR No. 7, direct and indirect discrimination. While, according to Article 14 of the Constitution and the case law of the Constitutional Court, discrimination based on all personal or social circumstances and conditions is prohibited[11], the grounds of race, colour, language, citizenship, national origin and gender identity are however missing from this and other legal provisions.

14. Article 9.2 of the Constitution and Articles 30, 35 and 42 of Law 62/2003 provide, in line with § 5 of GPR No. 7, for the general possibility of positive action on the grounds of racial and ethnic origin. In the field of education, Article 80 of Organic Law 2/2006 requires the authorities to develop compensatory actions aimed at persons, groups and territorial regions with unfavourable situations, and to provide the necessary economic resources.

15. The acts of segregation, discrimination by association, announced intention to discriminate and incitement to discrimination are not explicitly prohibited under Law 62/2003, as recommended in § 6 of GPR No. 7.[12] Article 29 of the law sets out the areas governed by the law, but these do not cover all areas of the public and private sectors as recommended by ECRI in § 7 of GPR No. 7. Areas such

[7] CERD 2016: § 8a.

[8] Boletin Oficial de las Cortes Generales, Serie B Núm. 97-1 of 10 March 2017. On anti-discrimination legislation adopted in some Autonomous Communities see § 96. ECRI also notes that other legislation on discrimination exists, for example a law on discrimination of disabled persons.

[9] See in this respect § 96 of the report.

[10] ECRI 2011: § 20.

[11] Constitutional Court, no. 137/2000, 29.05.2000 under II.1.

[12] Article 14.2 and 14.6 of Organic Law 3/2007 on gender equality prohibit segregation of women who are members of minorities or migrants.

as policing, racial profiling by law enforcement authorities or tax law are not covered.[13]

16. In line with § 8 of GPR No. 7, Article 9.2 of the Constitution provides a positive obligation on the part of public authorities to promote equality and to prevent discrimination when carrying out their functions. According to § 9 of GPR No. 7, the law should place public authorities under a duty to ensure that those parties to whom they award contracts, loans, grants or other benefits respect and actively promote a policy of non-discrimination. This recommendation is only partly reflected in Article 60.1 of Royal Legislative Decree 3/2011, which prohibits the awarding of public contracts to entities which have been convicted of, inter alia, the establishment or participation in the activities of a criminal organisation or group or crimes against workers' rights, or which have been sanctioned for a serious offence in professional matters or in the field of equal opportunities and non-discrimination of persons with disabilities or aliens.

17. According to § 10 of GPR No. 7, the law should ensure that all victims of discrimination have ready access to judicial and/or administrative proceedings, including conciliation procedures. ECRI considers that the Spanish system is not fully in line with this recommendation. Victims of discrimination face serious difficulties in bringing cases to court, as representation by two different types of lawyers is mandatory[14] and as court proceedings are often long and complex. The number of discrimination cases brought before the courts seem to be very low.[15] Furthermore, only victims of discrimination committed by a public authority can make a complaint to the Ombudsperson, but there is no equality body in place with which victims of discrimination could lodge a civil law complaint. Progress was however achieved in 2010, when the Council for the Promotion of Equal Treatment launched the Network of Centres of Assistance for Victims of Racial or Ethnic Discrimination, which can mediate cases of discrimination.

18. Article 32 of Law 62/2003 is in line with § 11 of GPR No. 7 on the sharing of the burden of proof in discrimination cases. The existing legislation does however not appear to be in line with § 12 of GPR No. 7 according to which the law should provide for effective, proportionate and dissuasive sanctions for all discrimination cases including the payment of compensation for material and moral damages.[16] Law 62/2003 has only introduced a provision on compensation and fines in the field of employment, which applies to the whole area of social law as of 2015 (Article 183 of Law 36/2011 on social jurisdiction), but there is no general rule providing for compensation in all discrimination cases. Furthermore, the authorities have not provided any information on whether general civil or administrative law rules on compensation could be applied in discrimination cases nor indicated any case law on this matter.[17]

19. The Ombudsperson has the powers to initiate investigations ex officio (Article 9.1 of the Organic Law 3/1981) and to suggest to the legislative body or the administration the modification of regulations. Thus, it would seem that he/she can review, on an on-going basis, the conformity with the prohibition of discrimination of all laws, regulations and administrative provisions at the national and local levels, as per § 13 of GPR No. 7.

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[13] Anti-discrimination legislation of Autonomous Communities sometimes goes further, see e.g. Article 5 of the Catalan Law 11/2014 of 10 October 2014.

[14] See in this respect European Equality Law Network (EELN) 2016: 78.

[15] EELN 2016: 78; Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) 2014: § 19.

[16] ECRI at the same time takes positive note of the possibility to award compensation in criminal proceedings (Articles 109 et seq. CC).

[17] See however the previous footnote and EELN 2016: 86 et seq.

20. Spanish law is not fully in line with § 14 of GPR No. 7, according to which discriminatory provisions in individual or collective contracts, agreements or regulations should be amended or declared null and void. Whereas Article 17.1 of the Workers' Statute declares null and void some discriminatory provisions in the field of labour law, no similar provision seems to exist outside this area. Harassment is defined and prohibited in Article 28.1.3 of Law 62/2003 in line with § 15 of GPR No. 7.

21. In line with § 17 of GPR No. 7, Article 9.2.a of Organic Law 6/2002 declares illegal any political party which persistently promotes, justifies or excuses the exclusion or persecution of persons on the grounds of their ideology, religion or belief, citizenship, race, sex or sexual orientation. Article 10.2a and c of the same law provides for the judicial dissolution of a political party which carries out repeated and grave activities described in Article 9 or which is classified as an unlawful association in the sense of Article 515 CC (cf. § 7); during these proceedings, the party's public funding can be suspended pursuant to Article 3.5 of law 8/2007 (§ 16 of GPR No. 7). With regard to other racist organisations, Article 520 CC and Article 38.2a of Law 1/2002 only contain provisions on the dissolution of association which are unlawful under criminal law. This is not totally in line with § 17 of GPR No. 7, according to which the law should provide for the possibility of dissolution of any organisation which promotes racism, even if it does not (yet) commit criminal offences. Furthermore, the Spanish authorities have not indicated legal provisions that provide for an obligation to suppress public financing of other racist organisations than political parties (§ 16 of GPR No. 7).

22. ECRI again strongly recommends that the Spanish authorities adopt as soon as possible comprehensive anti-discrimination legislation in line with the standards laid down in §§ 4 to 17 of its General Policy Recommendation No. 7.

- **Specialised national bodies**[18]

23. In its fourth report, ECRI recommended that the authorities take urgent steps to ensure that Spain's specialised anti-discrimination body functions according to ECRI's GPRs No. 2 and 7, in particular as concerns its independence. ECRI pointed out that the Council for the Elimination of Racial and Ethnic Discrimination (CERED)[19], which was set up in 2009, lacked in particular investigation powers and the right to initiate and participate in court proceedings; in addition, the Council was not independent in the sense of ECRI's GPR No. 2.[20]

24. According to Article 33 of Law 62/2003, the Council's three principal functions are (i) to provide independent assistance to victims, (ii) to conduct analyses and studies and publish independent reports, and (iii) to promote equal treatment and to issue recommendations and proposals regarding equality and non-discrimination. During the first years of its existence, the CERED focussed on assistance to victims through the establishment of the Network for Assistance to Victims of Racial or Ethnic Discrimination, which consists of eight specialised NGOs with 87 offices throughout the country. ECRI welcomes the establishment of this network and the assistance it provides to victims of discrimination. In 2016, it assisted victims in 631 cases.[21]

[18] Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as ethnic origin, colour, citizenship, religion and language (racial discrimination), at national level.

[19] The council was established by Article 33 of Law 62/2003 and formerly named Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin.

[20] On details concerning the lacking independence see also EELN 2016: 94.

[21] For details about the network's work cf. Servicio de asistencia a víctimas de discriminación 2016: 13.

25. At the same time, ECRI is very concerned about the further development of the CERED itself. Since 2012 this body has not published any annual report as foreseen in Article 3.b.2 of Royal Decree 1262/2007,[22] and in mid-2014 its president resigned.[23] Almost three years later, at the time of ECRI's country visit to Spain in February 2017, no new president had been appointed and ECRI did not meet with any other representative of the CERED itself. As from mid-2015[24], ECRI was not able to find traces of any significant activities and was informed only about a number of meetings held by the CERED during recent years. The CERED does not have an infrastructure of its own and, according to the Advisory Committee of the Framework Convention on National Minorities (FCNM), the CERED's budget for staffing was halved from 2012 to 2013; its members are only reimbursed for travel expenses.[25] All this shows, regrettably, that the concerns about the structure and the financing of the CERED expressed by ECRI in 2011 and the Advisory Committee on the FCNM in 2014 have proved to be well founded and that these have seriously compromised the Council's sustainability. In practice, the CERED has almost ceased to exist.

26. As can be seen from other sections of this report, Spain greatly lacks an independent body leading in the field of equality and which is capable of bringing about real societal change towards more equality. ECRI therefore considers that the Spanish authorities should now, after the waning of the economic crisis, urgently establish a proper independent body to combat racism and intolerance in line with European standards such as ECRI's GPRs No. 2 and 7, the EU equality directives and the recent recommendation of the UN CERD.[26] Like the Ombudsperson (see § 28), this body should be a separate legal person placed outside the executive. The government should not have a decisive influence on the selection of the persons holding leadership positions in the body and the body should have its own budget, separate premises and should appoint its own staff. It should also have the right to receive complaints concerning racism and discrimination,[27] and to provide – possibly together with the network - assistance to victims. It should have appropriate investigation powers and the right to initiate, and participate in, court proceedings. To create a strong and independent equality body, the authorities could consider merging several existing bodies tasked with combating racism and discrimination into an independent institution.

27. ECRI again recommends that the authorities take urgent steps to set up an independent equality body or to ensure that the Council for the Elimination of Racial and Ethnic Discrimination is fully independent and provided with the competences and powers outlined in ECRI's General Policy Recommendations No. 2 and 7.

28. The Spanish Ombudsperson is also a body tasked with ensuring equality and thus fighting racism and intolerance. This truly independent institution,[28] which is anchored in Article 54 of the Constitution and was established under Organic Act 3/1981, is competent for investigating ex officio or on a complaint the activities and decisions of the public administration. ECRI is pleased to note that the

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[22] See also the content of the CERED's webpage https://www.msssi.gob.es/ssi/igualdadOportunidades/noDiscriminacion/consejo.htm, accessed on 15.3.17.

[23] On the background see ACFC 2014: § 17.

[24] The latest study on the perception of potential victims of racial or ethnic discrimination was published in December 2014, CERED 2014.

[25] EELN 2016: 94; ACFC 2014: § 19.

[26] CERD 2016: § 8c. In ECRI's GPR No. 7 the provisions on equality bodies are contained in § 24 and the relating paragraphs of the explanatory memorandum.

[27] Concerning discrimination complaints in the public sector, the authorities should ensure clear division of labour with the Ombud.

[28] The institution was granted the so-called A-status under the Paris Principles, International coordinating committee of national institutions for the promotion and protection of human rights (ICC) 2012.

Ombudsperson has, under this mandate, intensified its activities in the field of equality, which are now documented in separate chapters of its annual reports. Several Ombudspersons of Autonomous Regions also contribute to promoting equality and fighting racism and discrimination.

2. Hate speech[29]

- Data and extent

29. ECRI is pleased to note that the Spanish authorities and civil society have seriously started collecting, improving and fine-tuning statistics on hate speech and other hate crime. Thus, it will become easier to obtain a realistic picture of the extent of such crime in Spain. According to the official data, which is published on the websites of the Ministry of Interior and of ODIHR, the police services[30] recorded 1 328 hate crime cases in 2015, 1 285 in 2014 and 1 172 in 2013. In 2015, 505 cases (38%) were recorded on the grounds of racism and xenophobia, 169 on sexual orientation and gender identity, 70 on religious beliefs or practices, 17 on Afrophobia and 9 on Antisemitism. 699 men and 467 women were victims of hate crime.[31] Unfortunately, it is difficult to determine how many of these cases concern hate speech. While 205 cases were classified as threats (15.4%) and 113 cases as insults (8.5%), the statistics do not contain data on incitement to hatred (Article 510 CC). Furthermore, there is no data available about the progress of these cases through the judicial system which would show how many of these cases led to a criminal sentence.[32] The authorities have informed ECRI that statistical errors have occurred while compiling this data and that they are working on the improvement of their data collection. They have also informed ECRI that the data of the different years is not fully comparable, as there have been inconsistencies in the data gathering.

30. In recent years, several civil society organisations have also started establishing statistics on hate speech and discrimination incidents. The numbers of cases compiled in these reports tend to be considerably higher than those in the police statistics. Movimiento contra la Intolerancia for example publishes cases of online hate speech almost on a daily basis and recorded 500 hate motivated incidents in 2016.[33] The annual report of SOS Racismo lists almost 100 cases of hate crime alongside 247 other racist incidents.[34] The Spanish Federation of Islamic Religious Entities recorded an eleven-fold increase to 534 attacks targeting the Muslim community including online abuse, and the Citizens' Platform against Islamophobia documented 278 cases of Islamophobia in 2015.[35] According to a survey carried out among 261 homeless persons, of whom 43.7% were foreign nationals, one third of the respondents answered suffering insults or degrading treatment. One third of the foreign homeless victims of hate crime reported

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[29] According to ECRI's GPR No. 15 on combating Hate Speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

[30] This term shall encompass all police services, in particular the national police, the gendarmerie and municipal police services.

[31] Ministry of Interior 2016: 12 et seq.

[32] According to recent data from the prosecution services, in 2016 415 cases were pending, 134 were under prosecution, and there were 82 indictments and 35 convictions.

[33] http://www.informeraxen.es/category/espana/, accessed on 16.03.2017; Movimiento contra la Intolerancia 2017.

[34] SOS Racismo 2016.

[35] Press TV 2016; Plataforma Ciudadana contra la Islamofobia 2016a and b.

having been victims of Afrophobia.[36] In 2016, the observatory on hate crime against LGBT people registered 240 hate crime incidents in Madrid alone (32 in 2015)[37] and the Fundación Secretariado Gitano documented 154 cases of discrimination and hate crime against Roma in 2015, which were directed against 149 women and 138 men.[38] No comparable data could be found for Black persons.

31. Several studies show the underlying levels of prejudice towards different vulnerable groups. The Ministry of Interior's hate crime report refers in this respect to Eurobarometer 2015, according to which 66% of the persons surveyed in Spain indicated that there is a high level of discrimination on the ground of gender identity, 63% on the ground of ethnic origin, 56% on sexual orientation and 43% on religion or belief. Except for the ground of gender identity, these scores are below the EU average.[39] In another survey, the groups towards which the greatest percentage of respondents exhibited attitudes of rejection were Roma and Muslims. 35.4% responded that they would be strongly, moderately or somewhat concerned if they had Roma people as neighbours. Concerning Muslims, 22.6% responded in a similar manner, concerning immigrants 16.4%, concerning transsexuals 10.5% and concerning homosexuals 8.3%.[40] The authorities point out that a series of surveys on attitudes towards immigration shows improving attitudes towards migrants[41]. A fourth survey from 2016 shows a considerable increase of negative opinions about Muslims (50 % after 42% in 2015), and Roma (49% after 35% in 2015), while negative views of Jews stayed stable (21%); these percentages are above the average of the 10 European countries surveyed.[42] According to the 2012 LGBT survey of the EU Fundamental Rights Agency (FRA), 40% of the surveyed LGBT people responded that offensive language towards them was very or fairly wide spread.[43]

32. These surveys and civil society statistics also point to a considerable number of hate speech cases that are still not reported to the police services. During ECRI's country visit to Spain, civil society representatives confirmed such underreporting and suggested several reasons for it: lack of awareness among members of vulnerable groups that hate speech is punishable, lack of awareness and training of police officers about the need to investigate hate speech cases, lack of confidence in the police among members of certain vulnerable groups, and a tendency among certain police officers to dissuade victims of hate speech from lodging complaints.[44] According to a study, among cases of Islamophobia only 18% were reported to the authorities.[45] The rate of reported homo- and transphobic incidents should be similarly low.[46]

33. While open hate speech is not common in the Spanish mainstream political discourse, anti-immigrant and anti-Roma discourse nourishes fears and thus fuels xenophobic and racist sentiments. In particular during the economic crises,

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[36] Hatento 2015. 60.4% of the women interviewed and 44.1% of the men interviewed reported at least one hate motivated incident or crime.

[37] Observatorio Madrileño contra la homophobia, transfobia y bifobia 2017: 17.

[38] Fundación Secretariado Gitano 2016.

[39] EU EC 2015a and b; Ministry of Interior 2016a: 10.

[40] Centro de Investigaciones Sociológicas 2013.

[41] CIS 2015 and similar CIS surveys for preceding years.

[42] Pew Research Center 2016a: 9; The ADL Global 100 index of antisemitism states that 29% of Spain's population harbour antisemitic views, Anti-Defamation League 2015.

[43] FRA 2012, question on daily life No. 1.

[44] Jubani O. and Roiha M. 2016; Lavanguardia.com 2016.

[45] Plataforma Ciudadana contra la Islamofobia 2016b : 8 ; cf. also Press TV 2016.

[46] EU FRA 2012, questions on the reporting of discrimination and violent attacks.

which hit Spain in 2008 and reached a peak in 2012, some politicians resorted to xenophobic statements.[47] In this context, the statements of the mayor and local leader of the Popular Party in Badalona, a city close to Barcelona, need to be mentioned, which openly associated Romanian and Roma migrants with criminality. He also linked poverty, unemployment and lack of security with the arrival of migrants and Islamic terrorism. During a 2015 election campaign in the same region, the Islamophobic rhetoric of politicians from different groups promising, among others, the closing of mosques led to the posting of comments on gassing Muslims and references to the showers of Nazi death camps.[48] The Muslim population in this region still suffers from the xenophobia which was sparked by this and other racist politicians and the Barcelona hate crime prosecutor registered increasing numbers of Islamophobic incidents.[49] Similarly, Javier Maroto, the Popular Party leader and mayor of the Basque Country's capital told a Spanish radio station in 2014 that Algerians and Moroccans register as residents in the city for the sole purpose of claiming social benefits.[50] Others have also accused immigrants of abusing the public health care system.[51]

34. Far-right groups and parties have struggled to have any significant impact in Spanish mainstream politics. The main reasons given are that Spaniards show empathy for foreigners derived from their own mass emigration in the 1960s; that it is relatively easy to integrate Latin American migrants who speak Spanish and are Christian; and that the recent memory of fascism under Francisco Franco has hardened society against extremism. However, in 2011 the Plataforma per Catalunya won 67 seats in 40 local councils and the number of investigations against extreme right-wing groups rose between 2009 and 2012 from 11 to 39. While there are no official estimates about the number of right-wing extremists, civil society considers that there are more than 10 000 "ultras and neo-Nazis" in Spain. 17% of the population responded that racist and xenophobic parties are well or very well accepted in Spain.[52] Far-right groups indeed strongly contribute to xenophobic, homophobic and transphobic hate speech and dozens of neo-fascist concerts take place every year. Racist and xenophobic groups exist in all autonomous communities and have close links with violent football fan organisations.[53]

35. In 2014, the mayor of the village of San Bartolomé de Béjar was convicted and fined 900 euros for insults and threats towards a gay couple.[54] Leading representatives of the Catholic Church have also made intolerant statements against LGBT people.

36. The media also contribute to the spread of racism and xenophobia. In 2015, 47.9% of respondents to a survey answered that the media (TV, radio and printed press) created a rather or very negative view of immigrants.[55] Their tendency to sensationalism and alarmism concerning migration leads to an unjustified focus

[47] Women's Link Worldwide 2017 : IV.

[48] Plataforma ciudadana contra la Islamophobia 2016a : 6.

[49] Puertas Cartón, N. et Samper Seró, C. 2015 : 137 et seq.; Plataforma ciudadana contra la Islamophobia 2016b : § 158 ; Unión de Comunidades Islámicas de España (UCIDE) 2017a : 48 et seq.; UN Special Rapporteur on Racism 2013: § 54 ; Lavanguardia.com 2017.

[50] The Local 2014a.

[51] See §§ 78 et seq. of the report and the references given there.

[52] CIS 2015: 13.

[53] Politico.eu 2016; Cadenaser.com 2013; Pro Igual 2013 and 2014; Movimiento contra la Intolerancia 2015: 73. Concerning statistics on racist, xenophobic and intolerant acts at sports events see : Comisión Estatal contra la Violencia, el Racismo, la Xenofobia y la Intolerancia en el Deporte 2016: 11.

[54] A group of people had aggressively forced their way into the home of the gay couple and the mayor had yelled "I'm coming to get you, fucking homos", among other similar insults, The Local 2014b; Heraldo 2014.

[55] CIS 2015: 14.

on the nationality of migrants suspected of criminal activities and a general association of migration and delinquency.[56] Annual studies on the media coverage of Roma issues conclude that about 20% confer a negative image.[57] A case to be mentioned is the television series "Palabra de gitano", which was, over several months in 2013, broadcasted on channel four on Sunday nights at prime time. In a report of December 2013, the Ombud concluded that it spread negative stereotypes and a prejudiced and biased image about Roma and their culture, which contributed to increasing rejection, intolerance, discrimination and hatred towards them. The Ombud recommended that the government provides for tools that prevent the broadcasting of such programmes.[58] Similarly, the Ombud denounced the definitions of the terms "gitanada" and "gitano" in the dictionary of the Royal Spanish Academy, which insinuated that all Roma, by the simple fact of being part of the Roma community, would misbehave, thus creating and maintaining racist and xenophobic attitudes.[59] Newspapers regularly use derogatory and discriminatory language towards Roma and publish, as already mentioned above, the ethnic origin of Roma suspected of criminal offences even where this is not necessary and does not serve a legitimate purpose.[60]

37. The Jewish community deplores that antisemitism is increasing in the media and that the lack of knowledge about Jews in Spain creates space for antisemitic sentiment.[61] The frequent use of the expressions "Islamic terrorism" and "Jihadist terrorism" contributes to increase Islamophobia and to influence the public perception of Muslims, transforming them into "suspects". Mass media do not sufficiently separate terrorism and the overwhelming majority of peaceful Muslims in Spain. The idea that the bodies of deceased Muslims should be repatriated to their countries of origin, so that no Islamic cemeteries would be needed, perpetuates the idea of Muslims being foreigners, even though 40% of the Muslims living in Spain are Spanish citizens.[62] In this context, ECRI takes positive note of the existence of 28 public cemeteries with specific plots for Muslims.[63]

38. In recent years, anti-immigrant rhetoric and sentiments lead to sharply growing numbers of hate speech cases on the Internet and in social media.[64] In May 2014, about 17 500 Twitter posts with a possible antisemitic content were detected following the defeat of the Real Madrid basketball team against Maccabi Tel Aviv.[65] The number of cyber hate cases treated by the prosecution rose from 40 cases in 2015 to 99 in 2016.[66] A group of journalists, which screened eight Internet sites in early 2017, found within only one month 308 items they classified as hate speech: 186 of these were registered as racist/xenophobic, 126 as Islamophobic and 47 as anti-Gypsyism or hatred against Catalan people.[67]

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[56] Women's Link Worldwide 2017: II; Red Acoge 2014.

[57] Unión Romaní 2016 and 2015.

[58] Fundación Secretariado Gitano 2014: 59. For other examples see Fundación Secretariado Gitano 2016: 19 and seq.

[59] Defensor del Pueblo 2014: 226 et seq.

[60] For examples see Fundación Secretariado Gitano 2016.

[61] There are approximately 45 000 Jews in Spain, cf. Tel Aviv University 2017. For examples of antisemitism see Observatorio de Antisemitismo 2015 : 16 et seq.

[62] Plataforma ciudadana contra la Islamophobia 2016a : 1 et seq. The number of Muslims in Spain is estimated to be approximately two million, cf. UCIDE 2017b: 7.

[63] Observatoirio del pluralismo religioso en España 2017.

[64] Puertas Cartón N. et Samper Seró C. 2015 : 137 et seq. The statistics in Fundación Secretariado Gitano 2016: 70 show that hate speech in the media and Internet constitues the biggest group of cases of hate speech against Roma.

[65] CNN.com 2014; El País 2014.

[66] Publico.es 2017.

[67] http://www.media.cat/discursodimitjans/terc-noticies-neutres/, accessed on 30.03.17.

Another study concluded that many cyberhate incidents are directed against Muslims and that social network providers only remove a small percentage of them. Out of a hundred hate messages that researchers presented to Facebook, only 9 % were removed.[68] In the 2017 monitoring exercise conducted by the EU, IT companies and civil society on the implementation of the Code of Conduct on combating illegal hate speech online, in Spain only 17.2% of the reported items were removed.[69] According to civil society, there are more than 1 000 Spanish xenophobic and intolerant Internet sites, some of which openly incite to violence against Jews and Roma.[70]

- **Responses to hate speech**

39. As ECRI has recently outlined in its GPR No. 15 on combating hate speech, action is needed in several fields to prevent and combat such hate speech successfully. These include prevention, awareness raising, support for self-regulation, use of regulatory powers, civil and administrative law and, as a last resort, criminal investigation and punishment of hate speech. ECRI takes positive note of the translation and dissemination of this GPR by the Spanish authorities and civil society and of initial training activities for its implementation.

40. With regard to awareness raising and prevention, ECRI welcomes the adoption by the Council of Ministers of the Integrated Strategy against Racism, Racial Discrimination, Xenophobia and other Forms of Related Intolerance in 2011. The evaluation of its implementation until 2014 shows progress in several areas which, in the absence of indicators and data, is difficult to measure.[71] With regard to the strategy's further implementation, the authorities put a special focus on awareness-raising, training and dissemination of strategic documents on hate speech and hate crime, such as ECRI's GPR No. 15. A memorandum of understanding was signed and four working groups were set up in order to improve the responses to such offences. In 2015, the CERED issued additional recommendations for avoiding hate speech in election campaigns and for the use of inclusive language by politicians.[72] The Ministry of Education, Culture and Sport recently presented plans to combat bullying and violence in schools, which are often targeted at pupils from vulnerable groups.[73]

41. ECRI, however, regrets that budgetary restrictions have adversely affected the implementation of other parts of the anti-racism strategy.[74] It considers that the authorities should, after the improvement of the economic and budgetary situation and the election of a new government, update the strategy, insert indicators for measuring progress[75] and expand the financing and implementation of this strategy. ECRI is pleased to learn that the authorities are indeed planning to revise and update the strategy and to insert a work plan in 2018; the continued implementation of this strategy, alongside measures to prevent homo- and transphobia, can be an important contribution to raising awareness of and preventing hate speech. An important element of such prevention activities would be to include issues of equality in school education and, given the high number of

[68] Lavanguardia.com 2016; the study covered five European countries. See also Plataforma ciudadana contra la Islamophobia 2016b: 7, according to which 21.8% of the recorded cases concerned cyber hatred.

[69] EU EC 2017: 3.

[70] Movimiento contra la Intolerancia 2015: 73; Observatorio de Antisemitismo 2015: 25; Fundación Secretariado Gitano 2016: 20.

[71] CERED 2015a: §§ 7 et seq.

[72] CERED 2015b.

[73] Ministry of Education, Culture and Sport 2017.

[74] UN Special Rapporteur on Racism 2013: § 25.

[75] See CERED 2015a: § 7.

pupils of Latin-American origin, to give more objective information about the conquest and colonisation of Latin-America.

42. ECRI recommends that the authorities update and extend their anti-racism strategy on the basis of the evaluation made in 2014 and 2015. They should include indicators and targets for the objectives and activities of the strategy, expand the financing and implementation with a view to raising awareness about and preventing racism and hate speech, and monitor its impact (§§ 3 to 4 of ECRI's General Policy Recommendation No. 15).

43. With regard to hate speech in the media, ECRI welcomes several state-funded projects that aim to analyse and improve media reporting on integration.[76] In its fourth report ECRI had furthermore recommended that the authorities promote the establishment of regulatory mechanisms for all media. ECRI notes that the Federation of the Spanish Press established a Code of Ethics for Journalists in 1993 and that its Arbitration, Complaints and Deontology Commission for Journalists decides on complaints regarding violations of these guidelines. According to section I.7 of the Code of Ethics, journalists shall be particularly sensitive when dealing with content which might be discriminatory, refrain from referring in a derogatory or prejudiced manner to the race, colour, religion or social origin of a person and not publish such data, unless they have a direct connection with the published information.[77] Also, in 2013, a new National Markets and Competition Commission was set up with a broad mandate; according to Article 9 of Act No. 3/2013, it shall ensure that audio-visual media do not contain any incitement to hatred on grounds of race, gender, religion or citizenship.[78] Several major Internet companies have also published ethical codes that in principle prohibit hate speech and discrimination.

44. ECRI, however, regrets that these mechanisms do not function properly. They are not well known and only receive a very small number of complaints on racism and discrimination. The only decision ECRI could identify in this field was issued in 2017 by the Arbitration, Complaints and Deontology Commission for Journalists in the case of the TV series on Roma mentioned in § 36. The Commission concluded that there was no violation of section I.7 of the code of ethics, although it admitted that persistently associating a group with undesirable behaviour can fuel xenophobic feelings. Internet companies, for their part, do not systematically remove racist and xenophobic content and comments on the basis of their codes of ethics.

45. ECRI considers that the authorities should encourage media and their self-regulatory bodies to reflect on the effectiveness of the existing rules and mechanisms with regard to avoiding intolerant and xenophobic content.[79] Given the strong impact of mediatised hate messages, media professionals should make sure that such content does not contribute to further amplify xenophobia and intolerance and the resulting risk of racist violence.

46. ECRI recommends that the Spanish authorities, without encroaching on the independence of the media, raise awareness about the existence of ethical codes and (self) regulatory bodies for the media and their competence for dealing with instances of hate speech. They should furthermore initiate research, training and reflection among media professionals on ways to avoid hate speech in the media and to strengthen self-regulation in this field.

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[76] See SOS Racimo 2017 a et b; Red Acoge 2016.

[77] Federation of the Spanish Press 1993.

[78] For details on this and two regional regulatory bodies see Alonso Fernández, I. 2016.

[79] See in this respect the recommendation in CERED 2015a: § 52 to set up a regulatory body for the print media.

47. ECRI has received little information about the use of civil or administrative law against the dissemination of hate speech. It considers that, in addition to the training activities of the bar associations, a functioning equality body would help to improve the responses to hate speech in this field (see ECRI's recommendation in § 27 above). At the same time, it takes positive note of two decisions of the Spanish Supreme Court which confirmed the dissolution of two racist organisations which were spreading hatred.[80] The important work of the Observatory for Racism and Xenophobia OBERAXE and of the State Commission against Violence, Racism, Xenophobia and Intolerance in Sport should also be mentioned.

48. With regard to the application of the criminal law provisions on hate speech, ECRI particularly welcomes the establishment of a country-wide network of prosecutors specialised in combating hate crime, including hate speech.[81] The engagement of such specialised prosecutors led for example to the improvements in the hate crime legislation outlined in the first paragraphs of this report. ECRI is also pleased to learn that the bar associations and law enforcement services have started developing measures to improve the investigation of hate speech and other hate crime cases. The national police, for example, have designated 200 police officers specialising in hate crime. Furthermore, the police services have developed a protocol for identifying and handling hate crime incidents, which contains 15 indicators for the identification of hate motivation. In addition, a network of authorities and NGOs was set up, which looked at different aspects of LGBT hate crime,[82] and several ministries have set up four working groups to improve data collection on hate crime and analyse the existing case law (see § 40 above).

49. At the same time, ECRI regrets the remaining shortcomings in the data collection and statistics on hate crime outlined in §§ 29 et seq. It considers that the authorities should continue improving their work in this area and encourages them in particular to interlink the judicial and police statistics on hate crime. This would make it possible to monitor the extent to which hate speech and other hate crime cases are brought before the prosecutors and courts and are eventually qualified and sentenced as racist, homo- or transphobic offences (cf. § 12 of ECRI's GPR No. 11 and the relating explanatory memorandum). This system should give a realistic picture of the extent of hate crime in Spain and be used to improve the investigation and criminal law response to this type of crime.

50. ECRI recommends that the Spanish law enforcement authorities continue and intensify their activities with a view to establishing and operating a system for recording and monitoring racist, homo- and transphobic incidents, and the extent to which these incidents are brought before the courts and are eventually qualified and sentenced as racist, homophobic and transphobic offences.

51. While ECRI welcomes progress with regard to the registration of hate crimes by the prosecution services (415 ongoing cases, 82 indictments and 35 convictions in 2016), it also notes that there are still few criminal sentences for hate speech.[83] As there is no data on the progress of hate crime cases through the judicial system, it is difficult to analyse the reasons. It could be that the 2015 improvements of the hate crime legislation have not yet developed their full

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[80] Decisions No. 372/2011 of 10.05.2011 (Hammer Skin) and No. 1396/2011 of 28.12.2011 (Blood & Honour).

[81] https://www.fiscal.es/fiscal/publico/ciudadano/fiscal_especialista/crimenes_odio!ut/p/a0/04_Sj9CPykssy0xPLMnMz0vMAfGjzOL9DQydPUxMDLz9XUlNDRwdA70s3Dz8DQ0MzPQLsh0VAUoSYjc!/.

[82] This protocol and the network have been included in the EU FRA compendium on practices for combating hate crime, EU FRA 2017.

[83] A sentence of the Supreme Court of 11.01.2017 in the so-called "bookstore" case (No. 983/2016) can be highlighted, in which it confirmed the application of Article 22.4 CC on the aggravation of the penalty for racist motivation.

impact. Also, there has not yet been systematic training on hate crime for judges.[84]

52. Furthermore, ECRI was informed by representatives of various vulnerable groups that they still find it difficult to contact the police and specialised hate crime prosecutors to file complaints successfully.[85] To remedy the resulting underreporting of hate speech, ECRI considers that all police services (national police, civil guard and local police services) and the specialised hate crime prosecutors should further develop their contacts with vulnerable groups and civil society into a regular and sustainable dialogue (§ 18 of ECRI's GPR No. 11). Such regular dialogue at local, regional and national level is crucial for building mutual confidence and for empowering victims of hate crime and vulnerable groups to report hate speech successfully. Investing in fortifying this link is a key to successful application of the hate crime legislation.

53. ECRI recommends that the police services and the specialised hate crime prosecution services establish, intensify and institutionalise at local, regional and national levels frameworks for regular and sustainable dialogue and co-operation with vulnerable groups suffering from hate speech and civil society organisations working with them.

54. With regard to cyber-hate speech, ECRI takes positive note of the increasing focus put by the services specialising in cybercrime on this particularly harmful type of criminality. A new legal concept of "online police officers" has been introduced to facilitate their investigation of cybercrime. ECRI also welcomes the efforts to improve the implementation of the 2016 code of conduct on countering illegal hate speech online, which was agreed by mayor IT companies and the EU in May 2016 (cf. § 38 above)[86] and notes with interest plans to start a project in this field in 2017. The police, however, still have difficulties obtaining from Internet and social network providers the necessary information on the authors of hate speech. Also, there are no standard procedures in place that permit to remove or block hate speech rapidly and to secure at the same time the evidence needed for criminal proceedings. Given the low numbers of removed cyber hate speech items (cf. § 38) and the particularly harmful effects of online hate speech, ECRI considers that the Spanish authorities should draw inspiration from recent draft legislation in other member states aimed at facilitating the removal of such content. They should also use civil and administrative law and strengthen self- and external regulation to ensure that hate speech is quickly removed from the Internet and social media, and that the perpetrators of criminal online hate speech are prosecuted and sentenced.[87]

55. ECRI recommends that the Spanish authorities use their regulatory powers with regard to Internet and social media providers, reinforce the civil and administrative law protection against cyber hate speech and continue focusing on criminal investigation of cyber hate speech.

3. Racist and homo/transphobic violence

- Data and extent

56. The 1 328 hate crimes recorded by the Ministry of the Interior in 2015 include two racist and one homo/transphobic[88] homicide attempts , 212 physical assaults and 41 offences of damage to property. Among the cases of physical assault, 128

[84] At the same time, ECRI takes positive note of occasional training activities for judges over recent years.

[85] ECRI also heard about a non-published study concluding that nationals were more often acquitted in criminal proceedings than foreigners.

[86] EU and IT companies 2016.

[87] §§ 7, 8 and 10 of GPR No. 15. For a practical example see BBC News 2017.

[88] According to OSCE, ODIHR 2017, TGEU reported the murder of one transgender person.

(60.4%) were recorded on the grounds of racism and xenophobia and 40 (18.9%) on bias against LGBT people. The data for 2014 contains one case of homicide, 638 cases of physical assault and 47 of damage to property. Among the cases of physical assault, 118 (18.5%) were recorded on the grounds of racism and xenophobia and 412 (64.6%) on bias against LGBT people.[89] According to civil society, in around half of the cases of physical attack against LGBT people, the attackers are friends, neighbours or relatives.[90]

57. According to an NGO, 90 persons have died in hate crimes since 1992.[91] In the 2012 FRA LGBT survey, 20% of the LGBT persons questioned in Spain replied that they had been physically or sexually attacked or threatened with violence at least once in the preceding five years.[92] This data again points to a considerable degree of underreporting.[93]

58. According to the authorities, the three cases of attempted homicide in 2015 concern an attack with a broken bottle on a Roma person in Barcelona, a knife attack by a group of neo-Nazis on a group of Romanians outside a disco near Madrid and an attack with a Molotov cocktail on two lesbian women in a hostel in the province of Barcelona. According to civil society, the homicide of a transsexual person in Alicante on 21 July 2015 could also have been a transphobic hate crime. In this case, the main perpetrator was sentenced to 10 years and the other to about one and a half years of prison, but the court did not hold that there was transphobic motivation.[94]

- **The authorities' response**

59. ECRI has already described in §§ 48 to 55 of this report the different activities that the Spanish law enforcement authorities have undertaken to improve the investigation and sentencing of hate crime. It also takes positive note of the recent improvement of victims' rights.

60. Given the high level of underreporting, however, ECRI still finds it difficult to get a reliable picture of the extent of hate-motivated violence in Spain and of the effectiveness of investigations by law enforcement authorities. ECRI's delegation was not able, for example, to find any information about investigations after reports on an attack by a Neo-nazi gang on a Spanish teenager in August 2015 in Bilbao, during which the perpetrators allegedly carved, with a razor blade, a swastika and the number 88 into the victim's arm and then kicked and punched him.[95] ECRI again recalls that the reporting and data gathering on hate crime is fundamental to obtaining a realistic view of the extent of hate crime and to improving the prevention and criminal law response to this type of crime, which not only affects the actual victim, but spreads fear among entire vulnerable groups. Several such groups, including Jewish communities and LGBT people, have informed ECRI that their members tend to hide their identity as they fear of being exposed to security risks, including that of becoming victims of hate crime.

61. In addition to the recommendations made in §§ 50 et seq. on the recording of hate crime and the building of sustainable cooperation with civil society for

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[89] OSCE, ODIHR 2017.

[90] El País 2016b on the first report of the Madrid Observatory against Homophobia, Transphobia and Biphobia.

[91] Movimiento contra la Intolerancia 2015: 73.

[92] EU FRA 2012.

[93] Similar conclusions can be drawn from an older study, the 2009 EU Midis Main Results Report, with regard to violence against people of northern African descent. According to the 2008 figures, 10% of them responded having been personally attacked, hit or pushed, or threatened during the last 5 years by someone in a way that really frightened the victim, EU FRA 2009: 63.

[94] El País 2016a.

[95] Elmundo.es 2015; Mirror.co.uk 2015; The Jerusalem Post 2015.

remedying the current underreporting of such crime, ECRI stresses the importance of preventive actions with a view to reducing the number of hate crimes. Awareness-raising activities, in particular in the framework of obligatory school curricula (Section II 2a of ECRI's GPR No. 10), are of utmost importance in this respect. In this context, ECRI considers it a major step backwards that compulsory teaching on human rights and equality has been removed from the curricula in 2013[96] and strongly encourages the authorities to reintroduce mandatory human rights education. Having this said, ECRI welcomes the FRIDA project on prevention and detection of racism in classrooms and considers that it can be a complimentary tool to amplify the impact of obligatory human rights education. In addition, ECRI refers back to the recommendation made in § 42 to update the anti-racism strategy and to allocate a new budget to its further implementation. Given the available statistical data, a special focus should also be put on forging tolerance and understanding towards LGBT people, as recommended in § 104 of this report.

4. Integration policies

62. In Spain, there are two main groups benefiting from integration policies: on the one hand people with migration backgrounds and on the other Roma.[97]

63. According to the latest available data, on 1 July 2016 about 4.4 million foreign nationals lived in Spain, which amounts to approximately 9.5% of the total population.[98] Most migrants arrived during the last 20 years[99] and come from low-income countries.[100] The largest groups originate, among others, from Romania (699 502), Morocco (678 467), Ecuador (158 967), Columbia (135 954) and Bulgaria (130 506). In 2015, a total of 114 207 foreigners acquired Spanish citizenship; most of them originate from Latin-American countries.[101] While Spain used to be a country of transit for refugees, in 2016 it hosted about 12 000 refugees and beneficiaries of other forms of international protection and about 19 500 asylum applications were pending. In 2015, around 17 800 people entered Spain illegally, most of them through Ceuta and Melilla.[102]

64. Spain has not recognised any ethnic minority under the Council of Europe Framework Convention for the Protection of National Minorities, but the authorities consider the approximately 725 000 to 750 000 Roma as a specific minority.[103]

65. The competences for integration policies and measures are shared between the central authorities, the autonomous regions and the municipalities.[104] For example, the autonomous regions have the main responsibility in the field of education and the municipalities in the field of pre-schooling.

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[96] See Article 24 and paragraph XIV of the preamble of Organic Law No. 8/2013.

[97] In Spain, the persons concerned identify themselves as gitanos.

[98] National Institute of Statistics 2017.

[99] In 1996, the number of migrants residing in Spain was of only 408.821 persons, Ministry of Health, Social Services and Equality 2014: 46.

[100] OECD/EU 2015 : 68.

[101] National Institute of Statistics 2016: 4 and 15. Article 22.1 of the civil code provides only for Latino-Americans, citizens of Andorra, the Philippines, Equatorial Guinea, Portugal and Sephardic Jews double-citizenship and access to citizenship after only two years. In comparison to 2014, this figure fell by 44.5%.

[102] Ministry of Interior 2016 ; Casani 2016 : 483.

[103] ACFCNM 2014: §§ 3 et seq. Ministry of Health, Social Services and Equality 2012a.

[104] See Article 149 of the Spanish constitution and Article 2bis of organic law 4/2000 on the rights and freedoms of aliens in Spain and their social integration.

- **Integration policies for people with migration backgrounds**

66. Spain's organic law 4/2000 on the rights and freedoms of aliens in Spain and their social integration (Aliens Act) aims to facilitate the process of integration into Spanish society. According to its Articles 2bis and 2ter, all authorities shall integrate the objective of integration of migrants into all their policies and public services and promote the economic, social, cultural and political participation of migrants. In particular, they shall ensure knowledge of and respect for the values enshrined in the Spanish constitutional and legal order; furthermore, they shall guarantee in all cases the obligatory schooling of migrant children, the learning of official languages and access to labour as essential integration factors. According to Article 2ter.3, the central authorities shall cooperate with the autonomous communities and municipalities in the framework of a multi-year strategic plan to attain these goals and, according to Article 2ter.4, the government and the autonomous communities should agree on biennial action programmes to strengthen integration; such programmes should be financed from the state budget for integration allocated annually.

67. The procedure for acquiring Spanish citizenship through residence was reformed through Law 19/2015, which enshrines the relationship between integration and naturalisation and further specifies the requirement of proving a sufficient degree of integration in Spanish society.[105] This is to be assessed through a test of knowledge of the Spanish language (A2 level) and of the Constitution. Citizens of countries having a special relationship with Spain can apply for naturalisation after only two years; as the procedure takes approximately three additional years, they obtain Spanish citizenship after about five years. According to the authorities, this quick accession to citizenship facilitates integration.

68. ECRI regrets, that Spain's last Strategic Plan on Citizenship and Integration[106] ended in 2014 and that, in spite of the provisions of the Aliens Act mentioned above, no new integration strategy has been adopted since then. The authorities informed ECRI that they instead adopted the National Action Plan for Social Inclusion of the Kingdom of Spain 2013-2016 (NAPSI)[107], which covers all vulnerable groups. This action plan defines migrants as one of the target groups and contains activities in the field of education, access to labour and health. According to civil society, however, there is no longer any national funding for important integration measures such as language courses. Also, this plan ended in 2016 and ECRI has not received any information on the evaluation of the outcomes of this plan or the development of a new one for the years beyond 2016.

69. With regard to the evaluation of the outcomes of these integration policies, ECRI regrets that there is no specific system of integration indicators in place. It considers that the absence of a coherent system in this respect makes it difficult to assess the situation of migrants, to monitor the results of integration policies and to develop objectives and targeted activities to reduce discrimination and foster equality.

70. ECRI recommends that the Spanish authorities develop a coherent system of integration indicators in order to assess and improve the living conditions of migrants in core areas such as education, employment, health and housing, and evaluate and improve the impact of their integration policies, objectives and activities.

71. There is nevertheless a considerable amount of data on integration, but which is not always up to date. According to a regional survey from 2016, which was

[105] EU EC 2015: 3.

[106] Ministry of Employment and Immigration 2011.

[107] Ministry of Health, Social Services and Equality 2014.

carried out in the Community of Madrid, 90% of migrants felt well integrated, whereas only 69% of the surveyed Spaniards considered migrants well integrated. People from Africa and Asia felt less integrated. The NAPSI highlighted in 2014 that almost one in two migrants originating from countries outside the European Union (third-country nationals) was at risk of poverty and/or social exclusion.[108] In 2015, this figure rose to 65.9% for men and 58.5% for women (compared to 28.7% for Spanish men and 28.4% for Spanish women).[109] Migrants mentioned difficulties with the language (30%), social discrimination (15.6%), cultural differences (13.6%), a closed attitude on the part of Spanish nationals (11.2%) and discrimination in the field of labour (10%) as main obstacles to their integration.[110]

72. With regard to integration in the field of education, foreign-born pupils (8.4% of 15-year-olds in 2012) can legally access all types of schools, but many are offered only limited support in learning Spanish and other official languages[111] and catching up academically.[112] Half of Spain's immigrants have no or only low-level qualifications and 40% have only the most basic literacy skills.[113] 44.2% of third-country nationals leave school early (EU28 average is 25.7%), while only 17.7% complete tertiary education (EU28 average 30.2%).[114] OECD PISA data show that low-literacy 15-year-old pupils are less likely to benefit from extra out-of-school literacy courses in Spain than in the average European country, with only around a third enrolled in such courses in 2012.[115] The Migrant Integration Policy Index identifies the field of education as the greatest weakness in Spain's integration policies.[116]

73. These results show that the objectives and activities included in the above-mentioned integration strategies and action plans have not produced satisfactory results.[117] Decisive action and investment in the education of children with migration backgrounds is needed in order to provide them with equal opportunities and prevent that they face life-long social exclusion and economic dependency. ECRI considers that an important integration objective is to ensure that all children with migrant backgrounds complete at least compulsory schooling, which goes up to the age of 16 (see Article 2ter of Law 4/2000). To reach this goal, the Spanish authorities should, as a first step, ensure that children with migration backgrounds acquire sufficient command of the language of instruction prior to entering primary school. This could be achieved by enrolling as many as possible in pre-schools and by intensifying language training at this level. In addition, the school administration should develop systems that ensure tailor-made support for children with migration background during their compulsory schooling. The authorities should also develop efficient protocols on prompt intervention in cases of school absenteeism. As pre-schooling is in the remit of the municipalities, whereas subsequent schooling is a competence of the autonomous communities, the central authorities should coordinate activities in the field of education and ensure that children with migration backgrounds benefit from the beginning from the support they need to complete compulsory schooling successfully. Given the extent of the challenges in this area, ECRI takes positive

[108] Ministry of Health, Social Services and Equality 2014: 30.

[109] EU Eurostat 2017: Table 1.

[110] Comunidad de Madrid 2016b: 12.

[111] Cf. Article 3.2 of the Constitution.

[112] Barcelona Centre for International Affairs (CIDOB) and Migration Policy Group (MPG) 2017.

[113] OECD/EU 2015: 132 and 134.

[114] EU EC 2017.

[115] MIPEX 2015.

[116] Barcelona Centre for International Affairs (CIDOB) and Migration Policy Group (MPG) 2017.

[117] For the whole paragraph see OECD 2016: 199 et seq.

note of the information by the central authorities that they are planning to develop, together with the autonomous communities, an action plan on the education of migrant children.

74. ECRI recommends that the Spanish authorities develop a coherent system of objectives and activities that help children with migration background to complete compulsory schooling successfully. These should be accompanied by indicators, base lines and targets in order to measure progress in this area.

75. In 2013, unemployment among non-nationals reached 36.8% at the national level (compared to 24.2% of the Spanish population).[118] Regional data collected in a survey commissioned by the economically strong Community of Madrid shows that the employment rate among non-nationals has subsequently increased from 59% in 2014 to 71% in 2016. The employment rate of foreign women was 2% higher than that of foreign men. While the employment rate of migrants from many Latin-American countries is well above 75%, that of people from Morocco is only 64% and that of people from sub-Saharan countries only 53%. Working conditions for non-nationals are not always satisfactory. In the Community of Madrid, about 25% of migrants work in the hotel and restaurant industry; 19% in shops and 12% in the field of domestic work.[119] Migrant women, in particular women of African descent and Muslim women, but also Spanish women of African descent, suffer from lack of recognition of professional qualifications obtained in their countries of origin,[120] precarious working conditions and salary discrimination.[121] Six percent of all non-nationals living in the Community of Madrid do not have a health insurance card.[122]

76. This data shows that on the one hand the overall integration of non-nationals in the labour market is improving together with the economic situation of the country. This is particularly true for economically strong regions. On the other hand, it indicates that certain groups of migrants face clusters of integration barriers and that further integration measures should be focused on their needs. Migrants with mother tongues other than Spanish need special support for language learning. Particular measures are also needed for the successful integration of migrants from Morocco and sub-Saharan countries into the labour market. Women originating from these countries are in need of secure places for informal exchange and language learning in order to overcome social isolation and unemployment.[123]

77. ECRI recommends that the Spanish authorities identify the groups of migrants facing the greatest difficulties in the labour market and that they develop a coherent set of objectives and measures for increasing their employment rate and their conditions of work, and that they accompany each objective and measure with indicators, base-lines and target values to reach.

78. The 2012 health reform (Royal decree-laws 16/3023 and 1192/2013) has had serious consequences for many migrants, as it excluded non-nationals without a valid residence permit from the public health system. As a result of the reform, hundreds of thousands of migrants lost their health insurance cards. Among these, many first lost their job during the economic crisis and subsequently their residence permit and access to the public health system. According to civil society reports, the autonomous communities, which are responsible for the implementation of this harsh legislation, did not apply it in a homogeneous

[118] Ministry of Health, Social Services and Equality 2014: 36.

[119] Comunidad de Madrid 2017a.

[120] IOM 2014: 24.

[121] IOM 2014: 24 and 2015: 23 et seq.

[122] Comunidad de Madrid 2017a.

[123] On the same line IOM 2015: 79 with recommendations in this field on pp. 66 et seq.

manner. While some resorted to a broad interpretation of the exemptions in order to limit the exclusion of migrants from the public health system, others have applied the legislation in a very strict manner. NGOs have furthermore compiled data on thousands of cases in which migrants were denied access to health services in violation of the new, strict provisions.[124] The reform has also had a negative impact on the situation of migrants with residence permits, as some have experienced discouragement, insecurity and rejection in seeking health care. In the Community of Madrid region, the share of migrants indicating that they have greater problems in accessing health services than nationals increased from 35.9% in 2012 to 49.8% in 2016.[125]

79. ECRI recalls, as outlined in §§ 21 to 24 of its recent General Policy Recommendation No. 16 on safeguarding irregularly present migrants from discrimination, that the right to health care, in particular emergency medical treatment and other forms of necessary health care, should be formally guaranteed in national law for all persons. Children and women during pregnancy should have full access to medical services. In addition, member states should create "firewalls" which prevent public authorities from effectively denying this and other human rights to irregularly present migrants by means of a clear prohibition on the sharing of personal data of, and other information about, migrants suspected of irregular presence.

80. ECRI recommends that the Spanish authorities thoroughly assess the impact of the health reform and make adjustments as swiftly as possible to ensure that the right to health care of all migrants is respected.

81. Fighting discrimination is an important part of successful integration policies. The statistical data referred to in this report shows considerable levels of actual and perceived discrimination towards migrants and other vulnerable groups.[126] Racial profiling by law enforcement authorities for example is an on-going issue. With regard to structural discrimination, representatives of different civil society organisations informed ECRI that they perceive certain differentiations based on the national origin of migrants as discriminatory. For example, migrants who do not benefit from the particularly favourable and laudable possibility of applying for naturalisation after two years of residence in Spain perceive this differential treatment as discriminatory. Also, asylum seekers from sub-Saharan and Arabic countries other than Syria perceive the treatment of Syrian refugees as preferential. People from Sub-Saharan countries intending to ask for asylum are also not permitted to approach the border at Melilla and Ceuta in order to submit an asylum claim. In particular women who do not succeed to jump over the border fences often resort to contacting traffickers to reach the border and thus become vulnerable to various kinds of exploitation.[127] Migrant women are also subject to discrimination in reception and detention centres.[128] Another differentiation, which is perceived as discriminatory, is that asylum seekers entering Spain through Melilla or Ceuta do not have the right to move to the Spanish mainland, while asylum seekers arriving on the mainland benefit from greater freedom of movement. In addition, asylum seekers originating from certain countries are more likely to be put on the transfer lists to the mainland. While ECRI is aware that there may be reasons for such differential treatment, it considers that the Spanish authorities should carefully reconsider the justification,

[124] The Network for Denouncing and Resisting the Royal Deecree-Law 16/2012 (REDER) 2015: 6 et seq. Amnesty International 2013 and 2015; Médicos del Mundo 2014; Alianza por la Solidaridad et al. 2016; Women's Link Worldwide 2017: I.1 and 2 with a particular emphasis on the right to abortion.

[125] Comunidad de Madrid 2016b: 16.

[126] See in particular CIS 2013: 12.

[127] The total number of female victims of trafficking is at least 350 000, Lavanguardia.com 2015.

[128] For more details see Women's link worldwide 2017: I.4.

appropriateness and impact of such differentiation. A strong equality body (see § 23 above) would be an important contributor in this field.

82. In conclusion, ECRI considers that the central, regional and local authorities should, after the waning of the economic crisis, have a holistic look at their integration policies and update them in a new strategic document.[129] This must not necessarily be a new integration strategy, but could also be achieved in an updated general strategy on social inclusion. In a decentralised state like Spain, it is particularly important to develop a coherent integration strategy, as actors of the federal, regional and local authorities need to co-operate throughout the whole country in order to achieve good results for all migrants. As already pointed out, it is important to accompany all goals and measures with indicators, base lines and targets in order to evaluate and fine-tune the different elements of this strategy.

83. ECRI recommends that the Spanish authorities update and group together their integration policies for people with migration background in a coherent strategy and action plan.

- **Integration policies for Roma**

84. The National Roma Integration Strategy in Spain 2012-2020 (NRIS), the National Action Plan on Social Inclusion 2013-2016 and similar documents of the autonomous communities[130] contain integration goals and measures for Roma in fields such as education, employment, healthcare and housing. ECRI welcomes the fact that the NRIS contains clear objectives, indicators and target values. At the same time, it was informed about concerns regarding the lack of budget estimations in the NRIS, the operational plan for its implementation during the years 2014 to 2016, and the insufficient monitoring and evaluation of its implementation. Different actors have informed ECRI that the economic crisis has slowed down implementation and that little progress has been made since 2010. The authorities informed ECRI that they intend to publish a mid-term review about the strategy's implementation in May 2017. Unfortunately, no new implementation plan has been adopted for the years to come.

85. When it comes to evaluating the Roma integration policies over the last years, it can be highlighted that the housing situation is relatively good and that only 2% of Roma in Spain live in slums and households without running water inside the dwelling (as opposed to 10% in 1991); only 9 to 12% live in substandard housing (31.4% in 1991). While in this field the targets of the NRIS have almost been achieved,[131] the resettlement of Roma has in some cases led to concentration of Roma and thus residential segregation in outlying areas, which has also contributed to school segregation.

86. With regard to education, ECRI welcomes the significant progress made in the important field of pre-school education. According to a survey from 2016, 99% of Roma girls and 98% of Roma boys attended pre-school.[132] The same survey indicates that in 2016, 99% of Roma children aged from 7 to 14 years attended school. However, at the level of primary school, only 89% were attending the grade corresponding to their age (95% within the general population).[133]

87. With regard to secondary schooling, ECRI, in its fourth report, had strongly recommended that the authorities significantly reduce the school drop-out rates of Roma pupils. However, according to the available data, only 44% of Roma

[129] On the same line IOM 2015: 79.

[130] See e.g. Comunidad de Madrid 2017c.

[131] Ministry of Health, Social Services and Equality 2016 ; EU FRA 2016: 33 et seq; ERTF 2016: 8.

[132] EU FRA 2016.

[133] See in this respect Ministry of Education, Culture and Sport and FSG 2013.

children aged 15 to 17 years attended school and only 21% were enrolled in the education level that corresponded to their age. Many Roma leave school at the end of compulsory schooling when turning 16 years old. As a result, only 45% of Roma children complete compulsory education (while 78% of the total population do so), 10% complete secondary education (39% of the total population) and 2% tertiary education (12% of the total population).[134] Various other sources confirm the high rate of early school drop-out among young Roma. The authorities estimate early drop out at 70% for the Community of Madrid. Civil society points out that financial and material aid for Roma students has been reduced during the economic crisis and that this has contributed to increasing absenteeism and drop-out.[135] The NRIS-target of reaching a school completion rate of 85% among Roma aged 13 to 15 years by 2015 was largely not met.

88. The insufficient schooling of Roma carries the risk that the next generation of Roma will also face inequality, exclusion, resulting discrimination and dependency on social benefits. ECRI therefore considers that the Spanish authorities should, at central, regional and local levels, focus on improving the educational outcomes of Roma. ECRI takes positive note of models developed by civil society such as the Fundación Secretariado Gitano for preventing school absenteeism and early school drop-out. During its country visit, ECRI's delegation witnessed the positive impact of such a programme in Zaragoza. It considers that these programmes should be extended and that their funding from a specific part of the income tax be maintained. However, given the scale of the problem, ECRI considers that efforts by civil society alone are not enough and that the school authorities at national and regional level need to assume their responsibility in ensuring compulsory schooling for all. Therefore, they should take over ownership and develop, in close co-operation with Roma civil society, further structural measures in order to address school absenteeism and early school dropout, which also affect children with migration backgrounds as well as the general population. These measures should comprise good preparation in pre-school; special support during schooling; involvement of parents; scholarships; strengthening motivation for schooling in particular among Roma girls and mothers, and rapid intervention in cases of absenteeism.[136]

89. ECRI again strongly recommends that the Spanish authorities develop and implement a set of measures for ensuring that the numbers of Roma children completing compulsory education quickly increases.

90. In addition, ECRI considers that further strengthening and funding of Roma civil society and institutions such as the State Council of the Roma People are crucial, and that such organisations should be more involved in the further development, implementation and evaluation of Roma-related strategies, action plans and activities. This would also have a positive impact in other important integration fields such as employment, health and political participation.

91. ECRI recommends that the Spanish authorities at central, regional and local level further strengthen Roma civil society and institutions and involve them in the further development, implementation and evaluation of Roma-related strategies, action plans and activities.

[134] Decade of Roma Inclusion Secretariat Foundation 2015: 69. The figures given in FSG 2013 are even worse.

[135] FSG 2013: 29.

[136] See in this respect the recommendations made in Kamira 2017: 29 et seq.

II. Topics specific to Spain

1. Interim follow-up recommendations of the fourth cycle

92. ECRI's first interim follow-up recommendation was to collect and publish statistics on hate crime. The state of implementation of this recommendation is dealt with under §§ 48 to 50. In its 2013 conclusions ECRI considered that the second interim follow-up recommendation on training in the field of hate crime had been fully been implemented.

93. The third interim follow-up recommendation was to take measures to ensure an even distribution of Spanish, immigrant and Roma pupils in the various schools. According to a recent study, 3% of Roma people in Spain attend schools in which all pupils are Roma and another 28% go to schools in which most pupils are Roma.[137] Another study shows that residential segregation results in school segregation also for children with migration background. While school segregation has a particular negative impact on the expectations of Roma children and in particular Roma girls, it also leads to above-average school abandonment of children with migration backgrounds as from the third grade.[138] Against this background, ECRI considers that this recommendation is still only partially implemented and that the authorities should continue focusing on reducing school segregation and its negative impact.

2. Policies to combat discrimination and intolerance vis-à-vis LGBT[139]

- **Data**

94. In Spain, there is no recent official data on the size of the LGBT population. According to a nationwide Health and Sexual Habits Survey conducted in 2003, 3.9% of men and 2.7% of women aged between 18 to 49 years had had homosexual relations.[140] According to a survey from 2016, 6.6% of Spanish men and 7.3% of Spanish women identified as LGBT.[141] Since 2005, more than 30 000 gay and lesbian couples have got married.[142] According to Eurobarometer 2015, 90% of people surveyed in Spain totally agreed with the statement that LGB people should have the same rights as heterosexual people. In the same survey, 81% of respondents in Spain said they would be comfortable or moderately comfortable with an LGB work colleague (EU 28 average was 72%) and 78% with a transgender work colleague (EU 28 average was 67%). At the same time, 56% of the people surveyed believed that discrimination on the basis of sexual orientation is still widespread.[143]

95. According to the FRA LGBT survey, 15% of the participants in Spain felt discriminated against because of their LGBT identity when searching for a job, and 16% at work (EU 28 average 12% and 20%). Concerning housing and healthcare, 12% and 13% respectively felt discriminated against (EU 28 average 16% and 12%).[144] According to another survey from 2014, 8.2% of the homosexual participants experienced discrimination at the workplace, 5.5% in the field of housing and 4.5% when accessing public services.[145]

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[137] EU FRA 2016: 28.

[138] El-Habib Draoui B. et al. 2016.

[139] For terminology, see the definitions set out in CoE Commissioner for Human Rights 2011.

[140] National Institute of Statistics 2003: 2.

[141] Daliaresearch.com 2016.

[142] Ministry of External Affairs and Cooperation 2014: 1; ILGA : 156; The Local 2015c.

[143] ILGA-Europe 2016 : 157.

[144] EU FRA 2012.

[145] CIS 2013: 12.

- **Legislation**

96. While sexual orientation and gender identity are not expressly mentioned in Article 14 of the Spanish Constitution, these grounds are considered to be covered by its terms "other personal condition or circumstance".[146] Law 62/2003 only mentions the ground of sexual orientation, but not that of gender identity. In this respect, ECRI refers back to the recommendations already made in the first section of this report.

97. With regard to same-sex marriage, ECRI is very pleased that Spain was the third country in the world to legalise same-sex marriage in 2005[147] and granted equal rights to married homosexual couples, including adopting children, inheritance, pensions and tax benefits.[148] The majority of autonomous communities have adopted additional legislation (in total 12 laws) in order to guarantee, protect and expand the rights of LGBT persons.[149]

98. The change of transgender person's first name and registered gender is regulated by Law 3/2007 of 15 March 2007. Both modifications require the submission of a doctor's certificate stating that the previously registered gender shows a discrepancy with their gender identity, as well as proof of medical treatment over at least two years. ECRI encourages the authorities to further lower the conditions, under which transgender persons can obtain the change of their name and gender[150] and in particular to remove the obligation to undergo medical treatment beforehand. In this respect, they could take inspiration from international standards and progressive legislation, which has been adopted recently in some other Council of Europe member states.

99. ECRI recommends that the Spanish authorities adopt new legislation on name changes and gender recognition for transgender persons, drawing inspiration from international recommendations and especially from Resolution 2048 (2015) of the Council of Europe Parliamentary Assembly.

100. ECRI was furthermore informed that Ministerial Order 2065/2014 of 31 October 2014, which regulates access to assisted reproduction, was found to be discriminatory towards homosexual couples by a Madrid social court.[151] ECRI encourages the authorities to consider the possibility of removing requirements that indirectly exclude homosexual couples from accessing assisted reproduction.

- **Policies**

101. At federal level, there is no comprehensive strategy or action plan for LGBT issues. The National Action Plan on Social Inclusion 2013 to 2016 contains two activities in this field: to commission studies on LGBT issues and to carry out programmes to prevent discrimination of LGBT people.[152] Also, there is no authority coordinating LGBT related policies and LGBT people can only turn to the Ombudsman in order to file a complaint. ECRI takes positive note of the fact that certain autonomous communities have gone much further and have adopted action plans and entrusted authorities with promoting LGBT rights.

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[146] EELN 2016: 31 with references to the case-law of the Constitutional Court.

[147] Law 13/2005 of 1 July 2005 amending the Civil Code with regard to the right to marry.

[148] Ministry of External Affairs and Cooperation 2014: 1; Freixes Sanjuán, T. et al. 2010: 9.

[149] The first laws were adopted by the Autonomous Communities of Navarra and Basque Country in 2009 and 2012. More comprehensive laws were adopted as of 2014 starting with Galicia (Law 2/2014 of 14.04.2014) and Catalonia (Law 11/2014, of 10.10.2014).

[150] See in this respect Defensor del Pueblo 2017: 309 et seq.

[151] Women's Link International 2014, IV.3.

[152] Ministry of Health, Social Services and Equality 2014: Activities 224 and 225.

102. The considerable amount of homo-and transphobic hate speech, discrimination and violence evidenced by various studies mentioned in this report[153] shows that considerable additional efforts are needed to foster acceptance and understanding of LGBT people in all parts of society. Such acceptance and understanding is an important precondition for allowing more LGBT people to be open about their sexual orientation and gender identity. In the FRA LGBT survey, 47% of the questioned LGBT persons responded that they never or rarely disclosed their sexual orientation or gender identity at work. As many as 85% gave the same response concerning their schooling.[154] Cases such as the refusal to enrol the child of a gay couple in school[155] or the call of the head of security of the Madrid metro to increase ticket controls of gay men[156] illustrate the need to address structural discrimination as well.

103. Given the high level of openness towards LGBT persons, which exists alongside this considerable amount of discrimination, ECRI considers that the authorities should tackle the remaining intolerance and discrimination more openly. Civil servants of key administrations such as schools, social services and law enforcement should be trained on LGBT issues and the authorities should take measures to raise awareness about LGBT issues among the general public and institutions including religious communities. As young LGBT persons face tremendous challenges during their coming out, which often coincides with the difficult phase of puberty, the authorities should put a special focus on providing all pupils and students with the information, protection and support they need to live in harmony with their sexual orientation and their gender identity. In this context, ECRI takes positive note of a 2015 proposal on measures to detect and tackle homo- and transphobic bullying at school and encourages the federal and regional authorities to implement these activities quickly. At the same time, it considers that the authorities should go beyond tackling these symptoms of intolerance and include into the curricula of all branches of school, university and vocational education an obligatory lesson unit on equality, the prohibition of discrimination and awareness-raising about understanding and respect of the situation and rights of LGBT persons, as is the case for other vulnerable groups. Good practice examples such as interventions of LGBT civil society in schools and promotion of LGBT rights by companies[157] should be promoted. An independent equality body would have an important role to play in this field.

104. ECRI recommends that the Spanish authorities implement measures to promote understanding and respect for LGBT persons, in particular in schools. At the same time, they should provide all pupils and students with the information, protection and support necessary to enable them to live in accordance with their sexual orientation and gender identity.

[153] See in particular §§ 30 et seq., 56 et seq. and 94 et seq. of this report.

[154] EU FRA 2013.

[155] Elperiodico.com 2015 ; El País 2017.

[156] ILGA-Europe 2016 : 156.

[157] See EMIDIS 2016: 17 et seq. on the implementation of equality plans, the designation of persons responsible for diversity, the training on diversity and the use of inclusive language in companies.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Spain are the following:

- ECRI again recommends that the authorities 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 made independent and be provided with the competences and powers outlined in ECRI's General Policy Recommendations Nr. 2 and 7.
- ECRI again strongly recommends that the Spanish authorities develop and implement a set of activities for ensuring that the share of Roma children completing obligatory schooling quickly increases.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 10) ECRI recommends that the Spanish authorities bring their criminal law into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should (i) include the grounds of colour, language, citizenship and gender identity in all relevant provisions, (ii) criminalise the support for groups that promote racism, and (iii) criminalise all racial discrimination in the exercise of one's public office or occupation.

2. (§ 22) ECRI again strongly recommends that the Spanish authorities adopt as soon as possible comprehensive anti-discrimination legislation in line with the standards laid down in §§ 4 to 17 of its General Policy Recommendation No. 7.

3. (§ 27) ECRI again recommends that the authorities take urgent steps to set up an independent equality body or to ensure that the Council for the Elimination of Racial and Ethnic Discrimination is fully independent and provided with the competences and powers outlined in ECRI's General Policy Recommendations No. 2 and 7.

4. (§ 42) ECRI recommends that the authorities update and extend their anti-racism strategy on the basis of the evaluation made in 2014 and 2015. They should include indicators and targets for the objectives and activities of the strategy, expand the financing and implementation with a view to raising awareness about and preventing racism and hate speech, and monitor its impact (§§ 3 to 4 of ECRI's General Policy Recommendation No. 15).

5. (§ 46) ECRI recommends that the Spanish authorities, without encroaching on the independence of the media, raise awareness about the existence of ethical codes and (self) regulatory bodies for the media and their competence for dealing with instances of hate speech. They should furthermore initiate research, training and reflection among media professionals on ways to avoid hate speech in the media and to strengthen self-regulation in this field.

6. (§ 50) ECRI recommends that the Spanish law enforcement authorities continue and intensify their activities with a view to establishing and operating a system for recording and monitoring racist, homo- and transphobic incidents, and the extent to which these incidents are brought before the courts and are eventually qualified and sentenced as racist, homophobic and transphobic offences.

7. (§ 53) ECRI recommends that the police services and the specialised hate crime prosecution services establish, intensify and institutionalise at local, regional and national levels frameworks for regular and sustainable dialogue and co-operation with vulnerable groups suffering from hate speech and civil society organisations working with them.

8. (§ 55) ECRI recommends that the Spanish authorities use their regulatory powers with regard to Internet and social media providers, reinforce the civil and administrative law protection against cyber hate speech and continue focusing on criminal investigation of cyber hate speech.

9. (§ 70) ECRI recommends that the Spanish authorities develop a coherent system of integration indicators in order to assess and improve the living conditions of migrants in core areas such as education, employment, health and housing, and evaluate and improve the impact of their integration policies, objectives and activities.

10. (§ 74) ECRI recommends that the Spanish authorities develop a coherent system of objectives and activities that help children with migration background to complete compulsory schooling successfully. These should be accompanied by indicators, base lines and targets in order to measure progress in this area.

11. (§ 77) ECRI recommends that the Spanish authorities identify the groups of migrants facing the greatest difficulties in the labour market and that they develop a coherent set of objectives and measures for increasing their employment rate and their conditions of work, and that they accompany each objective and measure with indicators, base-lines and target values to reach.

12. (§ 80) ECRI recommends that the Spanish authorities thoroughly assess the impact of the health reform and make adjustments as swiftly as possible to ensure that the right to health care of all migrants is respected.

13. (§ 83) ECRI recommends that the Spanish authorities update and group together their integration policies for people with migration background in a coherent strategy and action plan.

14. (§ 89) ECRI again strongly recommends that the Spanish authorities develop and implement a set of measures for ensuring that the numbers of Roma children completing compulsory education quickly increases.

15. (§ 91) ECRI recommends that the Spanish authorities at central, regional and local level further strengthen Roma civil society and institutions and involve them in the further development, implementation and evaluation of Roma-related strategies, action plans and activities.

16. (§ 99) ECRI recommends that the Spanish authorities adopt new legislation on name changes and gender recognition for transgender persons, drawing inspiration from international recommendations and especially from Resolution 2048 (2015) of the Council of Europe Parliamentary Assembly.

17. (§ 104) ECRI recommends that the Spanish authorities implement measures to promote understanding and respect for LGBT persons, in particular in schools. At the same time, they should provide all pupils and students with the information, protection and support necessary to enable them to live in accordance with their sexual orientation and gender identity.

BIBLIOGRAPHY

This bibliography lists the main published sources used during the examination of the situation in Spain. It should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.

European Commission against Racism and Intolerance (ECRI)

1. ECRI (2014), Conclusions on the implementation of the recommendations in respect of Spain subject to interim follow-up, CRI(2014)5.
2. ECRI (2011a), Fourth report on Spain, CRI(2011)4.
3. ECRI (2006), Third report on Spain, CRI(2006)4.
4. ECRI (2003a), Second report on Spain, CRI(2003)40.
5. ECRI (1999), Report on Spain, CRI(99)4.
6. ECRI (1996), General Policy Recommendation No. 1: Combating racism, xenophobia, antisemitism and intolerance, CRI(96)43.
7. ECRI (1997), General Policy Recommendation No. 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, CRI(97)36.
8. ECRI (1998a), General Policy Recommendation No. 3: Combating racism and intolerance against Roma/Gypsies, CRI(98)29.
9. ECRI (1998b), General Policy Recommendation No. 4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims, CRI(98)30.
10. ECRI (2000), General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, CRI(2000)21.
11. ECRI (2001), General Policy Recommendation No. 6: Combating the dissemination of racist, xenophobic and antisemitic material via the Internet, CRI(2001)1.
12. ECRI (2003b), General Policy Recommendation No. 7: National legislation to combat racism and racial discrimination, CRI(2003)8.
13. ECRI (2004a), General Policy Recommendation No.8: Combating racism while fighting terrorism, CRI(2004)26.
14. ECRI (2004b), General Policy Recommendation No.9: The fight against antisemitism, CRI(2004)37.
15. ECRI (2007a), General Policy Recommendation No.10: Combating racism and racial discrimination in and through school education, CRI(2007)6.
16. ECRI (2007b), General Policy Recommendation No.11: Combating racism and racial discrimination in policing, CRI(2007)39.
17. ECRI (2009), General Policy Recommendation No. 12: Combating racism and racial discrimination in the field of sport, CRI(2009)5.
18. ECRI (2011b, General Policy Recommendation No.13: Combating anti-Gypsyism and discrimination against Roma, CRI(2011)37.
19. ECRI (2012), General Policy Recommendation No.14: Combating racism and racial discrimination in employment, 2012, CRI(2012)48.
20. ECRI (2016a), General Policy Recommendation No. 15: Combating Hate Speech, CRI(2016)15.
21. ECRI (2016b), General Policy Recommendation No. 16: Safeguarding irregularly present migrants from discrimination, CRI(2016)16.

Other sources

22. Alianza por la Solidaridad et al. (2016), Deficiencias e inequidad en los servicios de salud sexual y reproductiva en España.
23. Alonso S. and Rovira Kaltwasser C. (2012), The Spanish “Exceptionalism” in western Europe: No country for the populist radical right?
24. Alonso Fernández, I. (2016), Independent audiovisual regulators in Spain: A unique case in Europe. In: International Journal of Communication 10, p. 359-376.

25. Amnesty International (AI) (2015), Sin tarjeta, no hay derecho – Impacto en derechos humanos de la reforma sanitaria en Castilla-La Mancha y en la Cumunitat Valenciana.
26. AI (2013) El laberinto de la exclusión sanitaria – Vulneraciones del derecho a la salud en las Islas Baleares.
27. Anti-Defamation League (2015), ADL Global 100, http://global100.adl.org/#country/spain/2015, accessed on 31.3.17.
28. Barcelona Centre for International Affairs (CIDOB) and Migration Policy Group (MPG) (2017), Migration Policy Index 2015, Key Findings Spain 2014, http://www.mipex.eu/spain, accessed on 25.04.2017.
29. BBC News (2017, April 5), Social media firms faces huge hate speech fines in Germany.
30. Cadenaser.com (2013, April 19), Los grupos violentos de extrema derecha se multiplican por cuatro en los últimos años.
31. Casani, Alfonso (2016), Islamophobia in Spain: National report 2015. In: European Islamophobia Report 2015.
32. Centro de Investigaciones Sociológicas (CIS) (2015), Actitudes hacia la immigración (VIII), Estudio nº 3119, Noviembre-diciembre 2015.
33. CIS (2013), Mapping and Profiling of Discrimination in Spain: CIS Survey No. 3000, Perception of Discrimination in Spain, Executive Summary.
34. CNN.com (2014, May 21), Punishment demanded for anti-Semitic tweets after Israel's basketball win.
35. Comisión Estatal contra la Violencia, el Racismo, la Xenofobia y la Intolerancia en el Deporte (2016), Datos para la memoria 2015/2016.
36. Comunidad de Madrid (2017a), Encuesta Regional de Inmigración 2016, http://www.madrid.org/bvirtual/BVCM014015.pdf, accessed on 25.04.2017.
37. Comunidad de Madrid (2017b), Barómetro de Inmigración 2016, http://www.madrid.org/cs/Satellite?c=CM_InfPractica_FA&cid=1354273641612&language=es&pagename=ComunidadMadrid%2FEstructura&pv=1354273698414, accessed on 25.04.1017.
38. Comunidad de Madrid (2017c), Plan de Inclusión Social de la Población Gitana de la Comunidad de Madrid 2017-2021.
39. Council for the Elimination of Racial and Ethnic Discrimination (CERED) (2015a), Informe que emite el Consejo para la Eliminación de la Discriminación Racial o Étnica relativo al Informe de evaluación y seguimiento de la Estrategia Integral contra el Racismo, Discriminación Racial, la Xenofobia y otras formas conexas de intolerancia.
40. CERED (2015b), Recomendación “Evitar el uso de discursos discriminatorios, racistas o xenófobos en las campañas electorales”.
41. CERED (2014), Percepción de la discriminación por el origen racial o étnico por parte de las potenciales víctimas en 2013.
42. Comunidad de Madrid (2016), Encuesta Regional de Inmigración 2016.
43. Council of Europe (CoE), Commissioner for Human Rights (2011), Discrimination on grounds of sexual orientation and gender identity in Europe, 2nd edition.
44. CoE, Advisory Committee on the Framework Convention for the Protection of National minorities (2014), Fourth Opinion on Spain adopted on 3 December 2014, ACFC/OP/IV(2014)003.
45. Council of Ministers (2011), Estrategia integral contra el racismo, la discriminación racial, la xenofobia y otras formas conexas de intolerancia.
46. Daliaresearch.com (2016), Counting the LGBT population: 6% of Europeans identify as LGBT, https://daliaresearch.com/counting-the-lgbt-population-6-of-europeans-identify-as-lgbt/, accessed on 27.04.17.
47. Decade of Roma Inclusion Secretariat Foundation (2015), Roma inclusion index 2015.
48. Defensor del Pueblo (2017), Informe Anual 2016 y debates en las Cortes General.
49. Defensor del Pueblo (2014), Informe Anual a las Cortes Generales 2013.

50. El-Habib Draoui B. et al. (2016), School composition and pupils' expectations by origin and ethnicity: an approach to unofficial school segregation, Revista de la Asociación de Sociología de la Educación l Elmundo.es (2015, August 29), Marcan una esvástica con una navaja en un brazo a un menor.
51. EL País (2017, February 25), Condenada la responsable de un colegio por discriminar al hijo de una pareja gay.
52. El País (2016a, December 12), Condenado a 10 años de cárcel el homicida confeso de una transsexual.
53. El País (2016b, July 1), Are attacks against gay people on the rise in Spain?
54. El País (2014, May 21), Spanish government asks state attorney to crack down on Twitter hate speech.
55. Elperiodico.com (2015, February 23), Metro de Madrid releva al jefe de Seguridad por el envío del correo homófobo.
56. European Equality Law Network (EELN) (2016), Country report on non-discrimination: Spain.
57. European Union (EU) Agency for Fundamental Rights Agency (FRA) (2017), Compendium of practices, http://fra.europa.eu/en/theme/hate-crime/compendium-practices, accessed on 20.04.2017.
58. EU FRA (2016), Second European Union Minorities and Discrimination Survey, Roma – Selected findings.
59. EU European Commission (EC) (2017), Code of Conduct on countering illegal hate speech online: One year after.
60. EU EC (2015a), Discrimination in the EU in 2015, Special Eurobarometer 437, Summary.
61. EU EC (2015b), Discrimination in the EU in 2015, Special Eurobarometer 437, Results Volume C: Country/socio-demographics, Spain, https://data.europa.eu/euodp/de/data/dataset/S2077_83_4_437_ENG/resource/b55a9f4d-a137-45f4-8170-e43573ca842c, accessed on 13.10.17.
62. EU EC (2015), Country Factsheet: Spain 2015.
63. EU FRA (2012), Survey data explorer - LGBT Survey 2012, http://fra.europa.eu/en/project/2011/surveying-lgbt-people-and-authorities/data-explorer, accessed on 28.3.17.
64. EU FRA (2009), EU-MIDIS - European Union Minorities and Discrimination Survey, Main Results Report.
65. EU, European Commission (EC) (2017), European Web Site on Integration, EU 'Zaragoza' Integration Indicators: Spain, https://ec.europa.eu/migrant-integration/librarydoc/eu-zaragoza-integration-indicators-spain, accessed 25.04.2017.
66. EU Eurostat 2017, Migration integration statistics - at risk of poverty and social exclusion, http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_integration_statistics_-_at_risk_of_poverty_and_social_exclusion, accessed on 24.04.17.
67. EU and IT companies (2016), Code of Conduct on countering illegal hate speech online.
68. Federation of the Spanish Press (1993), Code of Ethics for the Journalistic Profession.
69. Freixes Sanjuán, T., Balaguer Callejón F. et Elías Méndez, C., Legal study on homophobia and discrimination on grounds of sexual orientation and gender identity.
70. Fundación Secretariado Gitano (FSG) (2016), Annual report 2016 – Discrimination and the Roma community.
71. FSG (2015), Annual report 2014 – Discrimination and the Roma community.
72. FSG (2014), Annual report 2013 – Discrimination and the Roma community.
73. FSG (2013), The impact of the crisis and austerity measures in the situation of the Roma community in Spain.
74. Heraldo.es (2014, December 5), Condenan a una alcaldesa de Ávila a pagar 900 euros por amenazas a dos homosexuales.

75. International coordinating committee of national institutions for the promotion and protection of human rights (ICC) (2012), Report and recommendations of the session of the sub-committee on accreditation (SCA), 19 to 23 November 2012.
76. International Organisation for Migration (IOM) (2015), La Situación laboral de la mujer inmigrante en España, análisis y proposiciones para la igualdad de trato y la lucha contra la discriminación.
77. IOM (2014), Harnessing Knowledge on the Migration of Highly Skilled Women.
78. Jubani O. and Roiha M. (2016), Backgrounds, Experiences and Responses to Online Hate Speech: A Comparative Cross-Country Analysis.
79. Kamira, Federación Nacional de Asociaciones de Mujeres Gitanas (2017) SPAIN Roma women situation KAMIRA project final report.pdf
80. Lavanguardia.com (2017, January 30), La concejal musulmana de Badalona denuncia actos de odio y xenofobia.
81. Lavanguardia.com (2016, July 22), El discurso del odio se normaliza a través de internet – Un estudio de la UB alerta del creciente increment de la islamofobia en España.
82. Lavanguardia.com (2015, April 29), Unas 350.000 mujeres ejercen la prostitución en España, víctimas de la trata.
83. Médicos del Mundo (2014), Dos años de reforma sanitaria : más vidas humanas en riesgo.
84. Ministry of Education, Culture and Sport (2017), El Ministerio de Educación, Cultura y Deporte presenta a las Comunidades Autónomas los Planes Estratégicos de Convivencia Escolar y de Hábitos Saludables, Press release of 30.03.2017, http://mecd.gob.es/prensa-mecd/en/actualidad/2017/03/20170330-sectorial.html, accessed on 25.04.2017.
85. Ministry of Education, Culture and Sport and FSG (2013), El alumnado gitano en secundaria: un estudio comparado.
86. Ministry of Employment and Social Security (2015), Report on the implementation of the International Mobility section of the Entrepreneurial Support and Internationalisation Act of 27 September 2013.
87. Ministry of Employment and Social Security (2014), INFORME DE EVALUACIÓN Y SEGUIMIENTO Estrategia integral contra el racismo, la discriminación racial, la xenofobia y otras formas conexas de intolerancia [Periodo 2011-2014].
88. Ministry of Employment and Social Security (2011), Plan Estratégico de Ciudadanía e Integración.
89. Ministry of Employment and Social Security (2011b) Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and related Intolerance.
90. Ministry of External Affairs and Cooperation (2014), Submission to OHCHR: Spain LGBT good practices.
91. Ministry of Health, Social Services and Equality (2016), Study-Map on housing and the Roma population 2015, Executive Summary.
92. Ministry of Health, Social Services and Equality (2015), Embracing Diversity: Proposals for an Education free of Homophobia and Transphobia.
93. Ministry of Health, Social Services and Equality (2014), Plan Nacional de Acción para la Inclusión Social del Reino de España 2013-2016.
94. Ministry of Health, Social Services and Equality (2012a), National Roma Integration Strategy in Spain 2012-2020.
95. Ministry of Health, Social Services and Equality (2012b), National Action Plan for Social Inclusion in the Kingdom of Spain 2013-2016.
96. Ministry of the Interior (2016a), Informe sobre incidentes relacionados con los delitos de odio en España 2015.
97. Ministry of the Interior (2016b), Inmigración irregular – Balance 2015 Lucha contra la Inmigracón irregular.

98. Mirror.co.uk (2015, September 4), Nazi thugs carve swastika and Hitler reference into teenage boy's arm in chilling racist attack.
99. Movimiento contra la Intolerancia (2017), Informe Raxen - Especial 2016, Discurso de Odio y Tsunami de Xenofobia e Intolerancia.
100. Movimiento contra la Intolerancia (2015), Informe Raxen: Racismo, Xenofobia, Antisemitismo, Islamofobia, Neofascismo y otras manifestaciones de Intolerancia a través de los hechos, Especial 2015 (II) :
101. National Institute of Statistics (2017), Population figures, available at: http://www.ine.es/dyngs/INEbase/en/operacion.htm?c=Estadistica_C&cid=1254736176951&menu=ultiDatos&idp=1254735572981, accessed on 21.04.2017.
102. National Institute of Statistics (2016), Cifras de Población a 1 de enero de 2016, Estadística de Migraciones 2015, Adquisiciones de Nacionalidad Española de Residentes 2015 - Datos Provisionales.
103. National Institute of Statistics (2003), Information bulletin: Health and sexual habits.
104. Observatorio de Antisemitismo (2015), Informe sobre el Antisemitismo en España durante los años 2013 y 2014.
105. Observatoirio del pluralismo religioso en España (2017), Cementerios, http://observatorioreligion.es/cementerios/, accessed on 21 June 2017.
106. Observatorio Madrileño contra la homophobia, transfobia y bifobia (2017), Informe sobre Incidentes de Odio por LGTBfobia en la Comunidad de Madrid - Un año en vigilancia y detección de incidentes más atención y colaboración con víctimas.
107. Organisation for Economic Co-operation and Development (OECD) 2016, PISA, Low-Performing Students, Why they fall behind and how to help them succeed.
108. OECD et EU (2015), Indicators of Immigrant Integration 2015.
109. OSCE, ODIHR (2017), Hate crime reporting: Spain, available at: (11.2%) and discrimination in the field of labour (10%)http://hatecrime.osce.org/spain , accessed on 07.04.2017 .
110. Pew Research Center (2016a), Europeans fear wave of refugees will mean more terrorism, fewer jobs
111. Pew Research Center (2016b), 5 facts about the Muslim population in Europe.
112. Plataforma Ciudadana contra la Islamofobia (2016a), Islamophobia in Spain – Report 2015.
113. Plataforma Ciudadana contra la Islamofobia (2016b), Informe annual. Islamofobia en España 2015.
114. Politico.eu (2016, December 26), Spain: No country for old fascists - A new generation of far-right leaders in Spain looks for their political opening.
115. Press TV (2016), Anti-Islam hate crimes jumped over 11-fold in Spain in 2015: Federation.
116. Publico.es (2017, September 5), La Fiscalía alerta del incremento de los delitos de odio a través de Internet en 2016.
117. Puertas Cartón N. et Samper Seró C. (2015), El ascenso de García Albiol. Politización del discurso migratorio y aplicación de la teoría del agenda setting en las elecciones locales de 2011.
118. Red Acoge (2016), Estudio sobre Periodismo e inmigración, - Medios de comunicación: Agentes de integración y cohesión social.
119. Red Acoge (2014), Estudio sobre Periodismo e inmigración, Immigracionalismo, Hagamos autocrítica: medios de comunicación libres de xenofobia.
120. Rights International Spain (2017), Ethnic profiling in Spain: a generalized and unresolved police practice.
121. Servicio de asistencia a víctimas de discriminación racial o étnica (2016), Memoria Anual de resultados 2016.

122. SOS Racismo (2017a), Herramientas para un tratamiento mediático adecuado de la inmigración, https://sosracismo.eu/nuevos-proyectos/, accessed on 10.10.2017.
123. SOS Racismo (2017b), Revista de Prensa Diaria, https://sosracismo.eu/revista/, accessed on 10.10.2017.
124. SOS Racismo (2016), Informe Anual 2016 Sobre el racismo en el estado español.
125. Jerusalem Post (2015, September 7), Neo-Nazi gang attacks Spanish teen, carves swastika into arm.
126. Tel Aviv Universtiy, Kantor Center for the Study of Contemporary European Jewry (2017), Spain, http://kantorcenter.tau.ac.il/spain-0, accessed on 21.06.2017.
127. The Local (2015), Spain celebrates ten years of gay marriage, available at: https://www.thelocal.es/20150629/spain-celebrates-10-years-of-gay-marriage, accessed on 27.04.2017.
128. The Local (2014a, August 8), Spanish Hitler? Mayor slammed for 'racist' talk, available at: https://www.thelocal.es/20140808/the-spanish-hitler-mayor-in-trouble-over-racist-speech, accessed on 27.04.2017.
129. The Local (2014b, May 12), Spanish mayor feels heat over anti-gay tirade, available at: https://www.thelocal.es/20140512/homophobic-mayor-sued-gay-sanbartolome-spain.
130. The Network for Denouncing and Resisting the Royal Deecree-Law 16/2012 (REDER) (2015), Anatomy of the Healthcare Reform – The Universality of Exclusion.
131. Unión de Comunidades Islámicas de España (UCIDE) (2017a), Informe especial J/2016, Institución para la observación y seguimiento de la situación del ciudadano musulmán y la islamofobia en España, Incidencias e islamofobia.
132. UCIDE (2017b), Estudio demográfico de la población musulmana, Explotación estadística del censo de ciudadanos musulmanes en España referido a fecha 31/12/2016.
133. Unión Romaní (2016), INFORME ¿PERIODISTAS CONTRA EL RACISMO 2015. La televisión y las redes sociales fomentan el discurso de odio contra la comunidad gitana.
134. Unión Romaní (2015), INFORME ¿PERIODISTAS CONTRA EL RACISMO? La prensa española ante el pueblo gitano 2014 - Crecen las noticias negativas relacionadas con la comunidad gitana.
135. United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD) (2016), Observaciones finales sobre los informes periódicos vigésimo primero, vigésimo segundo y vigésimo tercero de España, CERD/C/ESP/CO/21-23.
136. UN Special Rapporteur on Racism (2013), Report following his visit to Spain from 21 to 28 January 2013.
137. Women's Link Worldwide (2017), Informe sobre la Situación en España – Dirigido a la European Commission against Racism and Intolerance (ECRI) en Relación con el Fifth Monitoring Cycle.