

الاستراتيجية المتكاملة لمكافحة العنصرية و الميز العنصري و كراهية الاجانب و حالات اخرى مرتبطة بعدم التسامح
Estratègia integral contra el racisme, la discriminació racial, la xenofòbia i altres formes connexes d'intolerància Estrategia integrala Arrazismoaren, arraza diskriminazioaren, xenofobiaren eta bestelako intolerantzia-moten aurka Estratexia integral contra o racismo, a discriminación racial, a xenofobia e outras formas conexas de intolerancia Chand integrinó mamui o rasizmo, i diskriminàtsia ratsutno, i xenofobia thaj averchande khetane kotar bitoleramtsia Comprehensive Strategy against Racism, Racial Discrimination and Related Intolerance Strategie globală împotriva rasismului, discriminării rasiale, xenofobiei și împotriva altor forme conexe de intoleranță Umfassende Strategie gegen Rassismus, Rassendiskriminierung, Fremdenfeindlichkeit und damit zusammenhängender Intoleranz Интегрална стратегия срещу расизма, расовата дискриминация, ксенофобията и други, свързани с тях, форми на нетолерантност Strategia integrale contro il razzismo, la discriminazione razziale, la xenofobia e altre forme connesse di intolleranza 反对种族歧视 , 反对仇外心理和其它一些有关不能容忍的行为的综合策略 Estratègia integral contra o Racismo, a discriminação racial, a xenofobia e outras formas conexas de intolerância Stratégie intégrale contre le racisme, la discrimination raciale, la xénophobie et d'autres formes connexes d'intolérance

Comprehensive Strategy

against Racism, Racial Discrimination,
Xenophobia and related Intolerance



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Agreement approving the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia, and Related Intolerance.

Immigrant integration not only has become one of the most important challenges that Spanish society currently faces, but serves as basic pillar of the comprehensive integration strategy that the Government has been carrying out since 2004, together with the fight against illegal immigration, the linking of legal immigration to labour market needs, and development policy in countries of origin.

Immigrants' integration as citizens in a society where citizens of different cultures interact harmoniously therefore continues to take up centre stage in the current migrations policy. Successfully continuing with the immigrant population's integration process has become one of our society's key challenges.

This means bolstering both tools and policies for integration, such as public services and participation, so that all citizens gain access to these services under equal conditions without any loss in service quality.

The eradication of any form of discrimination, including racism and xenophobia, is the only way in which to make human rights part of everyday life for everyone.

Several basic reasons underpin the rationale for developing a Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance

- a. Diversity, which already existed in Spanish society and has increased as a result of recent immigration;
- b. A response to the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;
- c. The need to organise action undertaken in this sphere.

For all of these reasons, the Government of Spain is firmly committed to combating racism, racial discrimination, xenophobia and related intolerance.

The strategy is based on the acknowledgement that not only discriminatory attitudes and manifestations but also acts of racially or ethnically motivated violence and hatred persist in Spanish society, and that this poses a risk to harmonious interaction, cohesion and social peace. In parallel, with the implementation of public services, civil society support and awareness raising campaigns, a critical mass of experience in combating racism has been built up and exemplifies the specific commitment based on a political will to transform a situation that affects us all as a community.

In order for human rights and fundamental liberties to be able to be fully enjoyed, our society's evolution requires a broader, more effective response to tackle the challenges that racist and xenophobic attitudes and manifestations pose.

Following through with this same rationale, we must highlight two basic elements in the design of this Strategy aimed at the population at large, though it naturally includes specific situations involving specific groups. The Strategy also aims to include and to specifically tackle the concept of multiple discrimination.

The strategy was put to the consideration of the following consultative bodies:

- Forum for the Social Integration of Immigrants (Foro para la Integración Social de los Inmigrantes)
- Council for the Promotion of Equal Treatment and Non-discrimination on Racial or Ethnic Grounds (Consejo para la Promoción de la Igualdad de Trato y no Discriminación de las Personas por Origen Racial o Étnico)
- Inter-ministerial Commission on Foreigners (Comisión Interministerial de Extranjería)
- State Council for the Roma People (Consejo Estatal del Pueblo Gitano)

By virtue of this, upon a proposal of the Minister of Labour and Immigration, the Council of Ministers, in its 4 November 2011 meeting, adopted the following:

AGREEMENT

One: The Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance, attached as an appendix to this document, is hereby approved.

Two: The Ministries affected shall adopt the measures they need to develop and implement the Strategy in their spheres of competence, including financing within the budget allocations made through the General State Budget (Presupuestos Generales del Estado) within the framework set forth by the 2011-2013 Austerity Plan for the General State Government and the General State Government's Expenditure Revision Plan for the 2011-2013 period.

Madrid, 4 November 2011

MINISTER OF LABOUR AND
IMMIGRATION
Valeriano Gómez Sánchez

Anna Terrón i Cusí
Secretary of State for Immigration and Emigration

Since 1948 when the Universal Declaration of Human Rights was approved, the international community has considerably progressed in the fight against racism, racial discrimination, xenophobia and related intolerance.

The Government of Spain is firmly committed to this fight and believes that eradicating racism, xenophobia and intolerance is the only way to make the enjoyment of human rights an everyday reality for everyone and the only way for peaceful, harmonious interaction and social cohesion to be ensured. The Comprehensive Strategy on Racism, Racial Discrimination, Xenophobia and Related Intolerance, approved by the Council of Ministers on 4 November 2011 stands as key tool in this struggle.

Equality is not only a supreme value within our legal system, but also a principle informing the legal system and a right unto itself. In addition, personal dignity and the inviolable rights inherent to it, the right to freely develop one's personality, and respect for the Law and the rights of others all underpin political order and social peace. Legislation regarding fundamental rights set forth in Spain's 1978 constitution is interpreted as such and based on the Universal Declaration of Human Rights, and the related international treaties and agreements ratified by Spain.

The fight against discrimination, racism, and xenophobia requires ongoing revision of both institutional and intergovernmental cooperation efforts in national, international, regional, and local spheres alike. And this is at the heart of the Strategy, which not only promotes networks for cooperation between entities and institutions combating racism and xenophobia, but also places a particular accent on employment and racial discrimination in the workplace.

The Comprehensive Strategy, which you have before you, acknowledges that discriminatory attitudes and manifestations and racially or ethnically motivated acts of violence and hatred are present in Spanish society. But the Strategy unequivocally marks the will to prevent the risk that this could pose both to the full enjoyment of fundamental rights and public liberties of all people, and to harmonious interaction and social cohesion in the country.

Estrella Rodríguez Pardo

Director General for Immigrant Integration

Over the last few years, the government of Spain has developed a broad range of active policies serving as a reference for promoting the National Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

These policies include the Human Rights Plan, the National Plan for the Alliance of Civilizations, the Action Plan for the Development of the Roma Community and the Strategic Plan for Citizenship and Integration, fostered from the Secretariat of State for Immigration and Emigration.

However, despite the intense work, the Strategy steeps its roots in evidence based on various periodic reports from international bodies and from a wealth of analysis and surveys that must be addressed, as described in the diagnosis:

First, policies and action that has been carried out must be brought together. Action taken both by the public sector and by civil society must also be made more dynamic, bearing in mind the experience accumulated in Spain by various associations which have a great background and longstanding work in the fight against racism and xenophobia.

Secondly, knowledge about how racism, racial discrimination, xenophobia and related intolerance have developed is key to being able to organise active policies aimed at effective preventive and protection measures. The government of Spain is aware that this is one of the areas in which progress must be made.

Education stands as another priority area. Action must be continued to prevent racially or ethnically motivated discrimination in the school systems as education undoubtedly shapes values.

The use of the Internet to disseminate racist and xenophobic ideas and action poses a growing cause for concern, as does the frequently negative portrayal of migrants, Roma and other vulnerable groups in the media.

Public statements and discourse must also be highlighted, particularly during election campaigns when rejection or prejudices towards certain segments of the population are at times expressed.

Our society's evolution requires a broader, more effective response to these issues in order to face the challenges that racist and xenophobic attitudes and manifestations pose, thereby potentially jeopardising the enjoyment of human rights and fundamental liberties.

Lastly, I would like to thank all of those who participated in this Strategy from the different ministries, consultation bodies, and as experts in the various areas included in the Strategy. Their special commitment has enriched this document.

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1

Introduction

1. Introduction

A truly democratic society is one that seeks to help all of its members achieve dignity and their future hopes, particularly the most vulnerable. Spanish society calls for policies and instruments that bring about collective improvements through its institutions and civil society organisations.

Eradicating all forms of discrimination, including racism and xenophobia, is the only way to put human rights into everyday practice for all.

There are several fundamental reasons underpinning the need for a Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance:

- a)** Diversity, which already existed in Spanish society and has increased as a result of recent immigration.
- b)** Responding to the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in addition to recommendations made by other international organisations.
- c)** The need to structure and develop work that is already being carried out in this field.

The Spanish government is therefore firmly committed to combating racism, racial discrimination, xenophobia and related intolerance.

The Strategy is based on the acknowledgement that discriminatory attitudes and manifestations and racially or ethnically motivated violence and hatred are still present in Spanish society. The risk that these attitudes may persist is a threat to harmonious interaction, cohesion, and social peace.

1. Introduction

Over the last few years, a critical mass has emerged and experience has been gained in the fight against discrimination. New public services, measures led by civil society, and awareness-raising campaigns are examples of a specific commitment embodied in the political will to change an issue that affects us as a community.

As our society develops, we need a broader, more efficient response to tackle the challenges raised by racism and xenophobia, which in turn impair the enjoyment of human rights and fundamental freedoms.

In relation to the previous point, two aspects in the design of this Strategy are crucial: firstly, it is aimed at the population at large, although logically it also covers the specific situations of certain groups; and secondly, it includes and seeks to deal specifically with multiple discrimination.

According to Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, approved by the United Nations General Assembly in its resolution of 21 December 1965, 'the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'.

2

Diagnosis

2. Diagnosis | I. The International and European Context

Prior to diagnosing the situation on racism, racial discrimination, xenophobia and related intolerance, it is firstly necessary to look at international conventions on this matter that have been ratified by Spain. These are described below and listed in the Appendix to this Strategy, along with European and Spanish law on the subject.

Secondly, in order to arrive at a diagnosis, it is important to bear in mind that although the Strategy should involve and engage society as a whole, available data and experience in this area show that racial and ethnic minorities are particularly susceptible to discrimination. Immigrants' situation must therefore be taken into account. Spain is almost unique in the history of Europe in that it has received some five million immigrants in less than ten years. It is also necessary to consider the Roma population, since according to numerous surveys, reports, and studies, this group suffers the most rejection and discrimination. Other vulnerable groups include international applicants and beneficiaries of international protection, unaccompanied minors and those who suffer multiple discrimination due to gender, beliefs, religion, and so on.

Thirdly, it is necessary to analyse the work carried out and examine how the Strategy can help structure the many measures that have been implemented by the authorities, civil society and other actors.

Lastly, recommendations made by international organisations to Spain in their reports must be considered, in addition to a range of other reports, surveys, and studies.

I The International and European Context

Since the **Universal Declaration of Human Rights** was adopted in 1948, the international community has made some significant progress in the fight against racism, racial discrimination, xenophobia and related intolerance. National and international laws have been enacted and numerous international human rights instruments, in particular the **United Nations International Convention on the Elimination of Racial Discrimination**, have been adopted to fight the scourge of intolerance and in its most extreme form, discrimination, racism and xenophobia. Yet, the dream of a world free of racial hatred and bias remains only half fulfilled.

Racism, racial discrimination, xenophobia and related intolerance are still all too common in today's societies. Globalisation and the consequent tumbling of national borders has given rise to diverse, multicultural societies, in which racial and ethnic considerations can still lead to exclusion and greater inequality. In view of this, the international community decided to step up efforts to effectively and above all jointly combat one of the scourges of the 21st century.

In 1997, the General Assembly called a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which was held a few years later in Durban, South Africa. It was the third international conference, but the previous two had generated less interest due to their narrower scope and therefore weaker support. Spain, along with the other EU Member States, played an active role in the negotiations, backed the conclusions that came out of the 2001 Conference, and undertook a series of commitments.

In September 2001, a document was adopted by consensus that has become a key element in many governments' fight against racial discrimination and xenophobia: the **Durban Declaration and Programme of Action**. It is a comprehensive document, in which it was recognised for the first time that no country can claim to be free of racism, that racism is a global concern, and that tackling it should be a universal effort.

2. Diagnosis | I. The International and European Context

The Durban Declaration and Programme of Action (DPAD) embodies the firm commitment of the international community to tackle racism, racial discrimination, xenophobia and related intolerance. It is holistic in its vision and addresses a wide range of issues. The document contains far-reaching recommendations and practical measures to be implemented at the national, regional, and international level.

It is worth highlighting that the DPAD assigns the primary responsibility for combating racism, racial discrimination, xenophobia and related intolerance to States, by devising and bringing into force, with the full participation of civil society, the necessary strategies, policies, programmes and measures. Specific recommendations are formulated to combat discrimination against Africans and persons of African descent, Asians and persons of Asian descent, indigenous peoples, migrants, refugees, minorities, the Roma and other groups. The DPAD also rejects doctrines of racial superiority as scientifically false, morally condemnable, socially unjust, and dangerous. It stresses that poverty, underdevelopment, marginalisation, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance.

The Declaration states that racism, racial discrimination, xenophobia, and related intolerance are manifested differently for women and girls, and recognises the need for a gender perspective in policies, strategies, and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to tackle the multiple forms of discrimination. Furthermore, it expresses the firm belief that education, development, and the faithful implementation of all international human rights norms and obligations, including enactment of laws and political, social, and economic policies, are crucial to combat racism, racial discrimination, xenophobia, and related intolerance. It reaffirms that racism and related intolerance pose a serious threat to international peace and security, human dignity, and the enjoyment of human rights and fundamental freedoms for many people worldwide.

The DPAD urges States to strengthen national institutions and to establish and implement without delay national policies and action plans to combat

2. Diagnosis | I. The International and European Context

racism, racial discrimination, xenophobia, and related intolerance, including their gender-based manifestations. It makes concrete recommendations regarding national legislation and administrative measures, and moreover, it urges States to enact and implement laws against trafficking in persons; to prevent and detect misconduct by law enforcement officers motivated by racism, racial discrimination, xenophobia, and related intolerance; and encourages Governments to provide effective remedies, recourse, redress, and other measures for victims.

Since the DPAD was adopted, great progress has been made in the practical application of the commitments and measures set out in the document. At the international level, Spain has been involved in the so-called 'Durban Review Process', by actively supporting the United Nations High Commissioner for Human Rights, the Inter-governmental Group on this matter, and the Group of Afro-descendants. Spain backed the policy Declaration that came out of the Durban Review Conference held in Geneva in April 2009 (also known as Durban II), which gave renewed international support to the commitments set out in the DPAD.

It is also important to mention the **Committee on the Elimination of Racial Discrimination (CERD)**, the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its State parties.

All State parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every two years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

Also of importance is the **Human Rights Council**, which was created by the United Nations General Assembly on 15 March 2006 through Resolution 60/251. The Council replaced the former Commission on Human Rights and is a subsidiary body of the United Nations General Assembly. One of the new mechanisms it has set up is the **Universal Periodic Review (UPR)**, which has become one of the Human Rights Council's key elements. Underpinned by the

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principles of universality, equality and transparency, the UPR is a process in which the Council (including its Member States, observers, and other relevant actors) reviews all UN Member States, including civil society and NGOs.

Spain was reviewed in May 2010, when it was also elected to be a Member of the Human Rights Council for the 2010-2013 period.

The recommendations include: effective school integration of ethnic minorities, particularly the Roma community; awareness-raising, promotion, and education measures to eradicate racial discrimination and related intolerance; the publication of statistics on incidents or reports of racially-motivated crime, and, in particular, the creation of a comprehensive strategy for combating racism and xenophobia, as announced in Spain's Human Rights Plan.

Adopting such a Strategy is therefore crucial if Spain is to pursue the commitments it has accepted within the UN Human Rights Council and specifically following its Universal Periodic Review.

Spain is due for another review in 2015. However, in keeping with Spain's firm commitment to this mechanism, it intends to provide information voluntarily on its fulfilment of the recommendations that it accepted in 2010 and that it has been working on since.

Turning to European measures, Article 2 of the **Treaty on the European Union** states that non-discrimination is one of the Union's common values, and the fight against discrimination one of its objectives. Furthermore, Article 19 (previously Article 13) of the Treaty on the Functioning of the European Union grants the Council the power to "take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation". The development of this principle has given rise to the adoption of various directives that form a major body of law to protect against discrimination. Of particular note are **Directive 2000/43/EC**, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and **Directive 2000/78/EC**, establishing a general framework for equal treatment in employment and occupation.

2. Diagnosis | I. The International and European Context

It is also worth underscoring the fundamental role played by the **Organisation for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights**. The office is based in Warsaw and specialises in addressing hate crimes.

At the 11th meeting of the Ministerial Council held in Maastricht in December 2003, the Foreign Ministers of the 55 OSCE Member States reaffirmed their commitment to promoting tolerance and combating discrimination, including all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism in the OSCE Member states. The Member states were urged to continue publicly condemning violent acts motivated by discrimination and intolerance, at the right level and in an appropriate manner.

The decision on Tolerance and Non-discrimination (No. 4/03) adopted at the Maastricht meeting tasked the OSCE's ODIHR to serve as a clearing house for information and statistics collected by participating States, in full co-operation with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), and the European Monitoring Centre on Racism and Xenophobia (EUMC), which since 2007 has been known as the European Union Agency for Fundamental Rights (FRA).

Subsequent OSCE Conferences held in Berlin, Paris, Brussels, and Cordoba reinforced Member States' commitments to tackling hate crimes, including attacks on places of worship and hate propaganda in the media and on the internet.

At the 12th meeting of the Council of Ministers in Sofia in 2004, the President of the OSCE stressed that combating intolerance and discrimination was a core dimension to the OSCE's concept of world safety. The Member States of the OSCE decided to tackle hate crimes, including manifestations of aggressive nationalism, racism, chauvinism, xenophobia, discrimination, anti-Semitism, intolerance, and discrimination against Christians, Muslims and members of other religions, in addition to related intolerance.

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The **European Commission against Racism and Intolerance (ECRI)** is the Council of Europe's monitoring body, specialised in combating racism, xenophobia, anti-Semitism, and intolerance in greater Europe, from the perspective of the protection of human rights. ECRI's action covers all the measures needed to combat violence, discrimination and prejudice against persons or groups of persons on grounds of race, colour, language, religion, nationality or national or ethnic origin.

ECRI was established by the first Summit of Heads of State and Government of the member States of the Council of Europe. This decision is contained in the Vienna Declaration, which the Summit adopted on 9 October 1993. The second Summit in Strasbourg on 10-11 October 1997 strengthened ECRI's action and on 13 June 2002, the Committee of Ministers adopted an autonomous Statute for ECRI, thereby consolidating its role as an independent human rights monitoring body.

ECRI's statutory activities are:

1. Country-by-country monitoring;
2. General policy recommendations; and
3. Information and communication activities with civil society.

In December 2010, ECRI published its fourth report on Spain, which commended the work carried out by the Spanish Government to tackle racism and xenophobia, and made further recommendations on how it can continue to combat racism and intolerance.

Within the **European Union**, the **European Union Agency for Fundamental Rights (FRA)** is the main body responsible for fighting discrimination and ensuring that fundamental rights are protected. The aim of the Agency, as set out in Council regulation (EC) 168/2007 of 15 February 2007, is to advise the EU institutions and Member States on fundamental rights and on how these can be embodied in EU law. Its main tasks include:

1. Gathering, analysing and disseminating objective, reliable and comparable data.

2. Diagnosis | I. The International and European Context

- 2.** Developing new methods to improve the comparability and reliability of data.
- 3.** Fostering research on fundamental rights.
- 4.** Drafting and publishing conclusions and reports on specific matters, either on its own initiative or at the behest of EU institutions.
- 5.** Promoting dialogue with EU institutions, the Member States, the Council of Europe, and civil society to raise public awareness on fundamental rights.

The Agency works to a five-year programme agreed with the European Council and Parliament. Its main priorities are to combat racism, xenophobia and intolerance, and to protect the rights of minors and gender equality, as core dimensions in protecting fundamental rights. It also works in full cooperation with other EU institutions, national bodies, and civil society through the Fundamental Rights Platform.

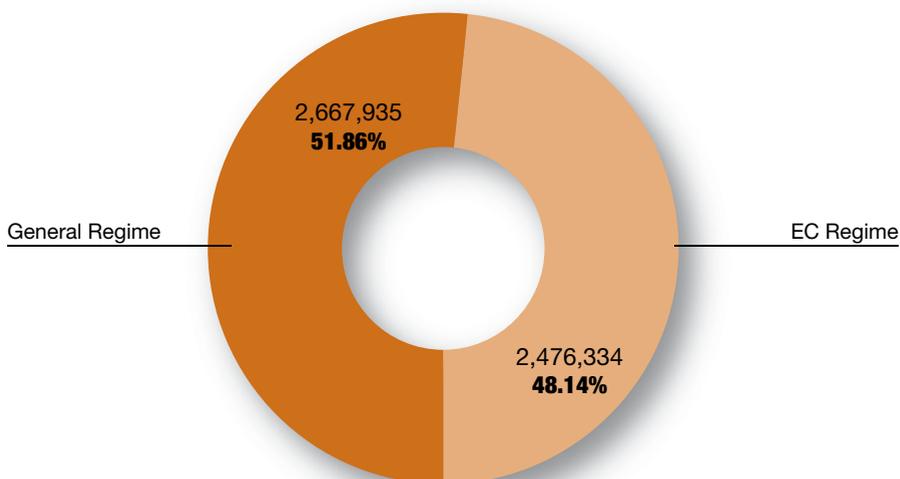
II The Particularly Vulnerable

The Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance is not aimed at any specific swathes of the population. Indeed, the protection of human rights in these spheres should involve and actively engage all citizens.

Notwithstanding, available data and experience in this matter show that people from racial and ethnic minorities are particularly susceptible to discrimination. Therefore, the measures set out in the Strategy take into consideration the situation for immigrants and the Roma community, as well as other vulnerable groups including international asylum seekers and beneficiaries, unaccompanied minors, and those who suffer multiple discrimination due to gender, beliefs, religion, and so on.

a) Immigrants in Spain

Spain is unique in the history of Europe in that in less than ten years, it has received some five million immigrants who now account for 12% of the total population. With hindsight, this process has spawned clear development for the origin and host societies.

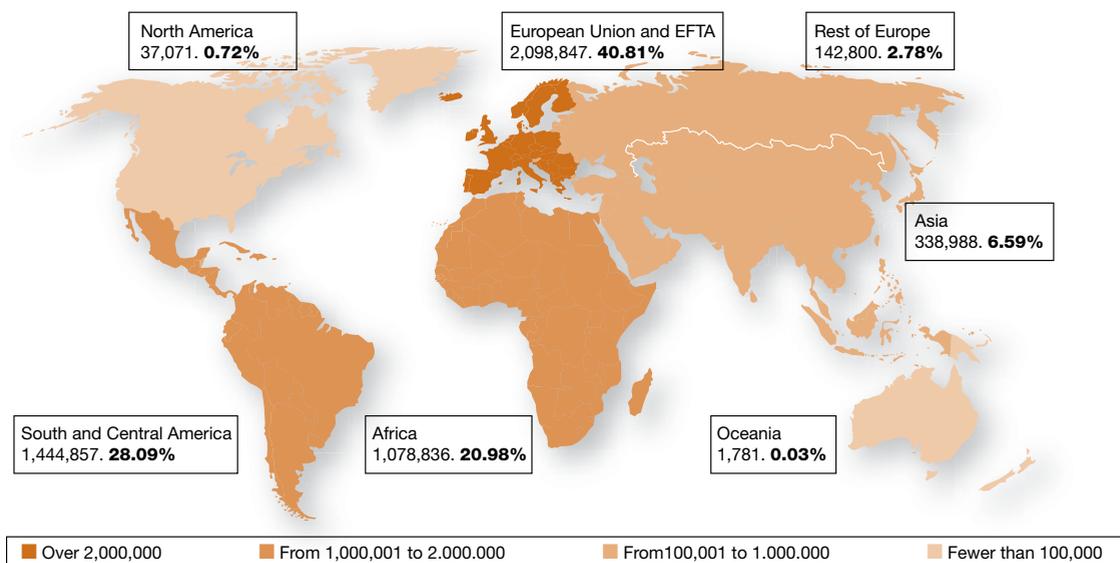
2. Diagnosis | **II. The Particular Vulnerable****Foreigners with valid registration certificates or residence permits
by regime type. 30 June 2011**

The starting point is a society in which racial and ethnic diversity is ostensible in all spheres, and the context is one of a changing migratory cycle with the following primary characteristics:

- ▶ Many people have settled and should no longer be thought of as immigrants but as residents.
- ▶ A broad swathe has obtained Spanish nationality. Although many now have dual nationality, they are still perceived as immigrants.
- ▶ Following extensive family regrouping, many persons of foreign background live with all or part of their nuclear family.
- ▶ Although Spain was already socially diverse, it is now more so due to increased immigration.
- ▶ A considerable number of young people have non-Spanish parents (743,000 at the end of 2010, according to the Spanish Institute of Statistics, INE).

2. Diagnosis | II. The Particular Vulnerable

Foreigners in Spain with valid registration certificates or residence permits according to geographical area of nationality. 30 June 2011



b) The Roma Community in Spain

The Roma began to migrate to the Iberian peninsula in the 15th century. Since that time their contribution to Spanish culture and society has been so great that Spain today cannot be comprehended without it. The Roma are a heterogeneous community with multifarious characteristics and certain common cultural features underpinned by their family structure, value system, social organisation, and language. Historically, they have maintained their own unique culture.

Since 2000, the number of Roma people from Eastern Europe who migrate to Spain has increased. Although there are no exact figures, most are thought to come from Romania and Bulgaria. When the European Union was enlarged to include the countries of Eastern Europe, more migration

2. Diagnosis | II. The Particular Vulnerable

was made possible due to the free movement of workers principle (albeit applied with moratoria) and the right to the free movement of persons. As a result, migration from Eastern Europe to Western Europe, including Spain, increased¹. This has led to a heterogeneous and diverse Roma community, which shares certain cultural features.

Despite the considerable progress made as a result of legislation, policies and actions implemented by the successive governments of Spain, it is important to acknowledge that the Roma community continues to suffer discrimination in various spheres². The common view of this community is stereotyped, anachronistic, and far removed from reality. Broadly speaking, the media continue to portray an image that reinforces existing prejudice against the Roma community. This is curtailing awareness of the changes that the Roma community, particularly women, are bringing about in education, employment, health, housing and other fields.

As a result and reflection of this negative image, numerous recent studies³ have found that the Roma community is the group that suffers the most rejection and discrimination.

The Roma are particularly vulnerable when it comes to equal treatment and the victims of discrimination are often defenceless. There is also a pressing need to raise awareness not only among all social actors involved in tackling discrimination but also society at large, and to ensure enforcement discrimination legislation by the judiciary.

Therefore, the Strategy must incorporate action and measures aimed at the Roma community. Many such measures have already been set out in the

1 See: “Garantizar la igualdad de trato y los derechos fundamentales de la población gitana/Roma de Europa del Este en España” (*Ensuring Equal Treatment and the Fundamental Rights of the Eastern European Roma Population in Spain*) Council for the Promotion of Equal Treatment and Non-discrimination on Racial or Ethnic Grounds. May 2011.

2 See annual reports from the Fundación Secretariado Gitano, in conjunction with the Ministry of Health, Social Policy and Equality.

3 See: Sociological Research Centre (CIS) surveys, Eurobarometer, and annual reports from Amnesty International and SOS Racismo.

2. Diagnosis | II. The Particular Vulnerable

Action Plan for the Development of the Roma Community, whereas others will shore up measures aimed at eradicating discrimination and rejection of Roma people.

c) Multiple Discrimination

Racial or ethnic origin is not the only grounds for discrimination among people who belong to a minority. According to EU legislation on equal treatment and non-discrimination, people may also face discrimination on the grounds of gender, age, belief, sexual orientation, and other reasons.

The concept of multiple discrimination arose in acknowledgement of the fact that some people suffer discrimination on various grounds that coincide with and feed into each other, giving rise to a specific kind of discrimination.

At the international level, this concept was first referred to in the Durban Declaration, which specifically mentions multiple discrimination. The preamble to the Declaration emphasises the duty of all States to apply the gender perspective and recognise the multiple forms of discrimination that women suffer in order to protect the human rights of “all” victims of racism and racial discrimination. Article 2 of the Declaration is about this concept specifically: “We recognize that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status”.

Although multiple discrimination has not yet been enshrined in European law, some references have been made to it. Statement 14 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, sets out that the Community should “aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination”.

2. Diagnosis | II. The Particular Vulnerable

The most recent definition of multiple discrimination comes from the European Union Agency for Fundamental Rights 2010 Report. Indeed, the EU-MIDIS Report 5, entitled *Multiple Discrimination* and published in February 2011, defines multiple discrimination as:

“The concept recognises the fact that an individual can be discriminated against on more than one ground in any given situation or time. In other words, a person does not only have a minority background, but also a certain age and gender that might add to her or his vulnerability to discrimination. For example, a woman with an ethnic minority background might be affected by discrimination in a different way to a man with the same minority background. Other personal characteristics or circumstances, such as disability or educational background, also impact on one’s exposure to and experience of discrimination. It is the adding up and/or combination of different grounds of discrimination that form the substance of what is commonly understood as ‘multiple discrimination’”.

The Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance must incorporate the multiple discrimination perspective in its planned action areas, with special emphasis on discrimination on the grounds of gender and religion or other beliefs.

c.1) Gender Discrimination

The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in force since 1981, reaffirms the principle of equality between men and women as a social value and explicitly recognises that women still suffer considerable discrimination, which breaches the principles of equality of rights and respect for human dignity.

Therefore, all public policies must envisage the differing impact that they will have on men and women, given their differing social positions and access to resources. In the last few years, the Government of Spain has made a firm commitment to gender equality, both in legislation and public policies:

2. Diagnosis | II. The Particular Vulnerable**a) Legislation:**

- ▶ Organic Law 3/2007, of 22 March, on effective equality between men and women.
- ▶ Organic Law 1/2004, of 28 December, on comprehensive protection measures for gender violence.
- ▶ Law 39/1999, of 5 November, on promoting the work-life balance of workers.

b) Public policies:**b.1) Plans and programmes on equal opportunities for men and women:**

- ▶ Comprehensive Plan to Combat Trafficking in Persons for Sexual Exploitation (2009 – 2011)
- ▶ Plan to Tackle and Prevent Gender Violence among the Immigrant Population (2009 – 2012)
- ▶ Strategic Equal Opportunities Plan (2008 – 2011)
- ▶ National Plan on Prevention and Awareness-Raising of Gender Violence (2006)

b.2) Bodies with powers in equal opportunities between men and women

- ▶ *El Instituto de la Mujer* (Institute of Women's Affairs)
- ▶ *El Consejo de Participación de la Mujer* (Council for Women's Participation)
- ▶ *El Observatorio Estatal de Violencia sobre la Mujer*. State (Observatory on Violence against Women)
- ▶ *El Observatorio de Igualdad de Oportunidades entre mujeres y hombres* (Observatory on Equal Opportunities between Men and Women)
- ▶ *El Observatorio de la Imagen de las mujeres*. (Observatory on the Image of the Woman)
- ▶ *El Observatorio Militar para la Igualdad*. (Military Observatory on Equality)
- ▶ *El Observatorio de Salud de las Mujeres del Ministerio de Sanidad, Política Social e Igualdad*. (Ministry of Health, Social Policy and Equality Observatory on Women's Health)

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- ▶ *El Observatorio contra la Violencia Doméstica y de Género del Consejo General del Poder Judicial.* (General Council of the Judiciary Observatory on Domestic and Gender Violence)
- ▶ *El Observatorio de la Mujer en las Fuerzas y Cuerpos de Seguridad del Estado.* (State Security and Law Enforcement Observatory on Women's Affairs)

Women who belong to ethnic, racial, national or cultural minorities are more vulnerable to discrimination, and it is therefore necessary to take their specific circumstances into account when designing public policies and consequently this Strategy. Women are specifically affected by gender violence and are more likely to suffer extreme human rights violations such as trafficking in persons.

Trafficking in persons is a serious human rights violation. According to the International Labour Organisation (ILO), it affects at least 2.4 million people each year⁴, half of whom are minors. Furthermore, the United Nations estimates that some 80% of trafficking victims are women and girls, predominantly aged between 18 and 25, who are captured in their countries of origin by organised criminal networks that use deception, threats, force and other forms of coercion.

When human trafficking concerns women and girls, it is directly related to gender inequality, violence against women, and the feminisation of poverty. Trafficking in persons for sexual exploitation is one of the cruellest dimensions of this illegal trade and one of the primary breaches of fundamental rights and manifestations of violence perpetrated against women.

This is why the Durban Programme of Action includes a clear appeal to States to adopt and enforce laws to repress trafficking in persons, particularly women and children, and to develop measures aimed at not only combating crime but also at protecting the victims.

⁴ http://www.ilo.org/global/about-the-ilo/press-and-media-centre/insight/WCMS_090351/lang-en/index.htm

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In its 2007 Report *Trafficking in Persons. Global Patterns*, the United Nations stated that Spain was among the top ten countries with the greatest frequency of trafficking in persons for sexual exploitation. Spain is one of the primary countries both in terms of transit and of destination.

According to data from the Spanish Ministry of the Interior, over 90% of victims of trafficking and sexual exploitation identified in 2010 were women (aged between 23 and 32); 93% were of foreign origin and, of them, some 30% had no legal status in the country.

For all of these reasons, victims of trafficking, particularly women, must be taken into account in this Strategy. It is important to bear in mind that in the last four years, institutional resources to tackle trafficking in persons have been stepped up considerably. Both legal protection and social assistance instruments have been reinforced through the following actions:

a) Reform of the 2010 Criminal Code to consider trafficking a crime in its own right, rather than an aggravating circumstance of the crime of illegal trafficking of immigrants pursuant to the Criminal Code prior to this reform. In order to clearly differentiate between the two, a Title VII (a) entitled *On the Trafficking of Persons* was included. This reform also reinforces the criminal liability of legal persons, establishes norms on the seizure and confiscation of the proceeds of organised crime, and increases protection of victims of sexual exploitation and child pornography.

b) Reform of Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and on their social integration. The amendment came into force on 11 December 2009 and entailed a new article (59bis), which aims to guarantee enforcement of Article 10 of the Council of Europe Convention of 16 May 2005 on Action against Trafficking in Human Beings. Hence, in addition to incorporating a new article, further measures were introduced to protect and promote the rights of foreign victims, regardless of their legal status and ensuring gender equality.

c) Approval of a new Organic Law 4/2000 Regulation through Royal Decree 557/2011 of 20 April. Articles 131-134 of this regulation expand upon

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Article 31bis, which deals with protection of non-Spanish women who are victims of gender violence by ensuring greater protection for the woman and any children she may have who are under the age of eighteen or have a disability.

Articles 140-146 of the regulation expand upon Article 59bis of Organic Law 4/2000 on Protecting Victims of Trafficking in Persons. It is important to note that this legislation covers the entire process (from identifying potential victims to granting them a residence permit and job, when applicable, or assisting in their voluntary return to their country of origin), and aims fundamentally to protect victims.

It is also worth highlighting the fact that Article 140 of the same Regulation provides for the adoption of a framework protocol on protecting victims of trafficking in persons. Most significantly, pursuant to the sole additional provision of Royal Decree 557/2011, under which Organic Law 4/2000 Regulation is approved, the provisions of such a protocol will be applicable to any victim of trafficking in human beings, regardless of his or her nationality (including Spanish, EU and non-EU citizens).

Lastly, the provisions of this Regulation have been interpreted and clarified through Order DGI/SGRJ/6/2001, addressed to Government prefects and under-prefects, following the amendment made to Articles 31bis and 59bis of Organic Law 4/2000 by Organic Law 10/2011.

Recently, on 14 July 2011, Parliament unanimously adopted a further reform to Articles 31bis and 59bis of Organic Law 4/2000 to provide better protection of both female immigrants without legal status who are victims of gender violence, and victims of trafficking. With regard to gender violence, the amendment seeks to reinforce the rights of immigrant women by not enforcing any expulsion orders, including any that may already have been filed against them.

Regarding victims of gender violence, the amended legislation includes new features to bolster female immigrants' rights. No sanctioning procedures shall be begun for women without any legal status. Suspension of both these

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sanctioning procedures and of expulsion or deportation orders is provided for when complaints of gender violence are filed.

Furthermore, irregular immigrant women who have been granted a protection order or a report from the prosecution service for gender violence, are entitled to apply for a five-year residence and work permit both for themselves and for any children they have who are under eighteen or have a disability.

Likewise, immigrant women who have joined their spouse in the country and who have been granted a protection order or a report from the prosecution service for gender violence are also entitled to apply for an independent five-year residence and work permit.

The amendments to the law on victims of trafficking in human beings entail significant progress, such as not initiating expulsion orders during both the victim identification stage and the reflection and recovery period, during which time the victims can decide whether they wish to cooperate in the criminal investigation and prosecution. If an expulsion order is already underway, its suspension is provided for during this period.

Likewise, children who are minors or have a disability and are in Spain at the time of identification shall also be protected. The law provides for children aged over sixteen years to be given a residence and work permit.

Non-enforcement of expulsion orders complies with the Council of Europe Convention on Action against Trafficking in Human Beings and with Directive 36/2001, to avoid secondary victimisation and foster the cooperation of victims in the investigation.

According to this amendment, after the reflection period the competent authorities must assess the personal situation of each victim before initiating expulsion proceedings.

Although efforts to combat trafficking in human beings in Spain have focused on sexual exploitation, other measures have also been put in place to

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tackle trafficking for other types of exploitation. As such, a Comprehensive Plan to combat trafficking in human beings for labour exploitation has been drafted and is pending approval

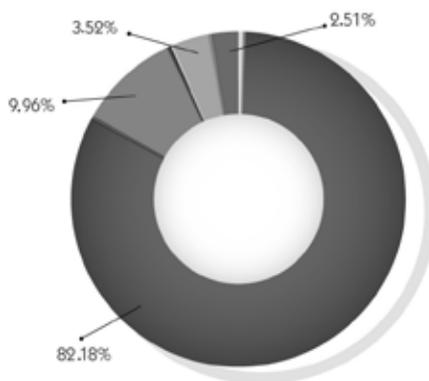
c.2) Discrimination on the Grounds of Religion or Belief

As Spain has become more culturally and socially diverse, there has been a clear increase in religious diversity. In its June 2011 report, the Spanish Observatory on Religious Pluralism (*Observatorio del Pluralismo Religioso*) set the figure for places of worship of minority religions in Spain at 5,002, accounting for 17.8% of the total.

Percentage of places of worship according to faith (all faiths)

Faiths with the largest number of places of worship

	% of places
Evangelists	9.96%
Catholics	82.18%
Jehovah's Witnesses	2.51%
Muslims	3.52%



Faith Number of places of worship

Evangelists	2.944
Muslims	988
Jehovah's Witnesses	706
Mormons	113
Orthodox Catholics	75
Buddhists	62
Jews	30
Other minority faiths	84
Total places of worship	5.002

- Adventists
- Baha'is
- Buddhists
- Catholics
- Christian Scientists
- Scientologists
- Anglicans
- Evangelists
- Hindus
- Jews
- Mormons
- Muslims
- Orthodox Catholics
- Other Christian religions
- Other religions
- Jehovah's Witnesses

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The three minority religious groups with the most places of worship are Evangelists (accounting for 55.9% of all minority religion places of worship), Muslims (19.7%) and Jehovah's Witnesses (14.1%).

Successive governments of Spain have acknowledged the need to develop legislation on exercising religious freedom. Hence, major progress has been made with both binding law and public policies:

a) Legislation:

- ▶ Spanish ratification instrument on the Agreement between Spain and the Holy See of 28 June 1976
- ▶ Organic Law 7/1980 of 5 July on religious freedom
- ▶ Act 24/1992 of 10 November approving the State Cooperation Agreement with the Federation of Evangelical Entities in Spain
- ▶ Act 25/1992 of 10 November approving the State Cooperation Agreement with the Federation of Israeli Communities in Spain
- ▶ Act 24/1992 of 10 November approving the State Cooperation Agreement with the Islamic Commission of Spain
- ▶ Organic Law 10/1995 of the Criminal Code (Articles 522 to 526 refer to crimes against freedom of conscience, religious sentiment and respect for the deceased)

b) Public policies:

b.1) Plans and programmes:

- ▶ Human Rights Plan (2008 – Measures 70 – 74).
- ▶ National Plan for the Alliance of Civilisations (2008).

b.2) Bodies with competence on religious pluralism:

- ▶ Religious Freedom Advisory Committee (*Comisión Asesora de Libertad Religiosa*)
- ▶ Pluralism and Coexistence Foundation (*Fundación Pluralismo y Convivencia*)
- ▶ Spanish Observatory of Religious Pluralism (*Fundación Pluralismo y Convivencia*)

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Nevertheless, despite the progress made in recognising religious freedom and pluralism, it is important to acknowledge that discrimination on these grounds still persists.

Part of that discrimination is a result of the gap between legislative measures and policies on the public management of religious diversity. Until the necessary management systems are in place to support legislation, it will be impossible to guarantee the effective exercise of various rights that are legally recognised, such as establishing places of worship, religious ministry, and burials according to the rites of each faith.

It is important to note that in July 2011, the Ministry of Justice, the Spanish Federation of Municipalities and Provinces and the Pluralism and Coexistence Foundation launched the Spanish Observatory of Religious Pluralism⁵. The aim of this was to provide a knowledge transfer tool for public management of religious diversity. Its primary task is to give guidance to the public authorities on implementing management models in line with the principles of the constitution and the law on the right to religious freedom in Spain.

Nevertheless, belonging to a minority faith is still stigmatised in Spanish society. Although great progress has been made in recognising diversity, religious pluralism has not been as widely accepted. Minority religions are often seen as 'cults' or as being at odds with Spanish identity. Hence, it will only be possible to eradicate discrimination on the grounds of religion when more progress is made in recognising religious pluralism as part and parcel of our diversity.

In relation to this, the PECL I evaluation process has highlighted the emergence of specific forms of discrimination such as Islamophobia, that is, hostility to Islam and, by extension, to Muslim people.

Although there is not yet an agreed definition, commonly accepted legal statement, or even widespread agreement on its pertinence, the term 'Islam-

5 www.observatorioreligion.es

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phobia' is being used increasingly in our societies. All of this is a symptom of an emerging and growing reality⁶.

A chain of events including the 9/11 terrorist attacks on the US, the killing of Theo van Gogh in the Netherlands, the attacks in Madrid and London, and the debate on cartoons about the prophet Mohammed in Denmark have very much put the Muslim community in the public eye. The key issue now is how to avoid stereotyping, how to reduce fear, and how to strengthen cohesion in diverse societies, while also combating marginalisation and discrimination on the grounds of race, ethnicity, culture, religion or belief.

The European Commission against Racism and Intolerance (ECRI), in its General Policy Recommendation No. 8 on combating racism while fighting terrorism, stresses that the State must not adopt directly or indirectly discriminatory legislation or regulations, notably on grounds of nationality, national or ethnic origin, and religion. Security measures are necessary but they must be weighed up in relation to the impact they have on all communities, particularly Muslims, and to their human rights implications.

The Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia, and Related Intolerance takes these recommendations into consideration with a view not only to respecting religious freedom and plurality, but also to creating the right mechanisms to tackle discrimination on the grounds of belief or faith.

d) Unaccompanied Minors

The Council of Europe defines unaccompanied foreign minors as “third-country nationals or stateless persons below the age of 18, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom”. It falls to the competent authorities to

⁶ Musulmanes en Europa: entre el Islam y la islamofobia (*Muslims in Europe: between Islam and Islamophobia*) Casa Árabe. 2007.

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guarantee the rights of these children and give them appropriate, comprehensive protection.

Although numbers have now fallen considerably, at one time the arrival of unaccompanied minors caused some concern due to the lack of coordination between social assistance and protection services and the issue of protection by various levels of government. Unaccompanied minors, predominantly boys aged from 14 to 17 although the ages are changing, are particularly vulnerable. They arrive in Spain through various routes and though they have different profiles, they share a clear ambition to migrate.

The expectations and reasons for migrating are primarily money-related. However, when they arrive in Spain, they find that they are unable to achieve their goal, largely because they have no documentation, are under the minimum legal age to work, do not have enough training, or do not speak the language well enough.

The competent authorities are legally obliged to guarantee legal and social protection of unaccompanied minors, according to international, national and regional law. Section II of the Council of the European Union Conclusions sets out measures aimed at preventing trafficking in unaccompanied minors.

In Spain, the amendment of Chapter II, Article 35 of Organic Law 4/2000 by Organic Law 2/2009 establishes comprehensive legal arrangements that extend and reinforce protection and rights guarantees for unaccompanied minors. These measures seek to foster their full integration into Spanish society when repatriation is not possible and to clarify and develop the issues that affect them. Organic Law 1/1996 on Legal Protection of Minors applies to children under the age of 18 in Spanish territory and grants them the rights that are recognised in the Spanish Constitution and international treaties ratified by Spain, particularly the United Nations Convention on the Rights of the Child, as well as other rights guaranteed by law.

Further developing Article 35 of Organic Law 4/2000, Articles 189-198 of the Regulation of this act refer to the legal status of unaccompanied third-

2. Diagnosis | II. The Particular Vulnerable

country minors. Governed by the principle of the best interests of the child, this comprehensive legal status covers all issues from determining the age of the child to reuniting him with his family or protection services in his country of origin to residence in Spain while he is still a minor and provision of a legal status upon reaching the age of majority.

e) Applicants and Beneficiaries of International Protection

Asylum seekers and refugees are another particularly relevant group to this Strategy. An asylum seeker or refugee is a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country.

Act 12/2009 of 30 October enshrines the right to asylum and subsidiary protection and defines the requisites that must be met to grant the right to asylum when a person has been recognised as a refugee or beneficiary of subsidiary protection. This is a new figure that until now has been set up as an institution without its own entity and, therefore, devoid of a detailed regulation of its constituent elements.

It is important to note that this law regulates subsidiary protection along the same guidelines as used for the right to asylum: “the right granted to third-party nationals and stateless persons who do not fulfil the requirements for refugee status but about whom there are sufficient elements to consider that the person is at a real risk of suffering grave damages to his life pursuant to Article 10 of this Act if he returns to his country of origin, in the case of nationals, or his previous place of residence, in the case of stateless persons, and who is unable or, owing to such fear, unwilling to avail himself of the protection of that country provided that none of the situations set out in Articles 11 and 12 of this Act apply⁷.”

⁷ Article 4 of Act 12/2009, of 30 October regulating the right to asylum and subsidiary protection.

2. Diagnosis | **II. The Particular Vulnerable**

Persons who are granted refugee status and subsidiary protection may not be deported or expelled from the country and are also given further protection measures pursuant to Article 36 of this law.

In addition to the legal protection measures applied to asylum seekers and refugees, it is important to bear in mind that they are also more vulnerable to discrimination on the grounds of race or ethnic origin. Therefore, the Strategy places particular emphasis on specific measures for such persons.

III Action Carried Out

This Strategy seeks to bring together the policies and actions that are being put in place to combat racism, racial discrimination, xenophobia and related intolerance, and to foster and boost the efforts of the public authorities and civil society in this field.

It is worth highlighting that in recent years the Spanish Government has implemented a raft of active policies which are the reference point for developing the National and Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Some of the most significant of these are:

1) The Human Rights Plan

The Spanish Government has followed up the proposal made by the World Conference on Human Rights in Vienna in 1993 urging participating States to devise national plans of action for better promotion and protection of human rights. The Plan seeks to bring Spain in line with international commitments on human rights. This entails raising public awareness about human rights and the need thereof, bringing together public and social entities to defend them, and setting down guidelines on protection strategies. In short, the plan aims to strengthen human rights protection measures through political commitments.

The Human Rights Plan was adopted by the Council of Ministers in December 2008 and entails measures aimed at preventing direct or indirect discrimination on the grounds of religion, belief, disability, age, gender, sexual orientation, race and ethnicity. Some of the main measures include:

- ▶ A Comprehensive Equal Treatment and Non-Discrimination bill.⁸

⁸ Human Rights Plan, Measure 42.

2. Diagnosis | III. Action Carried Out

- ▶ Adoption of the first work plan for the Council for the Promotion of Equal Treatment and Non-Discrimination on the Grounds of Racial or Ethnic Origin⁹
- ▶ Implementation and evaluation of the Strategic Plan for Citizenship and Integration (2007-2010)¹⁰
- ▶ Adoption and implementation of the Action Plan for the Development of the Roma Community¹¹

2) The National Plan for the Alliance of Civilisations

In recent years, particularly following the events of September 2001, relations between the West and Arab and Muslim countries have deteriorated considerably. The Alliance of Civilisations – a large-scale international cooperation project – was established in this context of instability and clashes. It aims to build bridges and improve communications to forge a new, permanent framework for relations underpinned by mutual knowledge and respect for political, religious, and sociocultural diversity.

The Government of Spain called for the creation of a United Nations Alliance of Civilisations in 2004. Its objectives relate to the following principles:

- ▶ Strengthening mutual understanding across civilisations
- ▶ Countering the forces that fuel intolerance
- ▶ Adopting practical measures to minimise the risks that extremism poses to world stability
- ▶ Promoting the notion that global cooperation is vital for security, stability and development

The initiative received the immediate support of the international community, led by Turkey, which joined Spain as the co-sponsor. The UN then appointed its representatives and gave the initial backing to create the various plans of action.

9 Human Rights Plan, Measure 45.

10 Human Rights Plan, Measure 46.

11 Human Rights Plan, Measure 48.

2. Diagnosis | III. Action Carried Out

In January 2008, the Council of Ministers adopted the National Plan for the Alliance of Civilisations, which entails a raft of measures aimed at improving cross-cultural relations by devising and funding education, exchange and development programmes.

The 2nd National Plan for the Alliance of Civilisations for the 2010-2014 period also seeks to foster projects and actions to improve mutual knowledge and respect for cultural diversity, increase understanding, and foster civil values and the culture of peace. The aim is to develop the concrete goals set out in the initiative and incorporate them into public policies both at the sectorial level and into the objectives of the public and social institutions involved in the 2nd Plan.

3) Strategic Plan for Citizenship and Integration

The Strategic Plan for Citizenship and Integration (in Spanish, PECEI) was devised when the economy was growing and immigration was rising steadily, but during its implementation the economic crisis occurred and immigration slowed down. The second PECEI, meanwhile, has been designed as the crisis is still persisting and a boost to the economy has yet to come.

The overall assessment of PECEI I by the many people surveyed was clearly positive. The Plan has mobilised €3.325 billion – a yearly average of €81,334,997 that has been allocated to twelve intervention areas, primarily education, employment and reception (which accounted for 81.5% of funds disbursed in 2007-2010).

One of the main achievements of PECEI I was to establish a governance model based on relations and involvement from all stakeholders (State, Regions, Municipalities, and civil society).

Equal treatment is one of the fundamental principles underpinning the PECEI, reflecting the ambition to build a more fair, inclusive and cohesive society in which racial and ethnic diversity do not mean differing rights and duties. The work on equal treatment and non-discrimination on racial or ethnic grounds

2. Diagnosis | III. Action Carried Out

that has been achieved by PECl I has put this field of action on the public agenda and led to efficient intervention mechanisms.

The work already carried out has involved mainstreaming the principle of equal treatment and non-discrimination; encouraging research; providing training to specific stakeholders; promoting awareness-raising activities and initiatives; and reinforcing prevention and victim assistance mechanisms. Although 23 measures with a high degree of attainment (75%) were implemented in the PECl I period, this is clearly only the tip of the iceberg. PECl II will therefore step up action in this field and incorporate equal treatment and non-discrimination as a cross-cutting intervention area with 4 objectives, 12 lines of action and 37 measures.

4) Action Plan for the Development of the Roma Community 2010 – 2012

The adoption, implementation and launching of the first Action Plan for the Development of the Roma Community 2010-2012 is part of the Government's commitment to setting up new actions, participation mechanisms, and social development for this community. It is a key strategic instrument to improve their social circumstances and living conditions.

The task forces of the State Council of the Roma People have been actively involved in devising the Plan, and their participation will be equally important in monitoring its implementation.

Throughout its history, the Roma community has suffered inequality and discrimination, and remains today one of the most disadvantaged and socially excluded groups. Notwithstanding, in recent years efforts to foster its development have been made which are helping to improve its social circumstances and living conditions. This action must be continued and other action must be promoted, and in this regard the Action Plan for the Development of the Roma Community reflects the Government's commitment to its full integration.

5) Comprehensive Plan to Combat Trafficking in Human Beings for Sexual Exploitation

Approved on 12 December 2008 for three years (2009-2012), the Comprehensive Plan to Combat Trafficking in Human Beings for Sexual Exploitation is a priority for both the Government and the Secretariat of State for Equality under the Ministry for Health, Social Policy and Equality.

The aim of the Comprehensive Plan to Combat Trafficking in Human Beings for Sexual Exploitation is to tackle trafficking holistically. It consists of 62 measures in five fields:

- ▶ Awareness-raising, prevention and research
- ▶ Education and training
- ▶ Victim assistance and protection
- ▶ Legislation
- ▶ Coordination and cooperation measures

The Plan provides for joint action by assigning responsibilities to the various ministerial departments with competence on these issues. An Inter-ministerial Coordination Group coordinates their work.

In 2009 a Social Forum against Trafficking was set up to ensure institutional cooperation in the fight against trafficking in human beings. Its members include the main organisations working in the sector, the central government, the Regions, and local authorities through the Spanish Federation of Municipalities and Provinces, and their aim is to coordinate the work carried out by NGOs.

Lastly, in terms of social initiatives, there is also a Spanish Network against Trafficking in Human Beings made up of national and international organisations working to combat trafficking in Human Beings in Spain and belonging to the Social Forum against Trafficking from the outset. The Network arose to meet the need for joint analysis of the situation and providing better assistance and protection for victims. It is thus possible to tackle trafficking on various fronts, to combine efforts and to coordinate work so as to influence national policies.

2. Diagnosis | **III. Action Carried Out**

The outcome of the first two years of the Plan has been very positive. Most of the objectives set were achieved, including those that entailed legal reforms, despite the slow nature of this type of measure. Notwithstanding, the Inter-ministerial Coordination Group meeting of June 2011 concluded that it was necessary to extend the implementation period to 2010 to ensure full attainment of all objectives and to provide enough time to define a future instrument to tackle trafficking in human beings for sexual exploitation.

IV Reports, Studies and Surveys on Racism, Racial Discrimination, Xenophobia and Related Intolerance in Spain Today

Policies aimed at ensuring equal treatment and non-discrimination on the grounds of racial or ethnic origin do not effectively serve this purpose. The International bodies that have reviewed the situation in Spain have highlighted the following factors, which shall be discussed below in greater detail:

- ▶ There is no data-gathering system on racist or xenophobic violence and racist incidents. Police reports of such crimes are not monitored or counted.
- ▶ Training on this issue is required for public employees, including prosecutors, forensic experts, lawyers, judges, health staff, law enforcement forces, and so forth.
- ▶ Various reports underline the existence of discriminatory practices (in the job market, housing, education, social services, etc.) that particularly affect ethnic minorities, compounding their vulnerability. Admissions to state schools as compared to state-subsidised private schools that lead to unequal distribution of pupils are of particular concern.

There is also a need for a greater institutional and social response to public manifestations of xenophobia, racism, intolerance and Islamophobia. In some cases this is because there are no instruments to condemn clearly discriminatory discourse and manifestations, resulting in the perception that these are neither socially nor legally sanctioned.

The reports drafted by the Forum for the Social Integration of Immigrants and the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds underline the concerns of both entities regarding the proliferation of public speeches and manifestations made by political parties during electoral campaigns that incite racism.

2. Diagnosis | **IV. Reports, Studies and Surveys**

The reports urged all political parties and other stakeholders involved in local and regional electoral campaigns not to use social diversity and plurality as an argument that could divide people or disturb social harmony coexistence in their constituencies. They also proposed that the issue be taken up as a common State policy as part of its democratic responsibility.

Significant progress has been made in this area in recent years, including data and analysis gathering to ascertain racism and xenophobia today and its possible future.

According to the European Union Agency for Fundamental Rights MIDIS Report, the results of a 2009 EU-MIDIS survey of EU citizens from racial or ethnic minorities and the majority population suggest that ethnic minorities and immigrants accept discrimination with resignation and have little faith in anti-discrimination mechanisms. The figures are alarming, for instance:

- ▶ 12% of those surveyed had been the victim of a crime that they perceived to be racially motivated and over a third had suffered personal discrimination in the last twelve months
- ▶ 82% of those who were discriminated against in the past 12 months did not file any report (64% due to the belief that it would not change anything)

The 2009 Eurobarometer on the perception and experience of discrimination¹² revealed that discrimination on grounds of ethnic origin (61%) is seen to be the most widespread form of discrimination in the EU, followed by discrimination on grounds of age (58%) and disability (53%). This data has not changed significantly in the last few years.

With regard to efforts to combat discrimination, the survey showed that people from ethnic minorities tend to believe that not enough is done. Only one third of respondents knew what their rights were in the event they experienced discrimination.

¹² EUROSTAT, Special Eurobarometer 317, 2009.

2. Diagnosis | IV. Reports, Studies and Surveys

The data on Spain is broadly similar¹³: although Spanish citizens believe that discrimination on the grounds of ethnic origin is the most widespread form of discrimination, more felt that enough was being done to combat the various forms of discrimination.

In 2010, the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial and Ethnic Grounds presented its first panel on this type of discrimination, as perceived by the victims. One of the most salient results of this study was the gap between what is perceived as discrimination and certain objective circumstances that can be referred to as ethnically-motivated discrimination. Although some 70% of respondents said they had not been the victims of racial discrimination, when they were asked about very specific circumstances in various spheres of their daily lives that can be described as discriminatory, many confirmed that they had experienced such situations. This points to a high threshold in identifying discrimination as well as high tolerance of it.

The study also stresses that perceptions of discrimination are highest in the spheres of housing and apartment building homeowners' committees; law enforcement and the police; employment, and in public and leisure places. Furthermore, only 4% of those who had experienced some kind of discrimination had filed any report.

The Evolution of Racism and Xenophobia in Spain (*Evolución del racismo y la xenofobia en España*) reports drafted by the Spanish Observatory on Racism and Xenophobia with backing from the Immigrant Integration DG also provide a useful description of how not only Spanish society, but also its perceptions and attitudes towards immigration are changing.

The 2010 Report reveals that opposition to immigration is broadly similar to the levels in 2007 and 2008 (36% in 2009 compared to 37% in 2007 and 2008). The percentage of people who are tolerant or in favour of immigration (35% in 2009) has been climbing since 2005 (24%), which is also because

13 See: 2010 Results Report from the Network of Support Centres for victims of racial and ethnic discrimination.

ambivalence to it has fallen. Although the amount of respondents who have mixed feelings on immigration has remained stable (29% in 2009, 30% in 2008 and 34% in 2007), the profile of such respondents has changed.

In 2009, the gap between the tolerant and reluctant groups widened, whereas the gap between the ambivalent and reluctant groups tended to close. The reason for this is a growing belief among the ambivalent group that immigrants are a drain on social services and job opportunities. In 2009, the predominant sociodemographic profile of respondents in the ambivalent group was young, male, low skilled, recently unemployed, and struggling financially. Level of studies, age, gender, occupation, and financial status variables have a greater bearing in 2009 in attitudes against immigration.

The economic crisis has fuelled an increase in stereotypical beliefs about immigrants and other swathes of the population who are spuriously thought to heighten employment problems. In addition to the myth that immigrants are a burden on public services, they are also wrongly seen as an overprotected group who take more than they give from society and drain school and health budgets, leading to lower quality education and healthcare.

That said, attitudes towards immigration have improved when it comes to living alongside immigrants in the community. This variable is important, not only because it reveals the persistence of prejudice, but also because people's positive and negative perceptions are increasingly based upon real-life experience (apart from the media's portrayal of immigrants). Relations in the workplace and places of study are still the most accepted (81% in 2009), whereas relations with immigrant neighbours are the least accepted (46% in 2009).

The report also highlights that 53% of respondents see the media's portrayal of immigrants as negative and 23% as positive.

These and the other reports analysed in this document reveal where efforts must be directed.

2. Diagnosis | **IV. Reports, Studies and Surveys**

Firstly, the policies and actions being put in place to combat racism, racial discrimination, xenophobia and related intolerance must be consolidated, and efforts made by the public authorities and civil society in this field must be fostered and boosted. In addition to programmes, projects, and intervention plans, the long track record of numerous associations in Spain in combating racism and xenophobia must also be used.

Secondly, ascertaining how racism, racial discrimination, xenophobia and related intolerance are changing is vital to establishing active policies and efficient protection and prevention measures. The Government of Spain recognises that progress must be made in this area, as several international bodies have recommended in their periodic reports.

Education is also a priority. In spite of significant progress at both the domestic and international levels, we must continue striving to eradicate racially or ethnically motivated discrimination from schools, which play a key role in learning about values. Numerous international bodies have already made proposals and recommendations to combat racism and xenophobia in the education system.

States and international bodies are increasingly concerned about use of the internet to circulate racist and xenophobic beliefs and actions. Given the obvious difficulties in applying the law in this area, racist and xenophobic groups increasingly use the internet to publish documents and announce actions that could be considered illegal elsewhere. International bodies have highlighted the fact that this type of information is often posted on websites and service providers in States hampering the investigation and prosecution of such actions.

Numerous studies and analyses have shown that ethnic minorities are often portrayed negatively in the media, for instance by reports that link them to crime and suggest that their numbers are too high.

Although significant headway has been made in society's acceptance of diversity, the same cannot be said of religious pluralism. It is important to note here that politicians across the board continue to express hostility or preju-

2. Diagnosis | IV. Reports, Studies and Surveys

dice towards certain swathes of the population on the grounds of racial or ethnic origin, particularly in the run-up to elections. This is unarguably contributing to greater discrimination and exclusion in Spanish society.

This Strategy is underpinned by information gathered and analysed from the reports discussed above regarding data systems, institutional coordination with civil society, comprehensive victim prevention and protection, and the specific spheres of education, employment, health, housing, the media, the internet, sport and awareness-raising. The next section of this document provides context analysis and a description of action already taken, and concludes with a discussion of the objectives and actions to be undertaken by this Strategy.

3

Principles underpinning the
comprehensive Strategy against
Racism and Xenophobia

3. Principles underpinning the comprehensive Strategy against Racism and Xenophobia

This Strategy is framed by the national policy on equal treatment and discrimination and governed by both the principles set out in the Strategic Plan on Citizenship and Integration 2011–2014 and the Action Plan for the Development of the Roma Community, which are as follows:

1. The principle of **equal treatment** and non-discrimination, by which all people have the same rights and duties in the framework of basic constitutional values.
2. The principle of **citizenship**, by which all citizens may fully participate in civil, social, economic, cultural and political life.
3. The principle of **inclusion**, by which processes are created to eliminate social, economic, personal, and cultural disparities to enable enjoyment of social rights and to overcome the stigmas attached to poverty, marginalisation and exclusion so as to exercise full citizenship.
4. The principle of **interculturality** as a mechanism for positive interaction between people of different backgrounds and cultures, in a society where cultural diversity is valued and respected.
5. The principle of **tolerance**, defined by the UNESCO Declaration of Principles on Tolerance as “respect, acceptance and appreciation of the rich diversity of our world’s cultures, our forms of expression and ways of being human. Tolerance is an active attitude prompted by recognition of the universal human rights and fundamental freedoms of others. It is not only a moral duty, it is also a political and legal requirement.”.

The Comprehensive Strategy against Racism and Xenophobia is also based on the constitutional vision of an active State (Article 9.2) that enacts public policies to ensure that all citizens are on an equal footing and have equal

3. Principles underpinning the comprehensive Strategy against Racism and Xenophobia

opportunities for development. To this end, the State must ascertain the real access that all members of society have to social, cultural and economic wealth; public services; private services; social and cultural relations within the community, and participation in political processes.

Applying the principle of equal treatment and eradicating all forms of discrimination are key to perfecting democratic quality, economic growth, and sustainable development across society.

Therefore, a cohesive society can only be achieved by ensuring that all citizens can *actively* participate, by acknowledging and respecting differences, but also by fostering critical dialogue, relationships and interaction among people of differing cultures in order to guarantee social cohesion based on common constitutional principles and on respecting and valuing diversity.

4

Analysis, Information Systems
and criminal prosecution of racism,
racial discrimination, xenophobia
and related intolerance

I Context

Ascertaining how racism, racial discrimination, xenophobia and related intolerance are changing is vital to establishing active policies and efficient protection and prevention measures. This was recognised by the Durban Declaration and Programme of Action, which urged States to gather, collate, analyse, disseminate and publish reliable statistical data at the national and local levels, and to monitor the situation of individuals and groups of individuals who are the victims of racism, racial discrimination, xenophobia, and related intolerance.

The Declaration also recommends that further studies be conducted on how racism, racial discrimination, xenophobia, and related intolerance may be reflected in laws, policies, institutions and practices and how this may have contributed to the victimization and exclusion of migrants, especially women and children.

The aim of this is to ensure that the situation of individuals and groups who are vulnerable to discrimination on the grounds of racial or ethnic origin is monitored accordingly and that laws, policies, practices and other measures are put in place to prevent and combat racism and xenophobia.

The Government of Spain is aware that this is one of the areas in which progress must be made, as stated by the following international bodies in regular reports:

4. Analysis, Information Systems and criminal prosecution | I. Context

- ▶ United Nations Human Rights Council in its Universal Periodic Review of Spain in 2010, and the Committee for the Elimination of Racial Discrimination (CERD) in its 2011 report on Spain.
- ▶ The Council of Europe European Commission against Racism and Intolerance in its Fourth Report on Spain, adopted in December 2010.
- ▶ The European Union Agency for Fundamental Rights (FRA) in its annual reports.

The recommendations and proposals made by these international bodies on data analysis and systems can be categorised as follows:

- a) Public collection of information on racial discrimination on a periodic basis from police, judicial and prison authorities, and immigration services, while respecting standards of confidentiality, anonymity and protection of personal data.

The reports also express concern regarding the lack of official figures on racist and xenophobic incidents, and on complaints, prosecutions and convictions relating to acts of racism and xenophobia, in accordance with Article 22.4 of the Spanish Criminal Code, and regarding the compensation awarded to victims of such acts.

The international bodies also note that the absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination should not be viewed as necessarily positive. It may also reveal either that victims have inadequate information concerning their rights, that they fear social censure or reprisals, that they fear the cost and complexity of the judicial process when they have limited resources, that there is a lack of trust in the police and judicial authorities, or that the authorities are insufficiently attentive or aware of offences involving racism.

Another possible reason for a low number of complaints is that many Spanish and foreign born are unable to identify racism, racial discrimination, xenophobia and related intolerance, and are ignorant of its causes and consequences.

- b)** Provision of complete information on complaints, prosecutions, convictions, sentences and compensation awarded to victims.

The Council of Europe European Commission against Racism and Intolerance (ECRI) issued its General Policy Recommendation number 11 on combating racism and racial discrimination in policing.

States are recommended in paragraph 11 of the general policy to ensure that the police thoroughly investigate all racist offences and all racially motivated offences. In paragraph 13 it recommends States encourage victims and witnesses of racist incidents to report such incidents.

To ensure that investigations are exhaustive and do not overlook racist motivations in ordinary offences, ECRI recommends a broad definition of racist incident. For the purposes of the Recommendation, a racist incident is: “any incident which is perceived to be racist by the victim or any other person”. This makes it possible for a witness or police officer to perceive an offence as having a racist motivation even if the victim believes otherwise.

The aim of this definition is not to pass judgement on whether an offence is racially motivated but to ensure that all possible motivations on the grounds of the victim’s race, ethnic origin, nationality, language or religion be evaluated and investigated.

In its recommendation, the ECRI makes a distinction between racist offences and racist incidents. Unlike racist offences (which are criminal law concepts), racist incidents consist of any incident perceived to be racist by the victim or any other person. Therefore, all racist offences can be qualified as racist incidents, although not all racist incidents will eventually constitute racist offences.

The Spanish Criminal Code refers to various offences committed with a discriminatory motivation. These are: torture committed by an authority or civil servant for whatever reason based on some form of discrimination (Article 174); discrimination in the workplace (Article 314); the crime of incitement to hatred, violence or discrimination (Article 510); refusal of public services by

4. Analysis, Information Systems and criminal prosecution | I. Context

a civil servant, authority or any individual (Article 511); refusal of benefits in the context of professional or business activities (Article 512); illicit associations to promote or incite hatred, violence or discrimination (Article 515.5); crimes against freedom of conscience and religious sentiment (Articles 522 and 525), and the dissemination of ideas to justify genocide (Article 607.2). Likewise, pursuant to Article 22.4, any offence committed “on the grounds of racist, anti-Semitic or other forms of discrimination regarding the victim’s ideology, religion, beliefs, ethnic origin, race, nationality, gender, sexual orientation or identity, illnesses, or disability” constitutes a generic aggravating circumstance.

Interpretation issues regarding the current wording of Article 510 of the Criminal Code, particularly the term “incitement”, are giving rise to contradictory court rulings.

The European Union Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law states that “racism and xenophobia constitute a threat against groups of persons which are the target of such behaviour. It is necessary to define a common criminal-law approach in the European Union to this phenomenon in order to ensure that the same behaviour constitutes an offence in all Member States and that effective, proportionate and dissuasive penalties are provided for natural and legal persons having committed or being liable for such offences”. It therefore urges member States to ensure that punishment is enforced for the following intentional conduct, among others:

- a)** publicly inciting violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent, or national or ethnic origin;
- b)** the commission of an act referred to in point (a) by public dissemination or distribution of tracts, pictures or other material;

A report by the Spanish General Prosecution Service found it necessary to reform anti-discrimination provisions in the Criminal Code. The Hate Crimes

and Discrimination Service in the Barcelona Provincial Prosecution Service found in its 2008, 2009 and 2010 reports that “while the 1995 criminal code, adopted by Organic Law 10/95 of 23 November was a historical landmark and overhauled the way discrimination is handled in that it expressly provides for specific crimes and a specific aggravating circumstance to sanction discriminatory behaviour, ongoing changes to Spanish society and the scant application of the aforementioned articles of the criminal code have highlighted the need for it to be updated to cover omissions, shortcomings and loopholes”.

Civil society has played a major role in promoting legal action against racism and xenophobia. Numerous NGOs and associations have amassed considerable experience in combating racism through the courts, we can highlight the experience since 1994 of the NGO “**Movimiento contra la Intolerancia**”(Movement against Intolerance) as exemplified by the cases of Lucrecia Pérez and Miwa Buene, among others. Groups that incite discrimination and racial hatred have also been banned and their members convicted (the “Blood and Honour” case).

The OSCE agreed definition of hate crime as any criminal offence motivated by prejudice or animosity towards the victim because of his or her connection with, belonging to, or relation with a social group vulnerable to intolerance must also be highlighted.

These offences are motivated by phobias that harm people, their possessions and the groups with which they identify. This leads to various levels of social victimisation because hate crimes not only affect the victim, but also his or her family, friends, community, situation and supporting entities, as well as democratic society as a whole whose harmonious interaction is disturbed, thereby potentially seriously jeopardising peace.

II Action Carried Out

a) Amendments to the Crime Statistics System.

Following a series of technical consultations with the Ministry of Labour and Immigration's Spanish Observatory on Racism and Xenophobia, the Secretariat of State for Security Home Security Studies Office, under the Ministry of the Interior, has introduced a raft of changes to the Crime Statistics System in line with international requirements on gathering and publishing statistics on racist incidents. The aim is to obtain accurate, reliable records of any act that may be qualified as racist or xenophobic from the National Police Force and Civil Guard.

As of 2011, statistics from national law enforcement authorities and the regional law enforcement authorities of Catalonia, the Basque Country and Navarre have been recorded.

b) Collaboration Protocol between the Secretariat of State for Security and the Secretariat of State for Immigration and Emigration.

The aim of this Protocol is to foster joint efforts between the Ministry of the Interior and the Ministry of Labour and Immigration to combat racism, racial discrimination, xenophobia and related intolerance.

The Protocol includes various training programmes such as training days on racism, xenophobia and discrimination in law enforcement authorities. One such training day has already been held at the Ávila National Police Academy for entry-level students entitled "Police handling of racism, xenophobia, and discrimination against minority groups in multi-ethnic societies".

c) A database on violations of the rights of individuals in police custody has been created.

In accordance with the National Human Rights Plan, the Ministry of the Interior has created software to gather statistical data on the

infringement or violation of the rights of individuals who are under arrest or in police custody. This database includes racist offences and those in which racism or xenophobia is a component or aggravating circumstance.

d) In October 2009, the Provincial Crown Service of Barcelona Prosecution Service set up a Hate Crime and Discrimination Service, which has since been replicated in Madrid, Valencia and Malaga.

The aim of these services is to coordinate the work of all prosecutors in a provincial prosecution service on offences motivated by discrimination. This not only ensures consistency across the prosecution service in the interpretation and application of the law, but also gives prosecutors greater doctrinal and jurisprudential means to combat discrimination by gathering and facilitating the extensive information, documentation and recommendations made by international human rights entities, both at the UN and European levels. It also covers the jurisprudence that arises from various courts on the principle of equality and non-discrimination (European Court of Human Rights, European Union Court of Justice, Constitutional Court and Supreme Court).

e) Creation of a Supreme Court prosecutor for criminal protection to enforce the principles of equality and non-discrimination, by decree of the General State Prosecution Service. The social reality and legal context, particularly in the European Union, reveal the need for an institutional response to discrimination, since the difficulty in combating discrimination lies not so much in recognising the problem, but in providing victims real, effective protection. The work already carried out by some networks of prosecutors and specialists, led by a corresponding court prosecutor, has unarguably covered significant areas in which an infringement of the constitutional principle of equality constituted a criminal offence. It has also extended beyond criminal prosecution to cases in which the

4. Analysis, Information Systems and criminal prosecution | II. Action Carried Out

frequency or severity of discrimination against particularly vulnerable individuals or groups has required special intervention from the public prosecutor, dealing on a daily basis with disputes that are directly related to discrimination on the grounds of gender, origin, financial or social situation and age¹⁴.

f) Ongoing training programmes given by the General State Prosecution Service on the principles of equality and non-discrimination as part of law degree courses. One such seminar is entitled “Criminal intervention in discrimination and the principle of equality” and aims to increase prosecutors’ knowledge in this area.

g) Annual nationwide surveys have been conducted by the Sociology Research Centre (*Centro de Investigaciones Sociológicas* - CIS). In 2007 the survey was entitled “Opinions of racial and ethnic discrimination” and from 2008 to 2010, “Opinions of immigration”.

These surveys have been funded by the Secretariat of State for Immigration and Emigration, under the Ministry of Labour and Immigration. This coordinated effort with CIS has enabled it to monitor racism and xenophobia in Spain.

h) The data gathered in the CIS surveys was published in the form of a “Racism and Xenophobia in Spain Monitoring Report” (*Informe de la Evolución del racismo y la xenofobia en España*) in 2008, 2009 and 2010. These reports give some perspective on how attitudes to immigration in Spain are evolving.

i) The Council for the Promotion of Equal Treatment and Non-Discrimination on Racial and Ethnic Grounds has drafted several reports and studies, including:

¹⁴ Decree of 10 October 2011 by the State Prosecutor-General appointing a court prosecutor to the Supreme Court to enforce the principles of equality and non-discrimination.

4. Analysis, Information Systems and criminal prosecution | **II. Action Carried Out**

- ▶ The study “Panel on racial and ethnic discrimination (2010): potential victims’ perceptions”.
- ▶ The report on the Network of Support Centres for victims of racial and ethnic discrimination.
- ▶ The annual report on discrimination and application of the principle of equality on the grounds of racial and ethnic origin in Spain 2010.

j) The National Statistics Institute has drawn up a National Health Survey, which includes a section on perceptions of discrimination in a range of situations, its cause, and frequency¹⁵, and a European Health Survey, which also analyses discrimination in the workplace.¹⁶

k) The Opinion Barometer of the Immigrant Muslim Community. Jointly financed by the Ministries of the Interior, Justice, and Labour and Immigration, this survey was conducted for the fifth year running in 2011. Its aim is to increase public awareness of social perceptions, values, attitudes and opinions among this community, to debunk popular stereotypes and to encourage integration and mutual understanding with the host society.

The overarching conclusion that can be drawn from over 2,000 surveys conducted is that this community is very positive about Spanish society, its institutions and political system. Moreover, there is widespread trust in its predominant groups and social institutions.

15 <http://www.ine.es/jaxi/menu.do?type=pcaxis&path=/t15/p419&file=inebase&L=0>

16 <http://www.ine.es/jaxi/menu.do?type=pcaxis&path=/t15/p420&file=inebase&L=0>

III Comprehensive Strategy Objectives and Measures

Objective 1. Consider amending Article 510 and Article 607.2 of the Criminal Code (on the dissemination of ideas to justify genocide) to include the liability of legal persons, pursuant to Framework Decision 2008/913/JHA.

Objective 2. Improve institutional statistical data gathering systems¹⁷ on “racist incidents”, xenophobia, racial discrimination, and related intolerance.

- 2.1.** Record “racist and xenophobic incidents”, defined as: ‘any incident which is perceived to be racist by the victim or any other person’¹⁸.
- 2.2.** Gather data on the number of complaints and type of offences recorded linked to racism, xenophobia or related intolerance for the law enforcement authorities Crime Statistics System.
- 2.3.** Measures will be taken with an aim to ensure that statistics from courts and prosecutors provide at least quantitative and qualitative data in the case of criminal offences with a discriminatory motivation including the number of complaints lodged; prosecution investigations handled; legal proceedings; types of crime and offence on which rulings are handed down; number of offences with discrimination as an aggravating circumstance pursuant to Article 22.4 of the criminal code and number of minor offences with a discriminatory motivation; outcome of the proceedings; the grounds on which sentences are based; the sentences and sanctions imposed, and, if applicable, compensation awarded to victims.
- 2.4.** Encourage all local prosecution services to set up a Hate Crime and Discrimination Service when the number of this kind of incident and offence so requires, and, *if applicable, appoint a prosecutor to ensure consistency of action by unifying interpretation and response criteria, and to contribute to efficient application of the law on this matter.*

¹⁷ PECI II. Area 7.2. Equal Treatment and Anti-Discrimination. Objective 1. Measure 1.1.1.

¹⁸ In application of the ECRI General Policy Recommendation on the policing of racism and racial discrimination.

- 2.5.** Specific training will be given to civil servants belonging to the legal and law enforcement authorities, stressing appropriate handling of 'racist incidents', and improving racist incident data collection and accurate recording procedures¹⁹.
- 2.6.** Consider the possibility of developing police action protocols for racist incidents.
- 2.7.** Develop a system of indicators to help identify hate crimes, specifically those committed through hate messages and symbols.
- 2.8.** Private security employees, and particularly those working as security guards at the entrance to a venue, will be required to prove that they have appropriate training in the principle of equality and non-discrimination before qualifying and before being hired.
- 2.9.** Private security companies must include training on this subject in all of their ongoing training courses.

Objective 3. Publish the statistical data gathered on racism, racial discrimination, xenophobia, and related intolerance.

- 3.1.** Publication by the Ministry of the Interior of the statistical data referred to in objective 2.2.
- 3.2.** Publication by the Ministry of Justice of the statistical data referred to in objective 2.3.

Objective 4. Encourage surveys and studies to ascertain current status of racism, racial discrimination, xenophobia, and related intolerance *in the spheres deemed most important*²⁰.

- 4.1.** Support studies, analysis and identification of discriminatory factors in national, regional, and local regulations²¹.

19 PECCI II. Area 7.2. Equal Treatment and Anti-Discrimination. Objective 4. Measure 4.2.3.

20 PECCI II. Area 7.2. Equal Treatment and Anti-Discrimination. Objective 1. Measure 1.1.2.

21 PECCI II. Area 7.2. Equal Treatment and Anti-Discrimination. Objective 1. Measure 1.3.2.

- 4.2.** Support studies, analysis, and identification of the factors and actors that play a part in acts of discrimination, hate, and violence motivated by racism, racial discrimination, xenophobia and related intolerance²².
- 4.3.** Sociological studies to examine the number of unreported offences committed with a discriminatory motivation due to racial or ethnic origin, and if applicable, with multiple discrimination due to gender, sexual orientation or identity, religion or beliefs, illness, disability, and so forth.

Objective 5. Use indicators and procedures to ascertain the causes, extent, evolution, nature, and effects of discrimination in the studies, reports, and statistics drafted or promoted by public authorities referring to or affecting issues pertaining to equal treatment.

Objective 6. Continuity in drafting and publishing statistical data.

- 6.1.** Drafting, publishing, and dissemination of the yearly Report on Racism and Xenophobia in Spain by the Spanish Observatory on Racism and Xenophobia.
- 6.2.** Drafting, publishing, and dissemination of the yearly Panel against Discrimination by the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial and Ethnic Grounds.
- 6.3.** Draft, publish and disseminate the yearly report from the Network of Support for victims of racial and ethnic discrimination

Objective 7. Contribute to studies, research, and training in anti-discrimination law and policies.

22 PECCI II. Area 7.2. Equal Treatment and Anti-Discrimination. Objective 1. Measure 1.2.1.

5

Promotion Institutional and Civil
Society Coordination and Cooperation

I Context

Combating discrimination, racism, and xenophobia demands ongoing reviews of institutional and intergovernmental coordination and cooperation efforts at the international, national, regional, and local levels. Due to the cross-cutting nature of the action, coordination and cooperation is key to any strategy on discrimination and racism.

The Plan of Action of the Durban World Conference states that the total eradication of racism, racial discrimination, xenophobia, and related intolerance requires full participation from civil society in States at the international, national, and regional levels to be responsible for the recommendations, policies, programmes, and measures contained in the Programme of Action, in the purposes and principles of the United Nations Charter and other international instruments.

At the European level, many of the measures that have been taken in equal treatment and anti-discrimination and to tackle racism, xenophobia and related intolerance are closely linked to active social integration policies.

One of the many projects of the European Union Agency for Fundamental Rights is entitled *Connecting Rights: A Joined-up Governance Approach to Fundamental Rights Implementation (2010-2012)*. Its aim is to explore and develop ways of improving rights implementation at all levels of government in order to ensure that the rights of people in the European Union are more effectively safeguarded.

Since 2004, UNESCO has been promoting the International Coalition of Cities against Racism to establish a network of cities interested in sharing experiences in order to improve their policies to fight racism, discrimination and

xenophobia, because cities are seen as the privileged space to link global and local action.

Thus, at the Fourth European Cities for Human Rights Conference in Nuremberg in December 2004, the European Coalition of Cities against Racism was created, bringing together 40 cities that undertook a 'Ten-Point Plan of Action'. One of the most important actions taken to combat racism in cities is enhanced cooperation between public authorities, in this case local government, and social entities and organisations. Some Spanish cities have joined this initiative and as such work jointly with the Coalition as set out in the Plan of Action.

Cities and their neighbourhoods are privileged spaces to promote cross-cultural dialogue and foster cultural diversity and social cohesion. The UNESCO initiative has underlined the importance of municipal authorities in creating and better managing diversity, and in combating racism, xenophobia, and all forms of racial discrimination.

II Action Carried Out

In Spain, active social integration policies, which entail measures to raise awareness and tackle racism and xenophobia, are one of the basic pillars of comprehensive immigration policy. Cooperation at all levels of government is vital on this matter.

One instance of this is the Immigrant Reception, Integration, and Educational Support Fund, launched in 2005 as part of the Strategic Plan for Citizenship and Integration (PECI, in Spanish). As a result of this fund, immigrant integration measures have been given sustainability and stepped up, financial resources have been pooled, and information, experiences and lessons learned have been shared.

Adoption and implementation of the PECI has created a governance model based on relations and involvement from the State, the Regions, and cities by facilitating coordination between different levels of government and between administrations²³.

The Citizenship and Integration Awareness Strategies (ESCI, in Spanish) project stands as an example. The project reached its third phase in 2010 (ESCI III), seeking to promote local plans on awareness of equal treatment and anti-discrimination.

Anti-discrimination bureaus have also been set up by local authorities, for instance in the local Barcelona City Council, as the closest level of government to citizens. This service provides information and advice to victims on when, how, where, and in what way they can report discrimination, offer any social or care support that may be required, and provide mediation and/or redress for non-criminal discrimination cases.

²³ Local authorities have been involved in innovative plans such as the Support Fund by means of annually agreed minimum funding that the autonomous communities allocate to municipalities to enable resources and services, as well as setting up pilot projects ('Neighbourhoods') and other innovative actions.

In addition to programmes, projects and intervention plans, numerous associations in Spain have a long track record in combating racism and xenophobia, which we must also draw upon.

Other ministerial departments for which combating all types of discrimination is a priority have also created projects to be incorporated into all policies implemented by all levels of government. Such projects include:

- a) 'Todoimás Foro 2011' on equality and non-discrimination, implemented by the Secretariat of State for Equality (SEI) and structured around a series of seminars organised in conjunction with the Regions. At these seminars, representatives from national and regional government hold debates with social movements and stakeholders about the minimum content of equal treatment and non-discrimination policies.
- b) A Comprehensive Local Plan of Action against Discrimination, also implemented by the Secretariat of State for Equality and implemented by the Ministry of Health, Social Policy and Equality in conjunction with the Spanish Federation of Municipalities and Provinces. The fundamental aim is to furnish local entities with tools to implement policies seeking to eradicate and prevent all forms of discrimination. The plan includes training in equal treatment and anti-discrimination for local government civil servants; an awareness-raising campaign among local authorities; dissemination of best local practices in equal treatment and non-discrimination; and pilot plans that will hopefully be replicated by other local entities.

Although awareness-raising measures have increasingly been incorporated into local and regional integration plans, during the current context analysis that preceded the Second Citizenship and Integration Plan, participants with experience in this field and social organisations expressed their concern about some aspects that are closely linked to the objectives of the Strategy against Racism and Xenophobia, such as:

- ▶ The need for a greater institutional and social response to public manifestations of xenophobia, racism, intolerance and Islamophobia. In some cases this is because there are no instruments to condemn

clearly discriminatory discourse and manifestations, resulting in the perception that these are neither socially nor legally sanctioned.

- ▶ The need for public and social institutions that work on this matter to join forces. These institutions have called for a strengthening not only of the role of third sector organisations as experts in the field of racism and xenophobia, but also the role that civil society can play. Coordination and networking must be established so that social agents can be as involved as they are able in drawing up and implementing cross-cutting social policies. Volunteers also have a key role to play in boosting solidarity and setting examples that help to eradicate the stereotypes and prejudice that surround immigration.

The National Strategy on Racism, Racial Discrimination, Xenophobia and Related Intolerance provides a nationwide framework comprising a raft of principles, objectives and programmes that are deemed priority in the fight against racial and ethnic discrimination.

The need to incorporate the principles of equal treatment and non-discrimination in all public policies is clear from the numerous Spanish government projects discussed above²⁴, as is the need to establish efficient and effective intergovernmental and institutional coordination and cooperation mechanisms. These government projects stress that mainstreaming the principle of equal treatment in all public policies is vital to progress in combating discrimination, by removing the barriers to it that can be found in all public intervention sectors.

Therefore, one of the key themes of the strategy is to enable national coordination and cooperation. The strategy is a tool to boost policies, bring initiatives together, create partnerships and facilitate coherence in the work carried out by the public authorities and civil society to combat racism, xenophobia, and related intolerance.

²⁴ Concretely, PECE II includes this a core objective in its Area on Equal Treatment and Anti-Discrimination. See Objective 4, p.177.

It is therefore particularly important at the local, regional and national levels to develop tools for participation and set up various bodies and deliberative forums where immigrant associations, the community and related organisations can work with immigrants and other vulnerable groups such as the Roma community.

Several bodies of this nature already exist, such as the Social Integration of Immigrants Forum, which, under the Ministry of Labour and Immigration, provides advice and information on immigrant integration; the State Council of the Roma People²⁵, currently attached to the Ministry of Health, Social Policy and Equality; the Roma Culture Institute, attached to the Ministry of Culture and the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds²⁶, which is attached to the Ministry of Health, Social Policy and Equality and provides independent assistance to victims of discrimination through a nationwide network of branches and conducts studies, reports, awareness-raising, training and informative work.

While representation among these bodies varies, they all (immigrant associations; Roma associations; associations that aim to combat discrimination and promote human and other rights; members of employers organisations; trade union organisations and representatives of state, regional and local authorities) draft reports on bills and other government proposals and have therefore contributed to the numerous government instruments described above.

International institutions, in particular the Council of Europe and the European Union, have recommended that States set up independent, specialist bodies to tackle discrimination (commonly referred to as Equality Authorities).

25 The State Council of the Roma People, created in 2005 as a nationwide advisory and participatory body for the Roma people is linked to the measures pertaining to social policy.

26 The Council is attached to the Ministry of Health, Social Policy and Equality and its working plan was adopted in January 2010. Its primary function is to give advice to victims through a network of branches all over Spain and to conduct studies, reports, awareness-raising, training and information.

These authorities are thought to be highly significant to ensure the right to equal treatment in European societies. It is vital that they be independent of the public authorities, or at least carry out their functions independently, although they may be public institutions. The reasons for this are that a significant proportion of discrimination occurs in the public sphere and that victims of discrimination may be reticent about filing complaints to the public authorities.

All EU Member States now have at least one Equality Authority. Some were established before the European directives and have amassed considerable experience in promoting equality and combating discrimination, whereas others were only recently created when the directives were transposed. The make-up of these bodies varies widely across the EU according to differing legal traditions, their political backing, the country context and other factors.

III Comprehensive Strategy Objectives and Measures

Objective 1. Develop instruments for the inclusion and promotion of the principles of equal treatment and non-discrimination on racial or ethnic grounds in all public policies²⁷.

- 1.1.** Pass a law that appropriately transposes the objectives and purpose of Directives 2000/43/EC and 2000/78/EC.
- 1.2.** Promote the Council for Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds pursuant to Council Directive 2000/43/EC²⁸, by giving it the human, financial and material means to protect against discrimination, ensure compliance with anti-discrimination legislation, effectively assist victims and exercise the power to impose sanctions on non-criminal discriminatory behaviour and practices.
- 1.3.** Boost cooperation between the state, regional, and local authorities in order to factor the principles of equal treatment and non-discrimination into the exercising of their respective powers²⁹.
- 1.4.** Encourage regional and local authorities to include discrimination victim support programmes in their Action Plans.
- 1.5.** Establish forums to exchange and compare policies on equal treatment and non-discrimination across the different public administrations.
- 1.6.** Encourage awareness-raising plans and strategies at the regional and local levels.

27 Objective 2.2 and 4 of the Area of Equal Treatment, PECE II

28 Objective 2.3.1 of the Area of Equal Treatment, PECE II, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

29 This objective incorporates measures 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.2.1 and 4.2.2 of the PECE II in the specific objective of Integration of Equal Treatment and Non-Discrimination in the Public Authorities of the Area of Equal Treatment and Anti-Discrimination.

- 1.7.** Encourage training of local police in Intercultural affairs, in handling diversity and mediation³⁰.
- 1.8.** Analyse civil service entrance exams to include the principles of equal treatment and non-discrimination.
- 1.9.** Within the sphere of their competence, the public authorities, particularly the law enforcement authorities, General State Prosecution Service, forensic doctors and prison staff, will step up training on racism, xenophobia and related intolerance, both in public office entrance exams and in their ongoing training programmes.
- 1.10.** Use indicators and procedures to ascertain the causes, extent, evolution, nature and effects of discrimination in the studies, reports, and statistics drafted or promoted by the different levels of government that refer to or affect issues pertaining to equal treatment.
- 1.11.** Reinforce the ordinary work relating to the Roma and immigrants carried out by the Spanish Observatory on Racism and Xenophobia, the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds and the State Council of the Roma People.

Objective 2. Improve collaboration with social institutions.

- 2.1.** Strengthen cooperation networks between bodies and institutions that combat racism and xenophobia³¹.
- 2.2.** Use new information and communication technologies to set up communicative projects and networking³².

30 Measure 1.3.4 of the Area of Harmonious Interaction in the Second Citizenship and Integration Strategic Plan

31 Objective 2.4.1 of the Area of Equal Treatment of PECE II

32 Objective 2.4.2 of the Area of Equal Treatment of PECE II

- 2.3.** Regularly hold forums on racism and xenophobia in conjunction with existing bodies or mechanisms to provide a space in which to debate racism and discrimination in policies and their repercussions.
- 2.4.** Encourage active participation in the European Network of Equality Bodies (EQUINET)³³.
- 2.5.** Foster national, regional and local exchange and cooperation on equality and fight against racism or xenophobia policies to identify and share success stories and best practices³⁴.
- 2.6.** Continue devising and promoting initiatives between public authorities and civil society to boost, associate and maximise the efficiency of all measures to combat racism and xenophobia in the various areas of action covered by the strategy.

33 Measure taken in the working plan of the Spanish Council for Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds.

34 Objective 4.1 of the Area of Equal Treatment of PECE II

6

Comprehensive Prevention and Protection of Victims against Racism, Racial Discrimination, Xenophobia, and Related Intolerance³⁵

³⁵ This section contains points made by José Manuel FRESNO, Chair of the COUNCIL FOR THE PROMOTION OF EQUAL TREATMENT AND NON-DISCRIMINATION ON RACIAL OR ETHNIC GROUNDS in a document entitled “*La protección contra la discriminación por origen racial o étnico en España*” (Protection against racial and ethnic discrimination in Spain), June 2011.

I Context

Acts of discrimination, hatred, racist violence, xenophobia and other manifestations of related intolerance do not occur in a void. Stereotypes and prejudice are fuelled in numerous contexts, most acutely during times of financial hardship or in social contexts in which vulnerable groups are given insufficient guarantees. This leads to individual, collective, spontaneous and organised acts of infringement or violation of personal dignity and rights that may seriously jeopardise harmonious democratic interaction, as the European institutions repeatedly warn.

Migrants, Roma and ethnic, religious and social minorities suffer racism, xenophobia, anti-Semitism, Islamophobia and intolerance in general, sometimes irreparably. Preventing such situations and protecting victims and the population at large is not just an ethical duty, but a mandate arising from international agreements. Comprehensive, strategic action on racism and related intolerance must entail prevention, reporting and protection of victims and democratic citizenship by uniting the efforts of all social and institutional stakeholders in this humanist and democratic task.

The role of NGOs, both in preventing and protecting against racism and xenophobia, has become key in the last twenty years. Numerous associations, often in conjunction with institutions, have carried out major preventive awareness-raising campaigns, which began in the 1990s with the pioneering Let's Fight Racism ("*Combate al Racismo*"), Democracy is Equality ("*Democracia es Igualdad*") and Youth against Intolerance ("*Jóvenes contra la Intolerancia*"). All have helped to pinpoint the problem and the specific aspects that must be tackled in the fight against racism and xenophobia.

These campaigns underlined the importance of working with governments to improve legislation, monitor and report racist and xenophobic incidents, to act as spokespersons for the victims of hate crimes in particular by interme-

diating for them with the authorities, to provide practical support of victims of hate crime, including legal, psychological and other services, and to increase social and institutional awareness of racism, intolerance, hate crimes and discrimination. These and other aspects highlighted by associations together with the call for policies for equal treatment and non-discrimination on racial or ethnic grounds, criminal policies on hate crimes and racist violence and victim support policies will lay the foundations for the first institutional responses to prevent and protect against racism and xenophobia.

Discrimination is often closely linked to exclusion. The former affects the fundamental rights of persons and should therefore be tackled from the legal standpoint, whereas the latter has a bearing on social and living conditions and must therefore be tackled from the perspective of social policies and protection. In many cases these two processes fuel each other: those who suffer most discrimination, racism or xenophobia are more likely to fall into exclusion and those who are excluded are more likely to experience discrimination.

Hence, equality policies cannot be practically effective unless they offset disadvantages. As such, affirmative action is particularly significant to offset the structural or circumstantial disadvantages suffered by certain groups and individuals. Affirmative action entails special treatment aimed at preventing, eradicating and, if necessary, offsetting any form of collective or social discrimination. Such measures will be appropriate as long as discrimination persists and must be reasonable and proportionate in terms of the means used to implement them and the objectives they pursue.

The Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds was established in accordance with European Directive 2000/43/EC and started work in October 2009 under the Ministry of Equality. It has the following primary functions: providing independent advice to victims on how to lodge complaints; publishing studies, research and reports with autonomy and independence, and promoting measures to increase equal treatment and eradicate discrimination by making the necessary recommendations and proposals.

6. Comprehensive Prevention and Protection of Victims | I. Context

In 2010, the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial and Ethnic Grounds presented its first panel on this type of discrimination as perceived by the victims. One of the most salient results of this study was the gap between what is perceived as discrimination and objective circumstances that are attributable to discrimination on grounds of ethnic origin. Although some 70% of respondents said they had not been the victims of racial discrimination, when they were asked about very specific circumstances in various spheres of their daily lives that can be described as discriminatory, many confirmed that they had experienced such situations. This points to a high threshold in both identifying and tolerating discrimination.

The study also stresses that perceptions of discrimination are highest in the spheres of housing and apartment building homeowners' committees; law enforcement and the police; employment; and in public and leisure places. Furthermore, only 4% of those who had experienced some kind of discrimination had filed any report.

II Action Carried Out

The Human Rights Plan was approved by the Council of Ministers in December 2008 and entails measures aimed at preventing direct or indirect discrimination on the grounds of religion, belief, disability, age, gender, sexual orientation, race and ethnicity. Some of the main measures include:

- ▶ To submit to Parliament a Comprehensive Equal Treatment and Non-Discrimination bill³⁶
- ▶ Adoption of the first working plan for the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds³⁷
- ▶ Implementation and evaluation of the Strategic Plan for Citizenship and Integration (2007-2010)³⁸
- ▶ Adoption and implementation of the Action Plan for the Development of the Roma Community³⁹

One of the Council's main tasks is to provide independent support to victims who wish to lodge a complaint.

A Network of Support Centres for victims of racial and ethnic discrimination comprising social organisations was established for this purpose. The Council chose this kind of partnership as it was thought to be the best way to reach those vulnerable to discrimination and to give training to social organisation members and standardise the support given to victims of discrimination. Furthermore, forging alliances with leading social organisations would increase the visibility and resources available to this little known, recently created body.

36 Human Rights Plan, Measure 42.

37 Human Rights Plan, Measure 45.

38 Human Rights Plan, Measure 46.

39 Human Rights Plan, Measure 48.

The network was formally set up in June 2010 and currently has 8 members:

- ▶ *Asociación Comisión Católica Española de Migración (ACCEM)*
- ▶ Spanish Red Cross
- ▶ *Fundación CEPAIM*
- ▶ *Fundación Secretariado Gitano (Roma Secretariat Foundation)*
- ▶ *Movimiento Contra la Intolerancia (Movement against Intolerance)*
- ▶ *Movimiento por la Paz, el Desarme y la Libertad (Movement for Peace, Disarmament and Freedom) (MPDL)*
- ▶ Red Acoge (Host Network)
- ▶ Unión Romaní (Romani Union)

Those who believe they have suffered racial or ethnic discrimination can seek advice from an expert in equal treatment through any of the above organisations. This enables the Network of Support Centres to encompass 104 information and advice points, and be present in almost every Region and city in Spain.

According to the Support Centre Network Report of January 2011, from July to 31 December 2010 they had handled 235 complaints, of which 188 were individual and 47 were collective cases. Of these, discrimination was clearly identified in 167 individual complaints and in 45 collective complaints.

The Spanish Observatory of Racism and Xenophobia is continuing to work on identifying, maintaining and updating the CREADI (Anti-Discrimination Resources Centre) network. This provides information on legal aid, psychological support, advice, accompaniment, and mediation in all cases of discrimination (racial/ethnic, disability, sexual orientation, age, gender and religious beliefs), at both the national and regional levels.

Ensuring equal treatment for all is still a core aim, particularly during the current crisis when the risk of fundamental rights being violated is even greater. Therefore the aspiration is twofold: setting up the appropriate legal instru-

ments to protect people from all unfair or unequal treatment, and securing the sufficient means to make these rights effective.

Thus, with regard to this unrenouncable aim, one of the core objectives set forth in the Second Strategic Plan for Citizenship and Integration, approved by the Council of Ministers on 23 September 2011, is to “foster comprehensive policies for equal treatment and non-discrimination that provide for the prevention and reporting of all forms of racism and xenophobia in addition to protection and assistance for victims in all aspects of their life, in both the private and public spheres”⁴⁰.

Comprehensive action includes prevention, reporting, protection and assistance for victims. Networks must be established and/or maintained to engage all social stakeholders in combating discriminatory practices and providing victim support. These must take a twofold preventive and reparatory approach, which entails training and general prevention.

Protecting against discrimination also means adopting preventive measures, using methods and tools to detect it and instituting appropriate measures to bring an end to discriminatory situations.

Other significant programmes in this area include the Police Action Plan on Organised Violent Youth Groups, which was launched by the Secretariat of State for Security in 2005 and updated in 2009, and which regulates police action on the various forms of violent youth groups. One of the outcomes of this is that it provides the Ministry of the Interior an up-to-date census and police monitoring of the main violent and xenophobic groups in Spain and of the websites they use to incite violence.

40 PECI II. Premises, Principles and Objectives of the Plan. General Objective 6.

III Comprehensive Strategy Objectives and Measures

Objective 1. Prevent and combat all forms of racism, racial discrimination, xenophobia and related intolerance (direct, indirect and multiple), taking into account other grounds for discrimination such as gender, disability, religion and beliefs. Also, provide comprehensive assistance for victims of discrimination to guarantee equal opportunities in the enjoyment of all fundamental rights and public freedoms⁴¹.

1.1. Comprehensive prevention against racism, racial discrimination, xenophobia and related intolerance.

1.1.1. Devise and implement prevention plans aimed at particularly vulnerable groups, bearing in mind those who may suffer from multiple discrimination⁴².

1.1.2. Boost the preventive nature of the Support Centre Network, which is part of the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial and Ethnic Grounds⁴³.

1.1.3. Establish system of offences and effective, proportioned and dissuasive sanctions to prevent discriminatory conduct and provide proper compensation to victims, in accordance with Council Directive 2000/43/EC.

1.1.4. Foster programmes enabling civil society to carry out general and specific prevention actions, preventive awareness-raising, volunteer intervention work and action to neutralise prejudice and conflicts.

41 PEI II. Area 7.2 Equal Treatment and Anti-Discrimination, pp. 175-176 and Action Plan for the Development of the Roma People 2010-2012. Objective-based action. Objective 1.

42 PEI II. Area 7.2 Equal Treatment and Anti-Discrimination. Measure 2.1

43 PEI II. Formerly measure 1.1.3 of PEI II. The 'Discrimination Advice Offices' are the equivalent of the "Support Centre Network for victims of discrimination", which are coordinated by the Council for the Promotion of Equal Treatment and Non-Discrimination

6. Comprehensive Prevention and Protection of Victims | **III. Comprehensive Strategy Objectives and Measures****1.2.** Comprehensive support and assistance for victims of racism, racial discrimination, xenophobia and related intolerance.

1.2.1. Develop the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds Network of Offices to provide comprehensive support and assistance to victims.

1.2.2. Strengthen victim advice, information and support services.

1.2.3. Develop systems and mechanisms to protect against and report hate crimes, racial discrimination and xenophobia by means of action protocols⁴⁴.

1.2.4. Promote/foster innovative complaint mechanisms.

1.2.5. Support social organisations that work to defend victims of racism, hatred and intolerance to shore up their role in providing support, lodging complaints, and monitoring legal proceedings.

Objective 2. Foster the inclusion of discrimination victim support programmes in Regions' and local governments' action plans.

Objective 3. Capacitar e implicar a los agentes sociales, a los empleados públicos y a los profesionales en prevención y asistencia a las víctimas.

3.1. Diseño de programas de formación dirigidos al conjunto de actores institucionales y sociales para un desempeño adecuado de su función en materia de prevención y asistencia a víctimas objeto de discriminación.

3.2. Puesta en marcha de una red de operadores jurídicos que trabajen a nivel nacional, regional y local, especialistas en litigación contra el racismo, la discriminación racial, la xenofobia y otras formas conexas de intolerancia.

⁴⁴ The measures on comprehensive support and assistance for victims (1.2.1, 1.2.2, 1.2.3) were proposed in the PECl II, point 7.2

7

Specific Areas

7.1 Education

I Context

Despite considerable progress both nationally and internationally, measures must still be put in place to prevent racially or ethnically motivated discrimination from being present in educational systems.

For this reason, and because education undoubtedly plays a significant role in generating values, a great number of international bodies have made proposals and recommendations to combat racism and xenophobia through the sphere of education. The following can be highlighted in this regard:

- ▶ Programme of Action from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, September 2001;
- ▶ UNESCO Declaration of Principles on Tolerance;
- ▶ The European Commission against Racism and Intolerance, which published in 2006 its General Policy Recommendation number 10 about this issue. It also includes related proposals in General Policy Recommendation number 6, and more specifically it puts forward recommendations in its Fourth Report on Spain (2011);
- ▶ The European Union, through its strategic framework for European cooperation in education and training (“ET 2020”), based on common objectives. Particular attention is drawn to Strategic Objective number 3: promoting equality, social cohesion, and active citizenship;
- ▶ The European Union Agency for Fundamental Rights in its 2010 and 2011 annual reports also includes a series of pertinent recommendations for European member States;
- ▶ Other international bodies, such as the OSCE, have also drawn up various proposals in this regard;
- ▶ Lastly, the suggestions of other social organizations such as the European Network Against Racism, particularly important in the sphere of education, must also be included;

International bodies' proposals and recommendations in the fight against racism, xenophobia, and related intolerance through education could be grouped together under the following headings:

1. Access. Ensuring access to free, quality education for all citizens, particularly by:

- 1.1.** Reducing racially or ethnically motivated minority segregation in education;
- 1.2.** Ensuring adults' access to lifelong learning;

2. Eliminating inequalities in schools by:

- 2.1.** Improving academic performance,
- 2.2.** Reducing the numbers of early drop-outs, particularly among certain particularly vulnerable groups;
- 2.3.** Fostering the introduction in school curricula of content to eliminate racism and xenophobia;
- 2.4.** Promoting teacher training in content dealing with interculturality and the fight against racism and xenophobia;
- 2.5.** Teaching the language and culture of origin.

3. Fighting against racism and discrimination in the sphere of education by:

- 3.1.** Building mechanisms to detect incidents based on racism, xenophobia, or related intolerance;
- 3.2.** Develop prevention and protection measures for victims of racist, xenophobic or related intolerance manifestations.

Mindful of the unanimously approved UNESCO Declaration of Principles on Tolerance, it is important to remember its content in the field of education, considering that education is the most effective means of preventing intolerance. The first phase of tolerance education involves teaching people the rights and liberties that they share so that they can be respected, and also involves fostering the willingness to protect others.

7. Specific Areas | 7.1. Education

Systematic and rational teaching methods in tolerance must be fostered, and these methods must tackle the cultural, social, economic, political and religious basis for intolerance. In other words, the basic roots of violence and exclusion must be addressed. Educational policies and programmes must contribute to enhancing understanding, solidarity and tolerance among both individuals and ethnic, social, cultural, religious and language groups, as well as among nations.

The goal of education must be to offset the influences that lead to fear and exclusion of others, and to help young people develop the ability to form their own opinions, critical thought, and ethical reasoning.

Special attention must be paid to improving teacher training, study plans, course content, and other teaching materials such as new information and communications technology, in order to shape citizens who can be attentive to others, responsible, open to other cultures, able to appreciate the value of freedom, respectful of dignity and differences between other human beings, and able to either avoid or resolve conflict by non-violent means.

An accent should also be put on the commitment to foster tolerance and non-violence through programmes and institutions in the fields of education, science, culture and communication.

II Action Carried Out

In order to make the principle of equality in exercising the right to education effective, Organic Law 2/2006 of 3 May on Education establishes that the public administration will carry out compensatory action for underprivileged persons, groups, and geographical areas.

With specific regard to education, one of the underpinning principles of the education system is that of inclusive education, which aims to foster all possible development of all students as well as cohesion amongst the entire community. Students entering the education system late because they come from other countries, or for whatever other reason, and who require special attention shall receive this, pursuant to Organic Law of 3 May 2/2006 on Education. The educational authorities shall ensure that schooling for students who join the Spanish school system late takes account of their circumstances, knowledge, age, and educational background, so that they are placed in the class or course that best suits their characteristics and previous knowledge, and so that with the appropriate support, they can make the most of the rest of their education.

It is also worth highlighting action in the area of Education for Citizenship and Human Rights, following Recommendation 2002/12 of the Committee of Ministers to European Member States on Education for Democratic Citizenship adopted on 16 October 2002. Part of the content, included in Royal Decree 1631/2006 of 29 December, which sets out minimum schooling for compulsory secondary school, deals specifically with the “fight against xenophobia, racist social prejudice, and anti-Semitism”. Specifically, Royal Decree 1631/2006 includes the teaching of “Education for Citizenship and Human Rights” among the subjects in compulsory secondary education, and stipulates that one of the basic skills that a student should have obtained upon completion of compulsory secondary education is “competence in social and citizenship skills”. Furthermore, the issue of tackling xenophobia, racist social prejudice and anti-Semitism is also included in other subjects.

Both the Strategic Plan for Citizenship and Integration (PECI) and the Plan of Action for the Development of the Roma Community are aimed at ensuring

7. Specific Areas | 7.1. Education

the educational integration of migrants and racial and ethnic minorities. They highlight measures that promote academic success and capacity-building in schools and educational communities on the whole, such as learning the languages of the origin and host communities, cross-cultural mediation, and so forth.

In the PECl evaluation, education was found to be one of the Plan's key areas due to its volume of expenditure (which was the highest of all of the Plan's areas of intervention), and to the qualitative value of action. Expenditure for the 2007-2010 period was €687,799,608.01.

Action vis-à-vis the Roma population was put together based on the Ministry of Health, Social Policy and Equality's Action Plan for the Development of the Roma Community. While over the last two decades nearly all Roma children have received nursery and primary education, Roma pupils continue to have far higher rates of absenteeism and academic failure than other students. Action is therefore geared towards tackling these two obstacles for Roma pupils.

It is important to mention that Spain's Regions (*Comunidades Autónomas*) have competence over education, meaning that the central government's role is to promote measures and coordination with the Regions. This is reflected in the section on promoting institutional coordination and cooperation of this Strategy.

More specifically, the following measures should be highlighted:

- a) An Action Plan to promote and enhance harmonious interaction in school. Furthermore, through Royal Decree 275/2007 of 23 February (published in the Official State Gazette (BOE) dated 15 March 2007), the State Observatory for Harmonious Interaction in School (*Observatorio estatal para la convivencia escolar*) was created for this purpose.
- b) The project Schools without Racism; Schools for Peace and Development ("*Escuelas sin racismo, escuelas para la paz y el desarrollo*" - ESR, EPD), financed by the European Integration Fund (EIF). This project came

7. Specific Areas | 7.1. Education

about in Belgium in 1988 as a reaction to intolerance and racism in society and is used as a flexible, open tool to work in schools towards intercultural, non-racist education. It enables differences to be understood and cultural elements from other groups to be integrated. This philosophy gradually spread to other European countries. Today, ESR can be found in schools in Belgium, Holland, Austria, Germany and Spain.

Since 1988, more than 500 European schools have participated in this project and in Spain 263 schools in Galicia, Asturias, Cantabria, Castilla y León, Castilla-La Mancha, Extremadura, Madrid, Valencia, Andalusia and Navarre belong to this network. Various activities are carried out in the project, such as interactive exhibitions, film screenings, tolerance tests, intercultural education courses for teachers, information for parents on ESR and EPD, theatre forums and so forth.

- c) Lastly, several initiatives have been carried out by the Ministry of the Interior, such as the Master Plan for Harmonious Interaction and Better Security at School (*El Plan Director para la convivencia y mejora de la seguridad escolar*) (2007-2012) and the ‘With You’ Plan (*Plan Contigo*).

The goal of these is to improve harmonious interaction and security at school through prevention. In order to do so, members of the National Police Force, the Civil Guard and the Local Police meet head teachers, teachers, and parents at schools and give talks to pupils on security as it affects them as a group, including the risk posed by racist and xenophobic behaviour.

The aims are to foster children and young people’s respect for differences, to encourage them to report racist and xenophobic conduct, to inform them of the risks of joining violent gangs of this nature and to facilitate guidelines to help them deal with the online behaviour of such groups, including proselytisation.

Furthermore, police experts offer the school community advice on serious security problems that can arise in school, including those that may stem from racist and xenophobic behaviour.

7. Specific Areas | 7.1. Education

In an effort to extend such informative and preventive measures to the field of new technologies, the Ministry of the Interior has also launched a page called “*Plan Contigo*” (With You) on the social networking site Tuenti which offers children and young people online information on the major security problems that affect them as a group, including issues involving racism and xenophobia. This site had more than 72,000 followers within only one year.

III Comprehensive Strategy Objectives and Action

Objective 1. Ensure equal access to and remaining in school, regardless of racial or ethnic origin.

1.1. Reduction of segregation and high foreign background and/or ethnic minority density in schools⁴⁵.

1.1.1. Support education standards improvement projects to stimulate or generate incentives for schools affected by segregation and high ethnic density⁴⁶.

1.1.2. Balanced distribution of pupils by providing guidance and information on admissions criteria and free education⁴⁷ in state and government-subsidized state schools.

1.1.3. Development of programmes that encourage the educational community to spread knowledge about positive experiences in their schools⁴⁸.

1.1.4. Making sure that all state-funded schools safeguard the right to equal access, to remain in school, and for all pupils, teaching staff and family members to participate.

1.1.5. Ensure that the competent authorities for education standards set up internal rules that include the right to equality for all and that inspection systems are accordingly improved to assure that this right is enforced.

45 PECl II. Area 6.3. Education. Objective 1. Measure 1.1

46 PECl II. Area 6.3. Education. Objective 1. Measure 1.1.1

47 PECl II. Area 6.3. Education. Objective 1. Measure 1.1.2

48 PECl II. Area 6.3. Education. Objective 1. Measure 1.1.3

7. Specific Areas | 7.1. Education

- 1.2.** Development of an inclusive school model ensuring access and integration of pupils⁴⁹.
- 1.2.1.** Promotion of action aimed at establishing inclusive environments in schools and bolstering the educational community, particularly families⁵⁰.
 - 1.2.2.** Support for educational reception projects, monitoring and integration of both pupils and their families in schools⁵¹.
 - 1.2.3.** Support for training intercultural mediators and for including their participation in the school's existing reception and integration programmes⁵².
 - 1.2.4.** Support for guidance and information services on the educational resources available at both the local and regional levels⁵³ for every stage of education.

Objective 2. Contribute to shaping pupils as citizens in order to prevent episodes of racism, racial discrimination, xenophobia and related intolerance.

- 2.1.** Promotion of civic education and education for citizenship⁵⁴.
- 2.1.1.** Support for projects to mainstream education in values and citizenship into the school curriculum⁵⁵.
 - 2.1.2.** Development of programmes in education for citizenship⁵⁶.
 - 2.1.3.** Promotion of human rights in the school environment⁵⁷.
 - 2.1.4.** Support for volunteer projects in schools⁵⁸.

49 PECl II. Area 6.3. Education. Objective 1. Measure 1.4

50 PECl II. Area 6.3. Education Objective 1. Measure 1.4.1

51 PECl II. Area 6.3. Education. Objective 1. Measure 1.4.2

52 PECl II. Area 6.3. Education Objective 1. Measure 1.4.3

53 PECl II. Area 6.3. Education. Objective 1. Measure 1.4.4

54 PECl II. Area 6.3. Education. Objective 5. Measure 5.1

55 PECl II. Area 6.3. Education. Objective 5. Measure 5.1.1

56 PECl II. Area 6.3. Education. Objective 5. Measure 5.1.2

57 PECl II. Area 6.3. Education. Objective 5. Measure 5.1.3

58 PECl II. Area 6.3. Education. Objective 5. Measure 5.1.4

7. Specific Areas | 7.1. Education

- 2.2.** Building of a strategy to combat racism, racial discrimination, xenophobia and related intolerance in schools⁵⁹.
- 2.2.1.** Promotion of detection mechanisms and protocols on racist, xenophobic and discriminatory incidents⁶⁰.
- 2.2.2.** Information for senior school management and the educational community at large about the arguments and legal measures to tackle racism and discrimination⁶¹.
- 2.2.3.** Development of educational programmes to combat racism and xenophobia⁶².
- 2.2.4.** Support for the innovative programmes that develop anti-racist pedagogy⁶³.
- 2.2.5.** Promotion of teacher training on racism, xenophobia and other related intolerance by including specific courses in the Teacher Resource and Training Centres.
- 2.2.6.** Fostering of cooperation agreements between textbook publishers and government to detect and rectify any potential discriminatory or prejudice-based content in textbooks.
- 2.2.7.** Definition of indicators enabling the reliable measurement of awareness-raising and prevention interventions to combat racism and discrimination.
- 2.2.8.** Promotion of “innovative” educational programmes on co-education and prevention of racism and discrimination.
- 2.2.9.** Develop and disseminate audiovisual materials to show racism and discrimination as a social problem and acknowledge the educational community’s role in combating it.

59 PECl II. Area 6.3. Education. Objective 5. Measure 5.2

60 PECl II. Area 6.3. Education. Objective 5. Measure 5.2.1

61 PECl II. Area 6.3. Education. Objective 5. Measure 5.2.2

62 PECl II. Area 6.3. Education. Objective 5. Measure 5.2.3

63 PECl II. Area 6.3. Education. Objective 5. Measure 5.2.4

7.2 Employment

I Context

It is widely agreed that discrimination on the job market is a human rights violation leading to wasted talent and jeopardising productivity and economic growth. Furthermore, socially and economically speaking, it generates inequalities that weaken social cohesion and solidarity, making poverty reduction even more difficult. There is also agreement on the fact that eliminating discrimination both in legislation and in practice inevitably leads to the promotion of equal opportunities and equal treatment (ILO Global Report 2007).

According to the report of the European Commission Network of Socio-economic Experts in the Anti-discrimination Field, the employment situation for ethnic minorities is one of greater unemployment, a higher rate of non-declared work (meaning less and/or more precarious or non-existent social protection), lower salaries, less skilled work for those with more training, low self-employment rates, and fewer lifelong learning opportunities than for the rest of the population.

As a result, the fight against racial discrimination in the workplace has been one of the essential goals of international bodies, primarily:

- ▶ The Programme of Action of the World Conference on Racism, Racial Discrimination, Xenophobia, and Related Intolerance.
- ▶ The Committee for the Elimination of Racial Discrimination.
- ▶ The International Labour Organisation.
- ▶ The European Union, through its Directives 2000/43/CE and 2000/78/CE, through the Network of Socio-economic experts and through recommendations made by the Fundamental Rights Agency, particularly in its Annual Reports.
- ▶ The Council of Europe's European Commission against Racism and Intolerance (ECRI) through its Fourth Report on Spain.

From the workplace discrimination standpoint, these analyses and recommendations can be grouped together into the following areas:

- 1.** Access to the job market, which in the interpretation given by the Court of Justice of the European Union (CJEU), covers not only the necessary conditions for attaining employment, but also those factors of influence that must be taken into account by the worker when deciding whether or not to accept a job (FRA, 2011), in other words, access to employment through hiring, objectives, and so forth.
- 2.** Job conditions, including dismissal and wages. Several studies still indicate that immigrant workers' job conditions are precarious (SEN Report 2010). Labour legislation and practices channel immigrants into certain sectors and categories, which results in job conditions that are generally worse than those of the autochthonous population (Pajares, 2010).
- 3.** Access to training and promotion. The CJEU defines vocational training as any type of education or training enabling qualification to be attained for a given profession, business, or job, or that provides the required preparation and knowledge for that profession, business or job, irrespectively of age or levels of education, and although the training programme may include elements of general education. Insofar as promotion is concerned, discrimination may be very subtle (Pajares, 2010). For this to be avoided certain basic action must be taken such as full, transparent notification of job vacancies in companies.

II Action Carried Out

Job integration is one of the priority areas of action of the second Strategic Plan for Citizenship and Integration (PECI II) together with the Action Plan for the Development of the Roma Community.

The Evaluation of PECI I illustrates the importance of action taken in this area by the Secretariat of State for Immigration and Emigration:

- ▶ The total budget was €96,006,622, making it the area in the PECI I plan with the highest amount allocated to it, accounting for 34% of the overall budget.
- ▶ The evaluation highlights the extent to which objectives were met and programmes and measures were performed in this area, which concluded with 72% fulfilment⁶⁴.

Much of the action falling under PECI I was financed through the Immigration Reception, Integration and Educational Support Fund, which fostered concerted policies being developed by Spain's regional and local governments to bring about immigrants' job integration.

Other instruments have also been established together with this fund to support local governments. For instance, a call for subsidised projects was made for innovative programmes on immigrant integration, which was co-financed by the European Integration Fund. Sixty-six innovative projects on employment were financed within the framework of this call for projects.

Lastly, mention should be made of the project 'Management of Immigrant and Ethnic Minority Diversity in Employment' (*Gestión de la Diversidad de personas inmigrantes y minorías étnicas en el ámbito laboral*). Carried out by the Spanish Observatory on Racism and Xenophobia and financed by the European Commission's PROGRESS Programme, this project aims to

64 Second Strategic Plan for Citizenship and Integration (2011 – 2014). Chapter 1: Grounds for the Plan. Pages 5 to 19.

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improve equal treatment and management of diversity in employment by underscoring the positive aspects of integrating immigrants and ethnic minorities into companies and professional spheres.

Insofar as the Action Plan for the Development of the Roma Community 2010-2012 is concerned, the Employment and Economic Activity area is one of the most important, and was allocated some €27 million.

The measures carried out are aimed at containing the damage caused by the economic crisis on employment among Roma population. Hiring of this population group has dropped significantly, and the impact has been twice as great as it has on the rest of the population. The Plan therefore includes the following action:

- ▶ Training of the Roma population on finding jobs, remaining in those jobs, and job promotion.
- ▶ Providing information to the Roma population on labour legislation, public employment services, etc.

III Comprehensive Strategy Objectives and Action

Objective 1. There shall be no limitations, segregation or exclusion on the grounds mentioned when it comes to access to paid employment, including screening criteria; training for employment; promotion; remuneration; working hours and other job conditions, or suspension, dismissal or other causes for terminating an employment contract. Likewise, there shall be no limitations, segregation or exclusion on the grounds mentioned with regard to becoming self-employed.

Objective 2. Promote access to and permanence in the job market on an equal footing for racial and ethnic minorities.

- 2.1.** Ensure that public employment services, their collaborating entities, and public and private job placement agencies safeguard the respect for non-discrimination on the grounds of racial or ethnic origin.
- 2.2.** Foster dialogue with social partners aimed at promoting codes of conduct and best practice in employment.
- 2.3.** Include in the framework of collective bargaining:
 - a)** Limitations, segregation or exclusion from access to and permanence in jobs.
 - b)** Developing objectives, information mechanisms and periodical evaluations of the measures adopted in order to curtail racially or ethnically motivated discrimination.
- 2.4.** Enhance training activities for social partners in order to:
 - a)** Increase knowledge of anti-discrimination law on the grounds of race or ethnicity.
 - b)** Increase knowledge on the rights of victims of racist or xenophobic acts in the workplace.
 - c)** Provide a diversity management tool for companies.

7. Specific Areas | 7.2. Employment

- 2.5.** Improve information on racism, racial discrimination, xenophobia and related intolerance in employment through studies and research⁶⁵.
- 2.6.** Carry out awareness-raising activities aimed at eliminating racially and ethnically motivated discrimination in job access, continuity and promotion⁶⁶.
- 2.7.** Foster social responsibility consisting of economic, business, labour, assistance or any other type of measure to promote equal treatment and non-discrimination within companies or in their social environment.

Objective 3. Promote mechanisms for monitoring and reporting racist and xenophobic attitudes in the workplace.

- 3.1.** Pursuant to the applicable legislation, stimulate the work performed by the Labour Inspection and Social Security (*Inspección de Trabajo y Seguridad Social*) to monitor conduct, practice, incidents and manifestations involving unfavourable or adverse racially or ethnically motivated discrimination, in screening criteria, access to employment, types of contracts used, promotion, remuneration, working hours, or other working conditions, in addition to suspension, dismissal or other causes of severance of contract. To this end the Labour Inspection and Social Security (*Inspección de Trabajo y Seguridad Social*) shall include specific activities on equal treatment and non-discrimination in access to employment and in the workplace in its annual comprehensive plans of action.⁶⁷

65 Action Plan for the Development of the Roma Population. Area of Employment and Economic Activity. Objective 3.

66 Action Plan for the Development of the Roma Population. Area of Employment and Economic Activity. Objective 4.1.

67 See Art. 4.2.c) regulating the rights of workers, RD.Leg. 1/1995, of 24 March and Art. 8.12 of the Consolidated Social Order Violations and Sanctions Act (Texto Refundido de la Ley de Infracciones y Sanciones del Orden Social), Leg.. RD 5/2000, of 4 August.

- 3.2.** Create mechanisms for denouncing, protecting and assisting victims of racist and xenophobic incidents in the sphere of employment⁶⁸.
- 3.3.** Formulate and apply Diversity Management Plans in organisations and encourage:⁶⁹
- ▶ “Diversity Charters”-statements made by the organisations themselves as proof of their commitment and determination to promote diversity;
 - ▶ “Diversity Labels” and other “Diversity Awards or Acknowledgements”, for the commitment to seek and achieve diversity among employees and at work.

68 Measure 4.1.1 PECI 2010-2014

69 Measure 4.1.3 PECI 2010-2014

7.3 Health

I Context

Both international and European human rights legislation safeguard the rights of all persons to health and access to health care. Article 35 of the European Charter of Fundamental Rights, for instance, ensures access to health services for all.

International bodies, such as the European Commission against Racism and Intolerance (ECRI), recognize Spain's effort and progress towards free, equal access to the national health system for the entire population, regardless of origin or nationality, and towards health care in equal conditions for the non-EU population residing in Spain. It also highlights care provided to children under the age of 18 and undocumented pregnant women and welcomes provisions made for enrolment in the system (via the municipal register and the issuance of a health card). This ensures that the basic needs of the irregular immigrant population are covered.

Nevertheless, certain individuals and communities, such as the Roma population, continue to experience some difficulties in exercising their right to health and access to health care services. In response to this, the Programme of Action of the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance agreed a series of recommendations that can be grouped together into the following categories for action:

- a)** Promoting access to health care without any kind of discrimination.
- b)** Setting up effective mechanisms for monitoring and eliminating racism, xenophobia and other related intolerance from the health care system.
- c)** Enabling training for professionals working in the health care system to improve their familiarity with cultural diversity.

- d) Coordinating prevention and protection programmes and action against racism and xenophobia to be carried out among professionals, care staff, researchers and private companies.

Focusing on the analysis of European Union countries, the Fundamental Rights Agency, in its 2010 Annual Report, also suggests cultural mediation programmes be carried out in the sphere of health since they are “an important part of the process of communication and liaison between healthcare providers and clients from minority ethnic backgrounds, as well as for non-nationals unable to speak the language of the host country”⁷⁰.

II Action Carried Out

The government of Spain has been carrying out a broad range of action to meet the recommendations formulated by both national and international bodies:

- 1.** The Human Rights Plan, to which four measures to promote public health and prevention have been included. The General Public Health Act 33/2011 of 4 October, published in the 5 October 2011 Official State Gazette (BOE), includes and recognises the right of all citizens to public health care via universal coverage provided by the National Health System (SNS).
- 2.** Article 12 of Organic Law 2/2009 of 11 December, which modified Organic Law 4/2000 of 11 January on the Rights and Liberties of foreigners in Spain and their Social Integration, regulates the right to health care.

For all foreigners present in Spanish who have registered in the municipal registry, this right is recognized under the same conditions as Spaniards'.

Foreigners present in Spanish are entitled to emergency public health care for serious illness or accidents and to the continuation of that care until they are discharged.

The right to health care under the same conditions as Spanish citizens is also granted to non-Spanish pregnant women (during the pregnancy, birth and post-natal period) and non-Spanish minors present in Spanish.

III Comprehensive Strategy Objectives and Action

Objective 1. Facilitate better access to and use of health services by setting out ethnic and racial minorities' standardized relationship with the system⁷¹.

- 1.1.** Develop plans and programmes by the Public Health Administrations, according to their competences, in order to adapt the health system to incorporate the axis of non-discrimination on racially and ethnically motivated grounds..
- 1.2.** Encourage capacity-building and training in racially and ethnically motivated discrimination of professionals working in health care professions⁷².
- 1.3.** Develop intercultural health mediation measures and peer education in the healthcare sphere⁷³.
- 1.4.** Cultural adaptation, whenever necessary, of teaching and information and awareness-raising materials, and preparation of training material (guides and technical resources)⁷⁴.
- 1.5.** Facilitate translating of documents and interpreting⁷⁵.
- 1.6.** Dialogue with professionals, health care staff, researchers and private companies to develop measures to prevent racially or ethnically motivated discrimination in the health care system.

71 Action Plan for the Development of the Roma Population. Area Health. Objective 1.

72 PECE II. Area 6.4. Health. Objective 2. Line of Action 2.1. / Action Plan for the Development of the Roma Population Area Health. Objective 1. Measure 1.1.

73 PECE II. Area 6.4. Health Measure 2.2.1 / Action Plan for the Development of the Roma Population. Area Health. Objective 1. Measure 1.2

74 PECE II. Area 6.4. Health. Measure 2.1.4 Action Plan for the Development of the Roma Population. Area Health. Objective 1. Measure 1.3

75 PECE II. Area 6.4. Health. Objective 2. Measure 2.2.2

Objective 2. Establish effective mechanisms to monitor and eliminate racially or ethnically motivated discrimination in the health care system.

- 2.1.** Pursuant to the legislation in force, foster public health care authority monitoring of racist and xenophobic incidents in the sphere of health care.
- 2.2.** Create mechanisms for denouncing, protecting and assisting victims of racist or xenophobic incidents.

7.4 Housing

I Context

Housing and lodging is one of the most difficult spheres in which to determine whether or not racially or ethnically motivated discrimination exists. Figures on housing for national minorities and the foreign-born population are scarce, and most reports are based on complaints and are compiled by social organizations acting on behalf of the human rights of minorities and the immigrant population. The European Union Agency for Fundamental Rights stated in its 2009 Annual Report “complaints data collected by official or unofficial organisations cannot be said to reflect accurately the real extent of discrimination in the area of housing”⁷⁶.

Despite these difficulties, international bodies have included the fight against racial discrimination in lodging and housing as an essential sphere of their recommendations to States. These recommendations can be grouped together into the following areas:

- a) Promoting residential integration of minorities through proper urban planning to offset exclusion and marginalisation.
- b) Eradicating shantytowns and slums and relocating residents of these areas to proper housing to significantly improve the living conditions of vulnerable groups.
- c) Promoting access to both home-ownership and rented housing. Attention is drawn to discriminatory offers of rented housing for minority groups and differential conditions (onerous deposits and rental clauses, etc.). The Public Leasing Agency should be particularly attentive to individuals who have specific difficulties in accessing private leases due to their ethnic or national origin

II Action Carried Out

Better housing standards for all citizens, particularly for racial and ethnic minorities, must be considered within overall general housing policies which in turn are part of economic policy objectives and which also contribute to bolstering social policies.

However, according to the United Nations Special Rapporteur on the Right to Adequate Housing in Spain as set out in the ESCR report of January 2008, in Spain specifically the three main factors causing the right to housing to be violated are: a historically insufficient and ad-hoc housing policy; zoning and urban development that are heavily dependent on private initiative; and an economic context that has turned the property business into a field that generates windfall profits in the short term.

Housing policies are developed based on:

- ▶ The definition of a general legislative framework.
- ▶ Measures to support financing of housing through national housing plans. Through these pluri-annual plans, the State underpins its capacity to act on general planning and its application, which in the final instance lies in the jurisdiction of the regional level of government.
- ▶ The promotion of minorities' residential integration through proper urban planning based on a comprehensive approach including cross-cutting health, employment, education and community development dimensions, in order to offset exclusion and marginalisation.

One of the priorities of the 2009–2012 National Plan for Housing and Rehabilitation (*Plan Estatal de Vivienda y Rehabilitación*) is to facilitate access to housing for all citizens, particularly those with the greatest difficulties. Three areas of action can be highlighted in this regard:

- a) Extending the groups that are granted preferential protection, including dependents, separated or divorced persons who have not defaulted in their alimony payments, the homeless, and residents affected by slum eradication operations.

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- b)** Creating protected lodging for vulnerable groups. This is low-income rented lodging in the form of residences with large common areas and services.
- c)** The plan also ensures citizens' access to protected housing under equal conditions, and includes the creation of registries of those seeking housing.

The National Plan includes a new programme for slum eradication with aid for resettlement in rented housing.

As indicated in the previously mentioned Fourth ECRI Report⁷⁷ on Spain and the European Union Agency for Fundamental Rights comparative report on living conditions of Roma and other nomadic communities in the European Union (published in October 2009), Spain stands as a positive example of how Roma home ownership can be improved, since the country applies a housing policy that fosters home ownership through state subsidies with a preference for offering social housing. It is estimated that half of Roma homeowners acquired their homes thanks to this policy.

However, according to the 2007 mapping exercise carried out in Spain on housing and the Roma community (*Mapa sobre vivienda y comunidad gitana en España*), 88% of homes inhabited by the Roma population are standard, while 12% of the population still lives in sub-standard housing, caves, or particularly vulnerable districts⁷⁸.

Therefore, the 2010-2012 Plan of Action for the Development of the Roma Community indicates the following objectives:

- 1.** Promote access to standard quality housing for the Roma population.
- 2.** Put forward measures to eradicate sub-standard housing
- 3.** Lead an integration-based housing policy for the Roma community.

77 European Commission Against Racism and Intolerance (ECRI). Fourth Report on Spain. Published 8 February 2011.

78 Fundación Secretariado Gitano and Ministry of Housing (Ministerio de Vivienda). Madrid, 2008

4. Maintain a housing information and Roma community information system.

In the European Union context, changes to Article 7.2 of the ERDF funds in order to broaden their scope of use must also be mentioned.

For the Secretariat of State of Immigration and Emigration, housing is one of the strategic areas in immigrant integration policy. The following action has therefore been taken:

- ▶ Neighbourhood Plan' (*Plan de Barrios*). Begun in 2008 in the framework of the First Strategic Plan for Citizenship and Integration to foster the process of immigrant integration in environments entailing risk, comprehensive action was designed to bolster mechanisms to bring the autochthonous and foreign-born population closer together in order to prevent social conflict from arising.

Two pilot projects were implemented, one in Andalusia and another in Catalonia, in which action was taken in a total of 20 districts in 10 towns and cities. These pilot projects enable local government policies and community action to be rethought and adapted to ongoing social changes.

- ▶ The importance attached to this area of action is highlighted by the fact that the Zaragoza Declaration, made during the Spanish Presidency of the European Union, included a recommendation to member States on diversity in neighbourhoods:

Considering that cities and their districts are privileged areas to foster intercultural dialogue and cultural diversity and social cohesion, it is important for local governments to develop and obtain capacities to better manage diversity and combat racism, xenophobia and all forms of discrimination. For that purpose, they should aim to develop tools that help them to design public policies adapted to the diverse needs of the population. In this context, it is necessary to take into account the spatial dimensions of integration challenges, such as segregated neighbourhoods. In order to fight inequality it is necessary to invest in districts with a high immigrant concentration.

III Comprehensive Strategy Objectives and Action

Objective 1. Establish effective monitoring mechanisms to eliminate racially or ethnically motivated discrimination in the sphere of housing.

- 1.1.** Establish dialogue with the property industry and particularly with those providing sales, leasing and brokering services, so that they include the right to equal treatment and non-discrimination on racial or ethnic grounds in their business.
- 1.2.** Promote mechanisms so that victims of racially or ethnically motivated discrimination, both in access to housing and in the conditions required by the various actors that intervene, can denounce and receive assistance.
- 1.3.** Ensure that the public administrations, within their competences, respect the right to non-discrimination on racial or ethnic grounds with regard to access to public housing, both in aid policies aimed at home ownership and public leasing policies.
- 1.4.** Develop mediation and community action in neighbourhoods where conflict, cohesion and communication are issues⁷⁹.
- 1.5.** Develop legal mechanisms and initiatives to prevent discrimination generated through segregation in housing.
- 1.6.** Promote awareness-raising action so that knowledge can be gained on entitlement to mortgages.

⁷⁹ Measure 1.3.3. Area of Harmonious Interaction Second Strategic Plan for Citizenship and Integration

7.5 The Media

I Context

The media undoubtedly have an impact on public perception. The leading role and enormous value attached to news in the current social model requires additional responsibility in dealing with and treating the media, based on the notion of information as a fundamental right.

It has been observed that a greater media emphasis on a given topic or social issue tends to trigger greater concern among the public about that issue. In other words, a public agenda is generated in terms of what should be of concern and how various phenomena should be interpreted.

Various research and analyses⁸⁰ have shown that ethnic minorities are negatively represented in the media owing to different types of practice used in the news (i.e. associating minorities with delinquency, crime, overwhelming the local population in numbers, and so forth).

It should be remembered in this regard that as early as 1989, the European Parliament, through its Research Committee on Racism and Xenophobia and its well-known Glyn Ford report, issued a warning about how migrant or ethnic minorities are portrayed in the media as well as the issue of representativeness.

This report thoroughly analysed the mass media's role in eliminating racial prejudice and promoting harmonious relations between different groups residing in Europe, including descriptions of news and pictures of ethnic minorities shown by most European media. The extent to which racist images are produced and reproduced and how these messages are decoded was also examined.

⁸⁰ *Racism and cultural diversity in the Mass Media*, EUMC, 2001; Lorite García, Nicolás: *Tratamiento informativo de la inmigración en España*, Ministerio de Trabajo y Asuntos Sociales (Ministry of Immigration and Social Affairs).

7. Specific Areas | 7.5. The Media

A further aspect of how ethnic minorities are portrayed in the news was also analysed in terms of what image society has of these groups living within it, and what image it attaches to these minorities in terms of their position in society. Finally, there is a third, particularly revealing aspect regarding the news and migrant or ethnic minorities in it. The Ford Report's conclusions are clear and blunt:

- 1.** Racist stereotypes and pictures are often found in the media.
- 2.** There is virtually no news geared to minorities, and particularly not in their mother tongues.
- 3.** Media where ethnic minorities participate is usually marginal, and does not have access to news distribution through normal channels.

The Ford Report's conclusion indicates that the chances of calling racist images into question or of developing a culture steeped in lively, community diversity are nil.

Other international bodies have made a series of proposals and recommendations, including the Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. This Programme of Action recommends that States avoid racist and racial discrimination based stereotypes, that they apply legal sanctions against inciting racial hatred and all human rights instruments, and that they draw up codes of conduct for the media to combat racism and xenophobia and to promote respect and tolerance.

Furthermore, the United Nations Committee on the Elimination of Racial Discrimination proposes that the media's role in the fight against prejudices and negative stereotypes be encouraged and that all necessary measures be adopted in order to combat racism in the media.

In addition, the European Commission against Racism and Intolerance (ECRI) Fourth Report on Spain includes a specific section in which recommendations are made to the Spanish government in this regard, including:

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- a)** Stressing to the media that it should not contribute to creating an atmosphere of hostility and rejection towards minority groups, and establishing dialogue with the media to achieve this goal.
- b)** Establishing regulation mechanisms for all media. These mechanisms should be compatible with the principle of media independence and help ensure compliance with codes of ethics and conduct, including those regarding intolerance.
- c)** Including both training in racism and xenophobia and awareness of codes of conduct in the curricula for students of journalism.

II Action Carried Out

One of the measures enacted by the central government was the approval of the General Audiovisual Communications Act 7/2010 of 31 March to regulate audiovisual communications with state-wide coverage and set forth basic rules for the audiovisual sphere, without prejudice to jurisdiction that the regional and local governments have in this regard.

This legislation aspires to promote a more inclusive and equitable society with regard to the prevention and elimination of discrimination, particularly gender discrimination. Article 4.2 of the act specifically indicates *“Audiovisual communication may never incite racial discrimination due to gender or any other personal and/or social circumstance, and must respect human dignity and constitutional values, with particular attention paid to eradicating behaviour fostering inequality of women”*.

The National Plan of the Kingdom of Spain for the Alliance of Civilizations, which represents a commitment to human rights without any type of discrimination, includes among its areas of action *“the promotion of the responsible use of the media and the fight against programmes fuelling hostile, violent, or discriminatory stereotypes”*.

Through the General Directorate for Immigrant Integration and the Spanish Observatory on Racism and Xenophobia, the Secretariat of State for Immigration and Emigration put significant stress on two different lines of action:

- a) Firstly, through reports on how immigration is dealt with in the news (*“El Tratamiento Informativo de la inmigración”*) in order to objectively analyse how immigration is dealt with in the news in Spain, i.e. its approach, the textual, visual, and sound aspects of radio, television and the press, etc.
- b) Secondly, by promoting the compiling and dissemination of the practical guide for media professionals (*“Guía Práctica para los profesionales de los medios de comunicación”*) on the portrayal of immigration. This guide includes recommendations for media professionals.

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Lastly, the Ministry of Health, Social Policy and Equality, through its Directorate General on Social Inclusion, has worked on two types of action with the country's two major Roma organizations with a view to working jointly with the media to eliminate stereotypes. These are:

- a)** The publication of *Periodistas contra el Racismo* (Journalists against Racism), in cooperation with the Unión Romani. This publication analyses news involving the Roma community in various media over the course of a year.
- b)** A practical guide for journalists on equal treatment, media and the Roma community (*Guía Práctica para periodistas: igualdad de trato, medios de comunicación y comunidad gitana*) in cooperation with the Fundación Secretariado Gitano.

III Comprehensive Strategy Objectives and Action

Objective 1. Foster the media playing an active role in combating racism, racial discrimination, xenophobia and related intolerance.

- 1.1.** Encourage self-regulation of the social communication media contributing to compliance with legislation on racism, racial discrimination, xenophobia and related intolerance⁸¹.
- 1.2.** Promote agreements with publicly owned media on equal treatment and non-discrimination based on race and ethnicity.
- 1.3.** Analyse the State Council of Audiovisual Media (*Consejo Estatal de Medios Audiovisuales*) instructions and/or recommendations on not fostering hate, disparaging attitudes, or discrimination for reasons of birth, racial origin, race or ethnicity, gender, religion, nationality, opinion, or any other personal or social circumstance⁸².
- 1.4.** Foster training and awareness-raising of media professionals on racism, racial discrimination, xenophobia and other forms of related intolerance⁸³.
- 1.5.** Continue to encourage research and analysis of how racial or ethnic minorities are treated by the media.
- 1.6.** Support the participation of associations working against racism, xenophobia and related intolerance in media debates.
- 1.7.** Promote the participation of immigrant persons and minority groups in the media.
- 1.8.** Generate incentives for acknowledgment of work in the media projecting a positive image of human mobility as a global process towards development.

81 PECCI II. Area of Equal Treatment and Non-Discrimination. Objective 3. Measure 3.1.2 / Equal Treatment and Non-Discrimination Bill. Article 22.2

82 PECCI II. Area of Equal Treatment and Non-Discrimination. Objective 3. Measure 3.1.3

83 PECCI II. Area of Equal Treatment and Non-Discrimination. Objective 3. Measure 3.1.1

7.6 Internet

I Context

The use of the Internet to spread racist and xenophobic ideas and action stands as a growing reason for concern among international bodies and States alike. Given the manifest difficulties in enforcing legislation in this area, the Internet is increasingly used by racist and xenophobic groups to disseminate documents and mobilize action that could otherwise be considered illegal. International bodies draw attention to the fact that this information is hosted on websites and by service providers in States thwarting investigation and persecution of this type of activity.

It is worth recalling the joint appeal by the Office for Democratic Institutions and Human Rights (ODIHR), the European Commission against Racism and Intolerance (ECRI) and the European Union Agency for Fundamental Rights (FRA) condemning racist and xenophobic manifestations and placing a special accent on the Internet: *“We should be watchful of racist conduct and incidents, including hate crimes, ill-willed expression, and racist sentiment on the Internet”*.

They expressly indicate: *“Our organisations are alarmed at the patterns and manifestations of racism as well as at the increase of the use of the Internet by racist groups for recruitment, radicalization, and, command and control of their members and also for intimidation and harassing of opponents. Internet has become a major channel of communication bringing people in “cyberspace” together, and it leads to their subsequent encounter and action in the physical world”*.

The same bodies also highlight social networks as one of the main places where racist and xenophobic opinions are expressed, particularly among young people. We must challenge those opinions.

The danger arising from the spreading of hate over the Internet has been broadly recognised by the international community, although the Internet’s

7. Specific Areas | 7.6. Internet

enormous potential to overcome both this trend and prejudice based on race, colour, language, nationality, national or ethnic origin, and religion is also explicitly recognised. This potential should certainly be used while taking care not to undermine the right to freedom of expression.

During the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the High Commissioner for Human Rights promoted debate on the report on the use of the Internet for inciting racial hatred and spreading racist and xenophobic propaganda, and on how to promote cooperation. This report was the basis for debate and reflection at the World Conference and the Programme of Action included the following specific recommendations regarding the Internet:

- 1.** Apply legal sanctions against inciting hatred and apply all human rights instruments;
- 2.** Draw up a code of conduct for Internet service providers to combat racism and xenophobia and promote respect and tolerance;
- 3.** Foster international cooperation.

For its part, the European Commission against Racism and Intolerance (ECRI) put together its 6th General Policy Report on the fight against the spread of racist, xenophobic, and anti-Semitic materials on the Internet in the year 2000, and its main recommendations were:

- a)** Take the necessary measures to develop international cooperation among police and judicial authorities;
- b)** Ensure enforcement of national legislation;
- c)** Carry out sustained efforts in training police and judicial authorities;
- d)** Support anti-racist activities on the Internet,
- e)** Define Internet service providers' responsibilities;
- f)** Foster the development of self-regulation measures for Internet companies;
- g)** Raise citizens' awareness on the spread of racist and xenophobic materials over the Internet.

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Finally, the ECRI's Fourth Report on Spain, approved in December 2010, includes some recommendations put to the Government of Spain in this regard, primarily:

- 1.** Establish measures to combat racist, xenophobic and anti-Semitic propaganda;
- 2.** Investigate Internet crime.

In Spain specifically there are particular issues with investigating and prosecuting crimes motivated by race, xenophobia, or other discriminatory grounds committed on the Internet and/or social networks, particularly the crime of inciting hatred, violence, or discrimination, or the crime of spreading ideas that justify genocide, as set forth in Articles 510 and 607.2 of the Spanish Criminal Code. There are serious difficulties with processing and obtaining data from service providers, which stem from difficulties in legislation currently in force, as set forth in the Electronic Communications Data Conservation and Public Communications Systems Act 25/2007, of 18 October, and the Information Society and E-business Act 34/2002, of 11 July.

Identifying and locating the perpetrators of this type of criminal activity is thwarted by the previously mentioned Act 25/2007 where Article 1 provides for judicial authorization to detect, investigate and prosecute (solely) serious crimes, and also provides for judicial authorisation to be required to obtain certain data that are not protected by the right to secrecy in communications (see Article 18.3 of the Spanish Constitution), such as the identity of the parties communicating. Before this legislation was enacted, this information could be obtained directly by the police or the prosecutor's office, pursuant to Article 22 of Organic Law 15/1999, of 13 December on Data Protection, and to the previous wording of the Information Society and E-business Services Act 34/2002 of 11 July.

The sentences for many offences committed over the Internet and social networks are light (prison sentences ranging from three months to five years), even though they cause fear and concern among victims and groups of victims and generate a worrying social climate of hostility towards these individuals and groups on the grounds of origin, race, ethnicity and other rea-

sons for discrimination, such as sexual orientation, religion, beliefs, illness, disabilities, and so forth.

Legislation in Spain has assigned light sentences through the Criminal Code for the crime of inciting hatred, violence, or discrimination, or the crime of spreading ideas justifying genocide, as set forth in Articles 510 (one to three years of prison and a fine) and 607.2 (one to two years of prison) of the Criminal Code.

Therefore, some investigating magistrates do not authorise data to be released in this type of investigation because the length of sentences set forth in the Criminal Code suggests that such crimes are not serious. The crimes are therefore left outside the scope of judicial authorisation, thereby thwarting any chances of concluding the investigation to determine the perpetrators. Ultimately this leads to impunity.

Legislation must clearly and specifically set forth the precautionary measures an instructing magistrate can take in the context of criminal proceedings, such as blocking websites, blogs, or massive e-mailings where racial hatred or discrimination is incited. All of this falls in line with the principles of need and proportionality marked by the jurisprudence from Spain's Supreme and Constitutional Courts, and the European Court of Human Rights. Spain's Criminal Prosecution Act is the ideal place to set out precautionary measures in the context of criminal proceedings, and the current wording of Articles 13 and 823 bis of this Act are clearly and notably unsatisfactory.

II Action Carried Out

The government of Spain has performed a series of measures to fight racism and xenophobia on the Internet. The following can be highlighted:

1. A special prosecutor on Internet-related crimes has been instated in all of Spain's Central Prosecutor's Offices. The court prosecutor delegated for computer-related crimes is in charge of coordinating prosecutors' work in taking criminal action on crimes committed over the Internet. This is done by making proposals for investigation and by formulating the corresponding charges, and also by determining the proper criteria for the investigation to be implemented by Spain's national and regional police force. Protocols to facilitate this work in court should also be sought with a view to unifying criteria on fighting crime. The special prosecutor is also in charge of coordinating basic prosecutor training with the centre for legal studies to investigate Internet-related crimes.
2. Specialised services on internet-related crimes have been established in Spain's Law Enforcement Authorities. Both the National Police (*Comisaría General de Policía Judicial del Cuerpo Nacional de Policía*) and the Civil Guard (*Jefatura de Policía Judicial de la Guardia Civil*) have units based both in the capital and around Spain to face the challenges posed by new forms of crime such as child pornography, swindling and fraud, threats, and slander and libel, including inciting of racism and xenophobia.

The technological investigation brigade falls under the Financial and Tax Crime Unit (*Unidad de Delincuencia Económica y Fiscal - UDEF*) which is the body within the national police force in charge of fighting criminal activities, committed on both a national and international scale, involving financial and tax transactions. It is also in charge of providing operational coordination and technical support for the various units covering Spain's different geographical areas.

In addition, the Cybercrime Unit (*Unidad de Delitos Telemáticos*) falls under the Civil Guard's Central Operational Unit (*Unidad Central Operativa -UCO*) which is that force' central service for investigating and combating the most

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serious types of crime, including organised crime committed both nationally and internationally. It also provides operational coordination and technical support for the various units of judicial police covering Spain's different geographical areas.

However, in the case of crime motivated by discrimination attributable to violent extremist groups, it is the General Information Office of the National Police (*Comisaría General de Información del Cuerpo Nacional de Policía*) and the Civil Guard's Information Command Centre (*Jefatura de Información de la Guardia Civil*) that have groups specialised in Internet-based terrorism for investigations involving websites, debate forums, portals, social networks and so forth.

III Comprehensive Strategy Objectives and Action

Objective 1. Step up investigation by Spain's police forces on discriminatory-motivated crime committed through the Internet or social networks, specifically incitement to hate, violence, and discrimination, and spreading of ideas that justify genocide as set forth in Articles 510 and 607.2 of the Criminal Code. Foster the adoption of these same measures by regional (Comunidades Autónomas) police forces.

Objective 2. Analyse legislation and assess whether there is a sufficient basis to respond to crimes motivated by racism, xenophobia, anti-Semitism, Islamophobia, or any other manifestation of intolerance associated with the Internet.

2.1. Amend the Economic Community Data Concentration and Public Network Act 25/2001, of 18 October in order to reflect jurisprudence set forth by Spain's Constitutional Court sentences⁸⁴, ensuring that for the purposes of the investigation, in order to ascertain whether a crime was committed and who the perpetrators were, the seriousness of the crime is not solely determined by the legally stipulated sentences, but that other factors are taken into account, such as the nature of the legal rights protected; the social significance of the behaviour; whether or not the crimes were committed by criminal organisations; and the impact of the use of information technology which facilitates perpetration and thwarts combating the crime.

2.2. Analyse the potential opportuneness of modifying the Economic Community Data Concentration and Public Network Act 25/2001, of 18 October so that the police or public prosecutor without the need for judicial authorization can obtain data on traffic and location, such as the origin of a communication, IP address identity and consequently the identity of those communicating via that IP address, that is not protected by the secrecy of communication, even though the data

84 In this regard Constitutional Court Sentences 299/2000, of 11 December, 123/2002, of 20 May, and 104/2006 of 3 April.

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may be personal, in order to enable a swift investigation and rapid judicial action. This was previously provided for under this law.

2.3. Analyse whether or not the Criminal Proceedings Act should be modified to expressly and specifically include mention of the fact that an investigating magistrate may agree, in the context of a criminal investigation, on measures to restrict or interrupt the provision of services or the removal of information from websites.

2.4. To foster ratification of the Additional Protocol to the Budapest Convention on Cybercrime 23/11/2001 (BOE 17/09/2010) on the criminalisation of acts of a racist and xenophobic nature committed through computer systems

Objective 3. Sustain and promote international strategies to combat racism and xenophobia on the Internet.

Objective 4. Promote self-regulation of Internet providers and users, as well as a commitment in the Internet industry to take on an active role vis-à-vis racist hatred and related intolerance on the Internet and develop and implement response mechanisms regarding freedom of expression.

Objective 5. Promote the creation of control mechanisms preventing racist or xenophobic opinions from being put on Internet forums, and particularly in digital newspapers.

Objective 6. Adopt mechanisms to warn and prevent against the organisation of racist, xenophobic and related intolerance events, such as hatred music concerts and xenophobic events.

Objective 7. Support efforts made by NGOs and civil society in following up on racist hatred, xenophobia, and intolerance related manifestations on the Internet, and support endeavours to share, publicise and denounce these manifestations.

Objective 8. Support efforts made by NGOs and civil society to file suit in court against any action inciting or promoting discrimination, hatred, or violence motivated by racism, xenophobia and related intolerance.

Objective 9. Support civil society in exploring ways to use the popularity or social networks to combat racism and intolerance.

Objective 10. Promote educational programmes targeted at children and young people to neutralise and prevent prejudice and racist, xenophobic, anti-Semitic, Islamophobic, or any other type of intolerance on the Internet.

Objective 11. Promote initiatives in education for tolerance, human rights, and democratic values through the Internet.

Objective 12. Amend the Information Society and E-Business Act 34/2002 so that when the rights of a victim or group of discriminated persons must be protected, judges may agree, in accordance with the principle of proportionality, and in accordance with procedural legislation and with due grounds, measures to restrict or interrupt the provision of services, or to remove information from websites.

7.7 Sport

I Context

Sport is considered to be one of the greatest drivers of ethical values in society. Values such as mutual respect, tolerance and fair play should be at the heart of all sports activities. However, sports and sporting events may also be a place for the spreading of racist, xenophobic and intolerant propaganda.

As indicated by the European Commission against Racism and Intolerance (ECRI) in its General Policy Recommendation Number 12 on the fight against racism and racial discrimination in sports, racist and xenophobic manifestations in sports go far beyond individual or group behaviour of fans. This same behaviour may come from leaders of clubs or federations, athletes and players or trainers. In short, racism and xenophobia affect all areas of sport, professional and amateur alike.

The ECRI makes a series of recommendations to States that can be grouped under three different areas:

- 1.** Ensuring equal opportunity to access to sport.
- 2.** Combating racism and racial discrimination in sport.
- 3.** Creating a coalition against racism in sport.

To conclude, the Fourth Report on Spain, approved in December 2010, recommends that the Government of Spain continue action taken to prevent and punish racist and xenophobic manifestations in sports.

II Action Carried Out

Spain has been working for years to combat violence in sports and sporting events. Drawing on its longstanding experience, it has put legislative instruments into place to underpin its action.

The violence prevention model linked to sport falls within the framework of the 1985 Council of Europe 'European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches', ratified by Spain in 1987.

Subsequently, the Sports Act 10/1990, of 15 October, adopted the precepts found in the European Convention, and included recommendations and measures proposed by the Senate's Special Committee on Violence in Sporting Events. The law highlights the establishment of a national commission against violence for these events, and the establishment of security breach offences, as well as sanctions for these offences.

In 2004, at the behest of the Higher Sports Council (*Consejo Superior de Deportes* -- CSD), an Observatory on Violence, Racism and Xenophobia in Sports, within the National Commission against Violence in Sporting Events, was established. Concern over violent acts associated with racism, xenophobia, and intolerance led to adopting prevention measures and sanctions against violent acts motivated by racism or xenophobia, and against racist, xenophobic and intolerant behaviour and attitudes.

In 2005, at the initiative of the CSD, a Protocol for Action against Racism and Intolerance in Football was signed with all football institutions in Spain. The protocol contains 31 specific measures for preventing, controlling, and sanctioning this type of conduct.

The work of the Special Committee, which was established in the Senate to study steps to eradicate racism and xenophobia in sport in Spain, culminated its work with the approval of Act 19/2007 of 11 July, against violence, racism, and xenophobia and intolerance in sport. This legislation introduces a series of new features, which can be summarised as follows:

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- 1.** In order to deal more uniformly with all law on the prevention and repression of sports-related violence, racism, xenophobia and intolerance, the new legislation reiterates the entire section devoted to the prevention of violence in sporting events as well as certain aspects of the disciplinary regime from the Sports Act.
- 2.** Also, for the first time in Spanish legislation, there is a definition, or more accurately, a list of acts and behaviour that is considered to be racist, xenophobic or intolerant. This list is separate to the definition of violent conduct or acts that incite violence in sports. These lists are set forth in Article 2 and are decisive when it comes to sanctions. For the first time, committing these acts not only in or around the sports arena, but also in public transportation organised to attend the event, is included.

This legislation applies to official sports competitions within Spain organised by sports organisations as provided for in the Sports Act 10/1990, of 15 October, or other sports competitions that may be organised or authorised by Spanish Sports Federations.

This act has been further developed through two Royal Decrees: Royal Decree 748/2008, of 9 May, regulating the State Commission on Violence, Racism, Xenophobia and Intolerance in Sports (*Comisión Estatal contra la violencia, el racismo, la xenofobia y la intolerancia en el deporte*) which replaces the previous national commission against violence in sporting events; and Royal Decree 203/2010, of 26 February which approves the regulation on the prevention of violence, racism, xenophobia and intolerance in sports.

III Comprehensive Strategy Objectives and Action

Objective 1. Develop mechanisms to eliminate racism, racial discrimination, xenophobia and related intolerance from sports.

- 1.1.** Establish a monitoring system on discrimination motivated by ethnic or national origin, in access to practicing sports in all federations, particularly in amateur and children's sports.
- 1.2.** Establish a registration system of racist and xenophobic manifestations and of related violence and intolerance, particularly for professional football grounds. Special attention must be paid to grounds frequented by extremist groups.
- 1.3.** With cooperation from the Higher Council for Sport (*Consejo Superior de Deportes*), extend international recommendations and action against racism, racial discrimination, xenophobia and other forms of related intolerance to all sports federations.
- 1.4.** Promote training for sports entities (leaders of clubs and federations, athletes, coaches and staff, etc.), in racism, racial discrimination, xenophobia and other forms of related intolerance.
- 1.5.** In cooperation with the Higher Council for Sport (*Consejo Superior de Deportes*), foster investigation of racial discrimination, xenophobia, and related intolerance. Work with all signatory parties in applying the protocols for action signed in this area, particularly regarding action to protect and prevent racist and xenophobic action and related violence and intolerance.
- 1.6.** Cooperate with the State Commission and Observatory on Violence, Racism, Xenophobia and Intolerance in Sport to compile statistics, questionnaires and other work pursuant to current legislation.
- 1.7.** Encourage the application of strategic prevention, monitoring, sanction, and repression measures against racist hatred, xenophobic, or

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discriminatory intolerance, or violent behaviour as set forth by law and by regulation.

- 1.8.** Adopt the tools and procedures required to begin proceedings to ban those who participate in racist and violent intolerance incidents from football grounds, pursuant to current law.
- 1.9.** Adopt the necessary mechanisms and requirements for clubs to keep a record (*Libro de Registro*) of football hooligans. This will ensure that these individuals cannot remain anonymous and put an end to the privileges of extremist groups by enforcing sanctions for racist conduct and related intolerance and violence pursuant to current law, including closing down grounds and other legal action stipulated for the criminal conduct of racism, xenophobia and related intolerance and violence.
- 1.10.** Promote measures to underpin harmonious interaction and integration in sport (Articles 16 and subsequent articles in Act 19/2007, of 11 July against violence, racism, xenophobia and intolerance in sport), as a form of awareness-raising.

Objective 2. Develop mechanisms to ensure equal opportunities in accessing sports, including special temporary measures for the most underprivileged groups.

Objective 3. Revise the statutes of sports federations to ensure that all categories allow for both membership and hiring in the context of regulating procedures for employment-related flows of migrants and/or applicable legislation on non-EU citizens.

7.8 Awareness-Raising

I Context

The stereotypes, prejudices, and stigmas affecting foreign-born citizens and citizens of ethnic minorities generate barriers that compromise the equal treatment and full participation of these citizens. Awareness-raising must therefore be at the heart of any strategy to combat racism, racial discrimination, xenophobia and related intolerance.

Awareness-raising encompasses action aimed at influencing ideas, perceptions, stereotypes, and concepts of individuals and groups to trigger a change in attitudes in social, individual, and group practice. In order to change stereotypes and prejudices, awareness-raising must be conceived as a process with medium- and long-term results, as a series of coordinated actions.

The seventh of the European Union's Common Basic Principles for Immigrant Integration, approved by the Council of Ministers of Justice and Home Affairs in Brussels on 19 November 2004, highlights the importance of the "implementation of active anti-discrimination policies, anti-racism policies, and awareness-raising activities to promote positive aspects of a diverse society".

For its part, the European Communication on Immigration, Integration, and Employment (COM 2003/336) indicated the need to consolidate the fight against discrimination through "raising public awareness of Community and national law prohibiting discrimination".

Awareness-raising is also a basic, strategic component of the various recommendations of the Durban World Conference Plan of Action as well as various periodic reports of the CERD, ECRI and FRA. As seen above, the importance of raising awareness and educating in values of mutual tolerance, respect for cultural diversity, intercultural dialogue, peaceful interac-

7. Specific Areas | 7.8. Awareness-Raising

tion, human rights, and democratic citizenship is highlighted by all of these organizations, which also indicate the importance of relying on civil society for carrying out awareness-raising.

According to 2009 Eurobarometer data⁸⁵ on perceptions and experiences regarding discrimination, the European population perceives racially or ethnically motivated discrimination as the most widespread form of discrimination in the EU (61%), followed by discrimination due to age (58%) and disability (53%). The perception of racially or ethnically motivated discrimination has not substantially varied as compared to other surveys done in previous years.

Insofar as efforts made to combat discrimination are concerned, the survey revealed that people belonging to an ethnic minority group tended to believe that not enough was being done. Furthermore, only one third of those responding to the survey said they were aware of their rights should they fall victim to discrimination.

Similar results can be found in this survey regarding Spain.⁸⁶ Those surveyed considered ethnically motivated discrimination to be the most widespread form of discrimination in the country, although as compared with the European average, Spanish citizens were more likely to consider that enough is being done to combat the various forms of discrimination.

In 2010, the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Origin conducted the first panel on racially and ethnically motivated discrimination as perceived by the victims themselves. One of the noteworthy results of the study is the gap between spontaneously identified discrimination and the objective facts attributable to ethnically motivated discrimination. In addition, a large portion of the situations of discrimination, including racial discrimination, xenophobia, and other related intolerance, occur in public places, shared by everyone.

85 EUROSTAT, special Eurobarometer 317, 2009.

86 See: “Informe de Resultados 2010 sobre la Red de Centros de Asistencia a Víctimas de Discriminación por Origen Racial o Étnico.” (Report on the 2010 Results of the Network of Centres for Victims of Racially or Ethnically Motivated Discrimination)

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These places stand as symbols of democracy, prosperity, harmonious interaction, and rights.

In this regard, the discourses and public statements made by politicians in general, and particularly so during election campaigns, when rejection or prejudice manifested towards certain segments of the population identified by their ethnic or racial origin clearly fosters discrimination and exclusion of a portion of citizens belonging to Spanish society.

For this reason, in its plenary session on 5 May 2011, the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Origin approved a proposal to “prevent the use of discriminatory, racist, or xenophobic discourse in election campaigns”. The text approved states that it *“is fundamental to avoid populist, xenophobic, discriminatory or demagogic discourse regarding migration, which in any event responds to personal, social, economic, and political processes that are complex for both receiving countries and countries of origin. Diversity must be dealt with through serious, serene debate in a non-partisan political context where consensus is sought among the various political and social forces, and without provoking confrontation at any time”*.

Along these same lines, the Forum for the Social Integration of Immigrants issued a statement on 4 May 2011 where it made a *“call to all political parties for immigration not to be used for partisan purposes and for all xenophobic and hostile messages towards immigrants in election discourse and proposals to be avoided. Otherwise, an increase of xenophobic attitudes and conduct would be fostered, thereby jeopardising harmonious interaction and social cohesion in neighbourhoods, towns and cities”*.

II Action Carried Out

Over the last few years there has been an increase of awareness-raising programmes and activities carried out by various levels of government in areas such as employment and economic activity, education, housing, and social and health services. At the same time, measures have been adopted to increase immigrant participation in social and cultural life. However, one key sector has been prioritised less, and that is the public institutions working in justice and safeguarding of fundamental rights. Awareness-raising action must therefore be stepped up in this area.

Some of the functions of the Directorate General for Equality in Employment and against Discrimination, falling under the Secretariat of State for Equality in the Ministry of Public Health, Social Policy and Equality, are to promote and develop the mainstreaming of the principle of equal treatment and non-discrimination, to promote measures aimed at assisting and protecting victims of discrimination, and to formulate social awareness-raising, information, participation initiatives and activities as well as any others required to promote equal treatment and non-discrimination.

The Directorate General for Immigrant Integration, through the Immigrant Reception, Integration, and Educational Support Fund has been carrying out various awareness-raising programmes involving:

- ▶ Support for actions to promote a positive image of immigration in order to highlight immigrants' contributions to all spheres of life, and to combat prejudices and stereotypes.
- ▶ Support for projects aiming to improve how immigration is portrayed in the media, particularly in local and regional media.
- ▶ Action aimed at establishing both forums where the immigrant and autochthonous population can come together and awareness-raising activities targeted at both groups.
- ▶ Implementation of activities that enable transfer of knowledge and best practices.

7. Specific Areas | 7.8. Awareness-Raising

Thanks to the various activities undertaken by the different levels of government, an ensemble of awareness-raising experience has now been pooled, and materials have been put together that require further distribution.

Coordination of awareness-raising action between various actors must also be encouraged so that knock-on effects can be generated, and so that awareness-raising strategies can be sustained over time in order to be effective.

Generally speaking, it should be noted that any awareness-raising strategies must take into account not only the diversity of their audiences, but also their various stances on immigration, because the degree of tolerance and type of prejudice varies greatly from one person to another, irrespectively of which segment of the population (autochthonous, immigrant, or any other) he or she belongs to⁸⁷.

87 See the Strategic Plan for Citizenship and Integration 2007 – 2010, pp. 175 - 177

III Comprehensive Strategy Objectives and Action

Objective 1. Implement awareness-raising measures aimed at the population at large, at public institutions, the media, and the police and security services in order to prevent and combat prejudice and attitudes of intolerance, discriminatory social conduct, hatred, racial violence and xenophobia, and to foster mutual knowledge and a cross-cultural society⁸⁸.

- 1.1.** Hold meetings and workshops to exchange and spread experience and best practice linked to awareness-raising.
- 1.2** Disseminate informative material on how the population's perception of the fight against racism, xenophobia, discrimination and related intolerance has evolved.
- 1.3** Foster and implement action to disseminate the anti-discrimination legislation among those working in protecting rights.
- 1.4** Foster and implement action to disseminate European anti-discrimination legislation.
- 1.5** Recommend to political parties that they avoid making generalisations or incriminating groups due to their racial or ethnic origin, beliefs, religion, etc.
- 1.6** Recommend to political parties that they avoid the use of pejorative, racist, or discriminatory language in their public discourse as this fosters the perpetuation of negative stereotypes, prejudice, and attitudes of rejection.
- 1.7** Foster inclusive political discourse that reflects understanding and respect for differences, harmonious interaction, and positive relations, and that fosters the right to equality and promotes the value of a diverse society in order to ensure that all citizens can actively exercise their prerogatives as such.
- 1.8** Publicly condemn acts of discrimination, rejection and violence.

⁸⁸ Recommendation "Ensure equal treatment and fundamental rights of the Roma population in Eastern Europe and Spain"

7. Specific Areas | 7.8. Awareness-Raising

Objective 2. Capacitate and involve social partners, public employees, and professionals associated with government in the fight against racism, xenophobia and related intolerance.

- 2.1.** Carry out training: courses, seminars, workshops, etc. for civil servants and public employees, primarily in the areas of health, employment, social services, security, and justice.
- 2.2.** Develop training plans for social partners and anti-discrimination professionals.
- 2.3.** Develop specific awareness-raising aimed at civil servants in the Justice Administration and the Police Force.

Objective 3. Encourage companies not only to carry out action in the field of social responsibility aimed at promoting conditions of equal treatment and non-discrimination both within their companies and in their social environments, but also to include measures and action on cultural diversity in their human resource policies.

Objective 4. Include equal treatment and non-discrimination in all public policy.

- 4.1.** Work towards the establishment of awareness-raising plans and strategies on both the regional and local levels.
- 4.2** Establish forums so that equal treatment and non-discrimination policies from the various levels of government can be shared and compared.
- 4.3** Support initiatives between associations, establishment of forums and/or platforms, or any other initiative geared towards awareness-raising against racism, xenophobia and related intolerance

7. Specific Areas | 7.8. Awareness-Raising

Objective 5. Promote social awareness-raising strategy plans tied to harmonious interaction and participation on a local scale.

5.1. Promote action to analyse the degree of harmony or conflict on a local level, at work, in neighbourhoods, public areas, building associations, schools, associations, and leisure and recreational spheres.

5.2. Promote meeting places so that awareness-raising strategies can be built through participation among the three leading groups on the local level: citizens themselves, experts and professionals, and the local government authorities.

8

Strategy Monitoring and Evaluation⁸⁹

⁸⁹ The principles and guidelines for evaluating and monitoring the National Plan against Racism and Xenophobia fall into line with those put forward in the Second Strategic Plan for Citizenship and Immigration (*II Plan Estratégico de Ciudadanía e Inmigración*) and with the Action Plan for the Development of the Roma Community (*Plan de Acción para el Desarrollo de la Población Gitana*).

8. Strategy Monitoring and Evaluation

One of the key aspects in the National Strategy for the fight against racism, xenophobia and related intolerance is to establish mechanisms to evaluate and monitor the policies in place to assess progress in integration and harmonious interaction.

Evaluation is a broad concept suggesting systematic research by which value judgements can be made, in this case on the Comprehensive Strategy. The evaluation will therefore focus on compliance with the strategy's general objectives and may even call the pertinence of these objectives into question. It will include assessment of the impact that measures have on both affected groups and society at large. The broad concept of evaluation therefore includes assessing the strategy by using efficacy, efficiency and impact criteria.

By evaluating the public policy, programmes, and action carried out in the context of the Strategy, we will be able to:

- ▶ Rationalise the use of resources and improve the quality of government services performed for citizens, because we will be able to evaluate public policy impact, generate lessons learnt both by the various levels of government and by other players intervening in the process, improve the cooperation of those involved in management, and correct inefficiencies in public action.
- ▶ Foster participation and transparency, because they bolster the role of citizens, whose opinions are heard; they foster accountability for policies and the use of public resources; and they involve civil society in improving the quality of services offered, thereby improving the democratic quality of the processes.
- ▶ Establish a basis for public action, since the evaluation will enable strategic decisions to be set out and priorities to be defined for combating racism and xenophobia.

8. Strategy Monitoring and Evaluation

A Comprehensive, Participative, and Training-oriented Evaluation

The evaluation will involve a set of areas and lines of action defined by the Strategy and will be comprehensive, participative, and training-oriented.

Comprehensive. The evaluation will be comprehensive because in each one of the areas and lines of action, it will analyse both ‘rationality’ and ‘consistency’. Rationality analysis will involve assessing the relationship between both the needs detected and the problems diagnosed and the objectives put forward by the Strategy in each one of the areas of intervention. Consistency analysis will involve assessing the match between the objectives pursued and the instruments mobilised to meet those objectives. This comprehensive evaluation therefore includes three key aspects:

- ▶ Efficacy, that is, the relationship between the objectives pursued and the results obtained.
- ▶ Efficiency, meaning the relationship between the tools and the measures implemented and the results obtained.
- ▶ The results of the Strategy and its programmes and their impact on covering needs detected and solving problems diagnosed.

A comprehensive evaluation must be able to base itself on the various areas and programmes included under the Strategy and use them as the groundwork to make specific recommendations enabling priorities, objectives, and programmes to be reoriented. The evaluation is thus a tool for improving the management of public policies related to the fight against racism, xenophobia, and related intolerance.

Participative. The evaluation must be participative. The various stakeholders will therefore be included in the process and will take part in formulating and implementing the Strategy and its programmes. Programme beneficiaries and target groups will also participate. The participative nature is more than just a democratic political requirement; it adds efficacy to the

8. Strategy Monitoring and Evaluation

evaluation process. Stakeholder participation enables certain aspects that are often overlooked in the quantitative and qualitative indicators designed at the outset to be included.

The participative nature of the strategy evaluation will enable both the process and the results to be used to as tools to foster social and political debate not only on integration, diversity management and harmonious intercultural interaction, but also on the very public policies carried out to combat racism, xenophobia, and related intolerance. .

Training-oriented. The evaluation must serve as training for all those involved in formulating and implementing the Strategy. One of the purposes of the evaluation must be for public authorities, various levels of government, social partners, NGOs, and stakeholder associations to learn lessons and assess the work they have been performing in this area, as well as its rationality, consistency, efficacy, efficiency, and impact.

This training approach in the evaluation will serve to generate and spread knowledge and innovation to the fight against racism, racial discrimination, xenophobia, and related intolerance through public policies in this field.

8. Strategy Monitoring and Evaluation

Strategy Monitoring

Monitoring should be understood as the fulfilment of specific objectives and measures contained in the Strategy. In order to monitor the Strategy, we therefore propose drawing up reports, technical documents, and a system of indicators enabling checks to be performed on fulfilment of the proposed measures and actions.

In order to do so, the General Directorate for Immigrant Integration shall coordinate the production of technical documents through the Spanish Observatory on Racism and Xenophobia. These technical documents shall be oriented towards:

- ▶ Drafting *Monitoring Reports*, including statistics gathered on racism, racial discrimination, xenophobia, and related intolerance.
- ▶ Drafting and presenting *Feature Reports*, on various aspects linked to the areas of intervention in the Strategy.

Among these reports is the annual survey conducted by the Centre for Sociological Research (*Centro de Investigaciones Sociológicas* - CIS), which includes variables that enable follow-up on the development of racist and xenophobic attitudes in Spanish society. This will in turn provide continuity and follow-up on to the study “Attitudes regarding racially and ethnically motivated discrimination in 2007” (*Actitudes ante la discriminación por origen racial o étnico* in 2007) and “Attitudes towards immigration” (*Actitudes hacia la inmigración*) in 2008, 2009 and 2010⁹⁰. Monitoring the Strategy will enable:

- ▶ The development of attitudes towards immigration in Spain to be traced with a certain degree of hindsight through the publication of the “*Informe de la Evolución del racismo y la xenofobia en España*” reports.

⁹⁰ The survey will be financed through the Secretariat of State for Immigration and Emigration in the Ministry of Labour and Immigration, and will be done in cooperation with the CIS.

8. Strategy Monitoring and Evaluation

Coordinate the drafting of reports and studies with the Council for the Promotion of Equal Treatment and Non-Discrimination on Racial or Ethnic Grounds, and with the State Council for the Roma People (*Consejo Estatal del Pueblo Gitano*), orientated towards:

- ▶ Supporting the study, analysis, and identification of discriminatory factors in central, regional and local legislation.
- ▶ Supporting the study, analysis, and identification of players that intervene in discriminatory processes, hatred, and violence motivated by racism, racial discrimination, xenophobia, and related intolerance..

The development of a system of indicators that allows for knowledge to be ascertained on the causes, breadth, development, nature, and effects of racism, racial discrimination, xenophobia, and related intolerance.

APPENDIX International Conventions and
Declarations ratified by Spain
on Racism, Discrimination,
and Xenophobia

APPENDIX. International Conventions and Declarations ratified by Spain on Racism, Discrimination, and Xenophobia

1. Universal Declaration of Human Rights, of 10 December 1948.
2. International Convention on the Elimination of All Forms of Racial Discrimination, of 21 December 1965, which Spain joined through an instrument on 23 April 1968, and which entered into force in Spain on 4 January 1969.
3. The Convention on the Elimination of All Forms of Discrimination against Women, of 18 December 1979, ratified by Spain on 5 January 1984.
4. International Pact on Civil and Political Rights, of 16 December 1966, ratified by Spain on 27 April 1977, and its optional protocol, ratified on 25 January 1985.
5. International Pact on Economic, Social, and Cultural Rights of 16 December 1966, ratified by Spain on 27 April 1977.
6. The Convention of the Rights of the Child, of 20 November 1989, ratified by Spain on 6 December 1990.
7. International Labour Organization Convention number 97 on migrant workers, of 1 July 1949, ratified on 21 March 1967.
8. International Labour Organization Convention number 111 on discrimination in employment and occupation, of 25 June 1958, ratified by Spain on 6 November 1967.
9. Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, of 4 November 1950, ratified by Spain on 4 October 1979.

APPENDIX. International Conventions and Declarations ratified by Spain on Racism, Discrimination, and Xenophobia

- 10.** European Social Charter, of 18 October 1961, signed by Spain on 27 April 1978, and ratified on 6 May 1980.
- 11.** Council of Europe Framework Convention for the Protection of National Minorities, of 1 February 1995, ratified by Spain on 1 September 1995.
- 12.** Protocol number 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms (E.T.S.117), of 22 November 1984, signed by Spain on 22 November 1984 and ratified on 16 September 2009, and in force in Spain since 1 December 2009.
- 13.** Protocol number 12 of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, of 4 November 1950, ratified by Spain on 13 February 2008.
- 14.** Convention on Cybercrime (E.T.S. 185), of 23 November 2001, ratified by Spain on 3 June 2010, and in force since 1 October 2010.
- 15.** Convention on the Prevention and the Punishment of the Crime of Genocide, of 9 December 1948, which Spain joined on 13 September 1968, and which has been in force since 8 February 1969.
- 16.** Rome Statute of the International Criminal Court, of 17 July 1998, ratified by Spain on 24 October 2000, and in force since 1 July 2002.
- 17.** Convention against Discrimination in Education, of 14 December 1960, signed by Spain on 20 August 1969, and in force since 20 August 1970.



MINISTERIO
DE TRABAJO
E INMIGRACIÓN

SECRETARÍA DE ESTADO
DE INMIGRACION
Y EMIGRACION

DIRECCIÓN GENERAL
DE INTEGRACION
DE LOS INMIGRANTES