

Discrimination and the Roma Community

FSG Annual Report 2021



IN DEPTH:
THE IMPACT OF THE PANDEMIC
ON DISCRIMINATION AND
ANTIGYPSYISM

364 cases of discrimination
Progress, best practice and
case law
Strategic litigation by FSG

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CONSEJO PARA LA ELIMINACIÓN
DE LA DISCRIMINACIÓN
RACIAL O ÉTNICA



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Chapter 1



Introduction





Introduction

Once again this year, Fundación Secretariado Gitano (FSG) presents its Annual Report “Discrimination and the Roma Community”, to shine a light on discrimination and violations of the right to equal treatment that Roma people in our country still face. This 17th edition documents the cases we have handled in 2020, a particularly special year given the COVID-19 pandemic that has not failed to touch the lives of anyone across the globe. Sadly, **COVID-19 has been yet another pretext for growing antigypsyist discourse, linking Roma people to transmission of the virus and breaking health measures, which has whipped up hate and discrimination.** Likewise, the state of emergency and the pandemic itself have dictated how discrimination has played out, causing a rise in cases by the police and in access to goods and services. It is for this reason that we have dedicated our in-depth study in this year’s annual report to the impact of the COVID-19 pandemic on the rise in discriminatory attitudes towards Roma people, and most importantly, the personal and collective impact of these actions on Roma families.

To do so, we have relied on a number of anti-racism experts to offer their perspective on this issue. We are deeply grateful to them for offering their knowledge and experience both to the report and, more broadly, to our mission to fight for equality and combat discrimination. The Head of the Equality and Anti-discrimination Department, Cristina de la Serna, and expert discrimination lawyer, of the Calí programme, Selene de la Fuente, write about the crisis, namely the impact of the COVID-19 pandemic on discrimination and antigypsyism. Likewise, Demetrio Gómez and Javier Sáez write about the sometimes-traumatic human impact of the expressions of antigypsyist hate in relation to the pandemic, based on a new study that FSG has published this year, featuring interviews with Roma people. Carolina Coldeira and David Martín Abanades, local police officers who specialise in managing diversity, write about the pandemic and discrimination from the perspective of law enforcement. Michaela Moua, the recently appointed European Commission Anti-Racism Coordinator, tells us about the new EU anti-racism action plan and the impact of the COVID-19 pandemic across Europe.

As in every annual report, we have collated all the cases we handled in 2020 in which, following our expert intervention, we could confirm that a discriminatory or antigypsy hate incident had taken place. This year, you can find a summary of the cases in the printed version of the report; a detailed recounting of the events, our intervention and the outcome are published in the more extensive online version, which you can find on our website www.gitanos.org (in Spanish). In addition, **in 2020 we instituted a digital database of information from every single annual report on discrimination and the Roma community that the FSG has published.** You can view it at <https://informesdiscriminacion.gitanos.org/informes-completos-ingles>. This microsite also offers detailed searches and exploitation of data with various criteria: locations, types of discrimination, year, number of cases, type of victims, and more.

The total number of cases in this year’s report is 364, a drop of 58 on the previous year. The drop in cases is mostly because in 2020, the European Commission Code of Conduct did not perform a monitoring round on countering illegal hate speech online, which FSG has been participating in as a trusted flagger for the past six years. FSG usually reports more than 100 cases of antigypsyist hate speech in these monitoring rounds, which this year are absent from our report. However, we have reported numerous cases of poor practice in the media that tied the Roma community to the spread of the COVID-19 virus.

This year we have continued to pursue the litigation strategy as a way of securing favourable court rulings for victims of discrimination and antigypsyism, improving the response from the courts and their case law in these cases, and raising awareness among the authorities and society as a whole of the human impact of discrimination and the importance of tackling it. As we have already said, 2020 was a year marked by the COVID-19 health crisis, which pushed up the number of reported cases of antigypsyist hate speech directed at the Roma community on social media. **Seven of the 11 cases reported to specialist**

provincial public prosecutors this year were for antigypsyist hate speech. The lockdowns have also driven up the number of cases of antigypsyist neighbourhood harassment, which we have reported to the authorities.

The current situation highlights more than ever that our legal system desperately needs a comprehensive equality and anti-discrimination law to allow us to complete the criminal legal framework, with a public regulation to respond properly to the various forms of discrimination and antigypsyism and, above all, to give victims an effective resource to turn to when their rights are violated because of their ethnic origin. Our country cannot continue to tolerate the gaping hole in our legislation, which is why we approve of the steps currently being taken by the institutions in charge of passing this law, which we hope will shortly become a reality.

2020 was also an important year for FSG because in March we won a public tender to continue operating as a coordinator of the **Assistance Service for Victims of Racial or Ethnic Discrimination**, which has been provided throughout Spain for years, in conjunction with eight organisations, in the context of the Council for the Eradication of Racial or Ethnic Discrimination (CEDRE), via a contract with the Spanish Ministry for Equality. Through the new contract, the assistance service will be secured until March 2022.

We must highlight the role that our Equality Officers (mostly Roma women) have been playing since 2016 as part of the Calí programme, for the equality of Roma women. The inclusion of these officers has contributed to an improvement not just in the care for victims of discrimination and antigypsyism with an intersectional approach, but in Roma people's awareness of their rights when faced with discrimination. It would have been impossible to write this report without their work to identify cases and deal with them. I pay tribute to them all.

As always, it goes without saying that our greatest thanks goes to each of the victims of discrimination and antigypsyism for their bravery in reporting these cases. This year, we must commemorate in particular all those whose lives have been lost to this dreadful pandemic, as well as all the families who have been affected by COVID-19.

Sara Giménez

President of Fundación Secretariado Gitano

Chapter 2



Conclusions and summary of cases of discrimination





Summary of cases documented in 2020.

Conclusions and recommendations.

In 2020, FSG documented and handled 364 cases of discrimination, 61 fewer than the previous year. The drop in cases is partly owing to the fact that in 2020 there was no *monitoring round of the code of conduct to counter hate speech online* signed by internet companies and the EU; every year, FSG reports more than a hundred such cases, which are included in this report. An added cause is the reduced mobilisation of victims due to the COVID-19 pandemic: often, reporting cases of discrimination is not high among their priorities.

In this chapter we summarise the cases we have documented, with further details available in the online version of the report. We have also included a series of recommendations for the authorities to ensure an effective response to discrimination against the Roma community and incidents of antigypsyist hate in each area.

1. General observations: lessons learnt from the pandemic. Hate and antigypsyism are still highly prevalent, and there is a pressing need to strengthen the institutional and regulatory framework.

As is shown in detail in the online version of the Report, and as we examine in the In-Depth chapter, the COVID-19 crisis has shown the extent to which stereotypes and prejudices against the Roma community are entrenched in our society, a precursor to hate discourse and discriminatory incidents. The pandemic has produced specific forms of antigypsyism, at the same time as demobilising victims in the face of a social emergency and a legal-institutional context that does make it easy for one to exercise their rights. We believe that we must emerge from the crisis stronger in all aspects, including in the fight against discrimination and hate crime, and through this, more quickly take urgent measures to bolster the institutional and regulatory framework that will help to combat this scourge.

Throughout this difficult period we have once again faced great difficulties trying to respond to incidents of discrimination that are not criminal (the most common ones). We have had to resort to channels that are not really designed for reporting discrimination, and which are rarely effective. We have also ascertained that when cases are reported that do reach the courts, there is not always an effective investigation of the reported incident, nor is there a response from the courts that takes into consideration the discrimination or hate elements of the illegal act.

This year we have also seen a great deal of underreporting by Roma victims of discrimination and hate crime. In addition to the usual reasons (lack of knowledge of their rights, distrust of a system that often is not up to scratch when responding to incidents, and can even revictimise them), we have seen a serious health, social and economic crisis, which, as we have said, has had a very severe effect on the Roma community. This has been demotivating, either due to fear of losing basic assistance, or due to not believing that reporting their case is a priority.

Akin to other years, we have also found a great many cases of intersectional discrimination, in which other situations of vulnerability are at play as well as Roma ethnicity.

Gender is one of the most common vectors of intersectional discrimination. Roma women face highly complex social barriers and therefore require specialist attention and support, which our Equality Officers offer in the context of the programme “Calí. For equality of Roma women”. We have found other vectors of intersectional discrimination as well as gender, such as the fact that some Roma

victims are migrants, have a disability or, very often, are vulnerable in socio-economic terms (let us not forget that poverty rates among the Roma community are far higher than among the general population, which has only been exacerbated by the pandemic).

This is why we are appealing to the Spanish authorities to take the following steps to improve the response to discrimination and antigypsyism, with an intersectional focus:

- **Approval of the comprehensive equality and anti-discrimination draft legislation** currently being debated in the Spanish Parliament. We hope that the final version will include all international and European standards, specifically referring to antigypsyism and intersectional discrimination, including the creation of an independent national authority to issue reports, handle cases of discrimination and represent victims before the courts in symbolic cases.
- The approval in 2022 of a **National Anti-Racism Action Plan**, in application of the EU Anti-racism Action Plan 2020-2025¹, and following the guidance from the European Commission (including that the involvement of civil society and the affected communities is essential), which offers specific measures to prevent discrimination and antigypsyism in all areas in its scope.
- **Training in anti-discrimination law and the Victim's Statute for all key stakeholders in this area:** judicial powers, public prosecutors, lawyers and the national security forces.
- The **provisioning of sufficient resources for all institutions engaged in the fight against racial or ethnic discrimination** at all levels: Directorate General for Equality and Ethnic-Racial Diversity, the Council for the Eradication of Racial or Ethnic Discrimination (CEDRE), public prosecutors specialising in hate crimes and anti-discrimination, specific units of diversity or hate crimes of the various police forces, municipal offices to combat discrimination, etc. All these public bodies are essential to combat the various forms of racism, xenophobia and antigypsyist, and to offer an effective response for victims of this scourge, but often they are unable to act effectively due to lack of resources.
- The establishment and sufficient provision of resources for specialist **programmes providing comprehensive support for Roma woman**, above all the most vulnerable, with the aim to empower them to exercise their rights in the face of intersectional discrimination and gender violence, improve education and professional training, join the workforce, improve their self-esteem and self-assurance and overcome traditional gender roles.

2. Discrimination and antigypsyism in the media during the pandemic.

In 2020, we collated a total of 129 cases in the **media**. This year, news about COVID-19 has dominated. Unfortunately, occasionally it has been the case that certain media outlets link the Roma community to the spread of COVID, which has prompted antigypsyist hate speech from some readers. This is yet another example of the damage that can be done from reporting ethnicity in a news article. Clearly, the ethnicity of a patient or victim of COVID is irrelevant to a story, but mentioning ethnicity can cause that community to be associated with the high infection rates, the illness or irresponsible behaviour, prompting hate and discrimination. That is why this report analyses the effects of the pandemic on the rate of antigypsyism.

1 - Available at:

https://ec.europa.eu/info/sites/info/files/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_es.pdf

Aside from these COVID-related cases, we have found other cases that mention the ethnicity of the persons involved, in violence and crime. In these cases, as we have been doing for years, we wrote to the media outlets to explain that mentioning ethnicity is contrary to the ethics codes of the media themselves, and damages the social image of Roma people. In some cases, the media recognise their mistake and remove the mention of ethnicity, and also promise not to repeat this bad practice, showing how useful the FSG's awareness-raising work is in this area.

In order to improve the social image of the Roma community, and prevent another kind of discrimination that Roma people suffer, we appeal to:

- **The media** to make **a greater commitment to journalistic codes of ethics, to stop the proliferation of stereotypes or the mention of ethnicity in news items when it is not relevant**, and for greater awareness of the impact that this media coverage has on the collective image of Roma people — a negative image that can trigger hostile attitudes or discrimination against Roma.
- **The authorities** at all levels to **promote awareness campaigns** showing a diverse, not stereotyped image of the Roma community, thus offering a counter-narrative to prejudice and hate speech.

3 . Antigypsyist hate spread on social media.

We have identified 219 cases of hate speech on social media.

As we have mentioned, for the past six years Fundación Secretariado Gitano has been involved in the monitoring rounds carried out by the European Commission on the Code of Conduct signed by internet companies to remove illegal hate speech from social media, but in 2020 there was no monitoring, which is why there are fewer cases than in last year's report. The cases we have found this year are just a small sample of the huge amount of hate speech published on social media. Many of these cases are also connected to the COVID crisis, where the Roma community have been blamed for spreading the virus, being on the receiving end of dehumanising hate messages that sometime incite violence. For that reason, FSG reported some of these cases to the public prosecutor as illegal hate speech².

An alarming example of these dehumanising messages was found on social media following an incident in Toledo. During the state of emergency, police officers and a tow truck began to remove cars owned by Roma residents in the "El Paredón" that did not have a current ITV technical vehicle inspection. There was outcry among the local Roma residents, who accused the police of applying discriminatory pressure tactics. Videos of the confrontation were posted on Facebook and Twitter, prompting very serious antigypsyist hate in the comments, such as:

- "They are a bunch of fucking street rats and deserve to be rotting in the gutter".
- "Line them up for the firing squad; I'm sorry but they piss me off, especially what they did in Vitoria at the start of the pandemic".
- "Get them all to fuck off, they're a repulsive race".
- "Coronavirus is made from Gypsies".

2- Please see the chapter on litigation for further detail. Please visit the article by Demetrio Gómez and Javier Sáez in the section In Depth for more information on the impact of these messages on Roma people.

- “The Führer was right about what to do with that garbage...”
- “That race is the pandemic virus.”
- “The police do nothing, a shot to the head is what they need to get them in line. Those people”.

After collecting and certifying all the antigypsyist comments, a complaint was made with the Toledo public prosecutor. The case is currently awaiting resolution by the courts. Please see refer to the Strategic Litigation section for more details.

We therefore appeal to:

- **The leading social media platforms** to continue to engage and to **improve their response to antigypsyist hate speech**, automatically removing hate content.
- **Online forums** to **engage in the fight against antigypsy hate speech**, moderating comments and removing the most serious hate messages..

4. Denial of access to goods and services on discriminatory grounds.

In the section of **access to goods and services** we found numerous cases of discrimination this year (64 cases) in accessing restaurants, bars and night clubs and other leisure venues, where Roma people were unable to enter simply due to their ethnicity. This year we have identified certain cases that have arisen directly as a result of irresponsible news reporting and other messages that fingered the Roma community as to blame for COVID. These alarming messages have led to incidents where Roma people have been discriminated against in pharmacies and supermarkets, either being refused entry or service under the excuse of “transmission risk”. We have also identified **cases of intersectional discrimination**, where the discrimination is owing to two simultaneous factors, such as ethnicity and gender. An extremely common incident of this type consists of the excessive surveillance of Roma women in shopping centres and supermarkets, where security guards follow these women or accuse them of having stolen something, for instance

For cases of access to goods and services, FSG undertakes a number of different strategies: we submit formal complaints or we encourage victims to ask for an official complaint form. In other cases, we mediate with the manager of the premises, night club, bar, etc., to help them to recognise their mistake and stop refusing these persons entry. In more serious cases, we file complaints with the consumer affairs office or through judicial channels, but the law as it stands is not conducive to addressing this kind of discriminatory behaviour.

An example of a positive outcome came in a case in Salamanca, where two Roma sisters who were browsing in a shop were followed by a shop assistant, who forced them to open their handbags, saying that the security cameras showed that they had stolen items. The two sisters obliged and showed their bags, to demonstrate that they had not stolen anything, and asked why the remaining customers had not been asked to do the same. The women called the police, but when they arrived, one of the police officers behaved inappropriately. The women asked for an official complaint form, which they had to complete outside the shop and without a stamp or signature from the establishment. They women told the police officers that their treatment was the direct result of being Roma, and the police officer responded: “Don’t go to these sorts of places, it’s always the same from you lot.” As they were leaving, there was a sudden gust of wind, and the same police officer said: “Let’s see if the wind is racist too”, in a mocking tone. The victims were advised of their right to equality and non-discrimination, and were informed of their right to file a complaint with the consumer affairs office.

The women made a complaint, detailing what had happened to them and asking that it not happen ever again. There was a positive outcome: the company apologised and promised to investigate the incident, but assured the women that such behaviour would never happen again.

A comprehensive equality law is desperately needed to effectively respond to this kind of discrimination, including a proper sanctions framework for discriminatory treatment in businesses, shops and other public and private spaces where goods and services are provided. We also appeal to:

- **The local heads of consumer affairs offices**, to provide a swift and appropriate response when discriminatory treatment is reported.
- **Businesses and public providers of goods and services** to ensure that their staff treat the public equally and do not discriminate.

5. Discrimination and antigypsyism experienced by Roma schoolchildren

We detected 27 cases in **education** in 2020, in which different forms of discrimination were carried out against Roma schoolchildren. Some concerned remarks from certain teachers about the Roma community, using stereotypes, generalisations, etc. These stereotypes are particularly prolific when concerning Roma girls, for whom teachers tend to have very low expectations -a clear example of intersectional discrimination. Another type of case is bullying among pupils, namely non-Roma pupils insulting or assaulting Roma children due to the ethnicity.

An example of a positive outcome took place in Madrid. A Roma family with four children had been the victims of humiliating unfair treatment from certain teachers in a state-subsidised private school. When they were unable to pay the monthly school fee, due to their situation of vulnerability, they were prevented from taking part in school activities, and they were removed from the classroom during activities such as drama. They were told that if they could not pay for school uniform, they should go to another school. On one occasion, a teacher told the 11-year-old: "You're not made for this school." The school administrator told the parents that they were the only family in the school to receive basic minimum income from the state. They were sure that they were being discriminated against for being poor, but also suspected that it was because they were Roma. They wanted their children to be educated in a state-funded private school, since they knew they would not be able to pay private school fees, and the Schooling Committee told them that the monthly payment was voluntary. The mother was advised of her children's right to education in equal conditions and their right not to be discriminated against. The school's guidance department explained that they had never had any problems with the family. Our involvement had a positive outcome, as after that they no longer felt that they were being humiliated or discriminated against.

In order to prevent this kind of antigypsyist situations in schools, we appeal to the national and regional education authorities, and the education community as a whole, to take steps to:

- **Reduce school segregation** as part of an Inclusive Education Plan to Counter School Segregation. .
- Investigate, punish and respond **to the bullying of Roma children and teenagers** in school because of their ethnicity.



6. Discrimination in employment: barriers to equal opportunities

In the **area of employment** we have identified fewer cases than the previous year (28 cases in 2020, which is half that of 2019), perhaps partly due to the inactivity caused by the pandemic. Some cases were related to COVID-19, but the majority of cases were of companies that refused to accept CVs from Roma candidates, or who refused them interviews once they realise their ethnicity. Discrimination also takes place between co-workers, where Roma people working in a business receive insults, are subjected to stereotypes or negative remarks about the Roma community. Some victims are reluctant to report, for fear of retaliation when looking for a job in local businesses, or due to the difficulty of proving the racist motivation. These are important factors that explain the prolific underreporting of cases in Spain.

An example of a positive outcome took place in Cáceres. The project manager of a construction site contacted FSG and explained that the company had called him to tell him that one of his employees was not allowed to come to work because there was a rumour that his wife had coronavirus. The employee denied that he or his wife had coronavirus. The project manager was sure that this was a case of discrimination, because the employee was Roma and so was his wife, and asked for advice from FSG. FSG interviewed the site manager, who confirmed that the employee's wife was not ill, and that it was just gossip. The project manager was told how serious the situation was, and his options for how to proceed. He decided to forward the complaint to the company manager. FSG's involvement had a good outcome. The site manager spoke to the manager, who apologised to the employee and paid him for the days he had not been able to attend, and welcomed him back to work.

All these discriminatory practices pose an enormous barrier to Roma people entering the workforce and exercising their right to work. This type of discrimination is not only harmful to people's dignity, but stops people from enjoying a dignified life and personal and social development. For this reason, we appeal to:

- **Businesses** to focus more on ethnic diversity and to pursue awareness-raising initiatives to eradicate these stereotypes and enable fair access to the world of work..
- **Labour inspectorates** to investigate and, where appropriate, penalise discriminatory and antigypsyist incidents that take place in the realm of employment.

7. Discrimination in healthcare centres and hospitals

In **healthcare**, we identified eight cases in 2020 (the same as last year); however, discriminatory situations continue to occur in healthcare centres and hospitals. The most common cases are hostile treatment towards Roma patients by medical personnel, nurses or porters, and negative comments about Roma people. Some particularly alarming cases include the recording of ethnicity on patients' medical reports, which is against the law.

An example of a positive outcome took place in Segovia. A Roma woman became ill and called an ambulance. During her transfer to hospital, the ambulance technician mentioned the woman's ethnicity while speaking to colleagues, which was also recorded on the medical report. FSG verified the events and sent a letter of complaint to the hospital's management, asking that the mention of ethnicity be removed. The outcome was positive. The hospital management team responded, indicated that the mention of ethnicity would be removed from the medical records.

We appeal to the national and regional healthcare authorities to **improve intercultural skills of healthcare professionals, to avoid bias or prejudice when treating Roma people**, who are entitled to health and dignified and fair treatment like anyone else. In addition, poor treatment by these professionals can make Roma people hesitant or reluctant to attend healthcare centres when they need to, which could be aggravating to any medical conditions they may have.

8. Discrimination from the police: the vaguer the legislation, the greater the risk of arbitrary treatment and discrimination

In the area of **policing** we identified far more cases than in 2019 (25 cases in 2020 versus 10 cases in 2019). Many of these are connected to the COVID-19 pandemic and the lockdown period during the state of emergency. Lockdown legislation was not very clear about when penalties should be issued, leaving police officers with a great amount of discretion, which can result in arbitrary and discriminatory decisions. It seemed that certain neighbourhoods with a larger Roma population were excessively enforced, and in some cases Roma people were victims of mistreatment. There were also cases of ethnic profiling from police, a bad practice that many Roma people are subject to.

A particularly serious case, reported by FSG as a hate crime, took place in Murcia. A Roma boy was leaving home during the lockdown period to buy a pizza, when he encountered five national police officers at the door to the building, asking him where he was going. He answered and they asked for his ID. He responded that he was not carrying any, that he had left it at home and he could go and get it. The officers asked him if he was carrying any drugs on him. He said he was not, and they held him against a wall while they searched him. When they left, the boy went to get the pizza and returned home, got his ID card and left to meet his family members outside. Suddenly, the national police officers came up the stairs and said to him, "It was you, wasn't it?" and began hitting him. They arrested him and took him to the police station, having accused him of throwing a bottle at them out the window. The boy's aunt came down to see what was going on, and when she saw her nephew covered in blood, she swore at the officers and one of them punched her, leaving her unconscious on the ground. Another of the aunt's nephews saw her and went to defend her. The police officers violently attacked him, to the point that they had to take him to hospital, where he was treated for a broken jaw, broken cheekbone and head injuries. FSG was in contact with the family and their lawyer to assist in preparing the legal case and supporting the family, who had experienced excessive force. The case is pending a ruling, following accusations from both the police and the family.

For that reason, we urge the authorities to take steps within the security forces to:

- Introduce identification forms and independent bodies to enable **supervision of police activities** to prevent stops motivated by ethnic profiling.
- Establish **dialogue** mechanisms among the security forces and people affected by discriminatory controls to overcome stereotypes and improve relations.
- Encourage the **recruitment of Roma ethnicity officers** to make the police forces more representative of the society they serve.
- Improve **practical training** for officers on the principle of non-discrimination and effective, unbiased police action..



9. Discrimination in housing Roma people: barriers to access and racist harassment from neighbours

In the area of housing, we continue to find quite a number of discrimination cases (31 cases in 2020). Akin to previous years, the most common cases relate to some estate agents' or property owners' refusal to rent or sell a flat when they discover that the person or family wishing to buy or rent it is Roma. Another kind of cases, whose effects were exacerbated during lockdown, arises in relations between neighbours, i.e. non-Roma neighbours who are hostile to the fact that there are Roma neighbours in the building or who unfairly report Roma families to the police to harass them. We are seeing once again that the discrimination is not just illegal and a violation of people's dignity but impedes the exercise of other rights such as, in this case, the right to a dignified home.

An example of this kind of harassment from neighbours, which ended in a positive outcome, can be found in Gijón. A Roma man and his family, who lived in social housing, began to suffer antigypsyist harassment from a neighbour who had recently arrived in the building, who was hurling racist abuse continually.

FSG sent a letter of complaint to the management company of the social housing, setting out the harassment that the family had been suffering and asking for some sort of action to be taken to safeguard the rights of this family. The company responded that they had referred the case to the person in charge of intervening in such cases, who mediated. The family confirmed that the situation had improved, and the harassment had stopped.

The current Spanish discrimination law does not properly cover such cases, and so a comprehensive equality law is desperately needed to correct and punish such practices by estate agents and private landlords. Moreover, in order to guarantee the effective exercise of Roma people's right to housing, we urge the authorities to take the following steps:

- **Approval of action plans to eradicate slums and substandard housing**, with the necessary resources and applying methodologies to provide stable and definitive solutions combining rehoming measures with accompaniment and social support for families throughout the process.
- The **breaking down of digital barriers** that often prevent Roma families from making social housing applications..
- More **social housing and the establishment of alternative short and long-term accommodation** for Roma families who suffer evictions as a result of mortgage foreclosure or non-payment of rent.
- **Respect for legally established procedures** in evictions and rehoming carried out by local authorities.

10. Discrimination in other areas and antigypsyist hate crimes

We cover **other cases of discrimination** in a final section, for cases that do not correspond to a specific area (23 cases in 2020). They include hate crimes, such as assaults or violent threats to Roma people in the public realm or otherwise, and also threatening and antigypsyist graffiti on buildings and in public spaces, which are examples of antigypsyist hate speech.

The COVID crisis has been yet another excuse for such incidents. An example of positive intervention took place in Ciudad Real. Following publication of a series of news articles that blamed a group of Roma people who had attended a funeral for an outbreak of COVID-19 in the town, a Roma man was on the way to a local pharmacy with his wife, who were identified by local people as Roma. They began to jeer at them and blame them for the outbreak, in front of police officers who were there at the time and did nothing in response. The Roma man filmed and posted a video on social media, condemning what had happened and the false accusations, which caused generalised anger among the Roma community. FSG contacted the man, who had already taken the matter further. FSG also contacted a local councillor to inform them of the bad feeling among the Roma community. The outcome was positive, as the media apologised for mentioning the Roma ethnicity and for the consequences.

Many of these cases show the usefulness of having a **specific unit in the police to manage diversity** in the application of the appropriate protocols when incidents and antigypsyist hate crimes occur. As such, **we appeal to other police forces of all levels to create similar units**, taking inspiration from the best practice implemented by certain local police forces such as that of Madrid, Fuenlabrada or Burgos.

11. Cases of discrimination and antigypsyism across Europe

Lastly, we have reserved a section for the situation of antigypsyism in Europe. These are just a few cases to exemplify the difficult situation of many Roma people in a number of countries across Europe. This year we have focused on a select number of cases that occurred in Romania, Bulgaria, Slovakia and Northern Macedonia, where Roma people have been blamed for spreading the virus, and where excessive enforcement and surveillance measures have been seen in certain neighbourhoods, under the excuse of the state of emergency, even at times preventing Roma people suffering from coronavirus from receiving medical attention. We have also included references to certain reports published by European organisations in 2020 that have looked at the crisis in terms of discrimination and antigypsyism (the FRA, OSCE, Council of Europe, etc.).

We must stress the absolutely fundamental role of European Union institutions in establishing a regulatory framework to combat discrimination and antigypsyism. This is why we are appealing to institutions to effectively apply the commitments recently made in Commission Communication “A Union of equality: EU anti-racism action plan 2020-2025”, and that they, therefore:

- **Improve oversight and monitoring of the effective implementation of Council Directive 2000/43/EC** of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin in all Member States.
- **Review Directive 2000/43/EC**, to broaden the scopes of banned discrimination and expressly include the terms antigypsyism and intersectional discrimination.
- **Monitor the approval and application of national strategies for the inclusion of Roma people**, in order to ensure the proper deployment of **measures to counter discrimination and antigypsyism** in all EU Member States, in line with the EU Roma Strategic Framework for Equality, Inclusion and Participation 2020-2030.

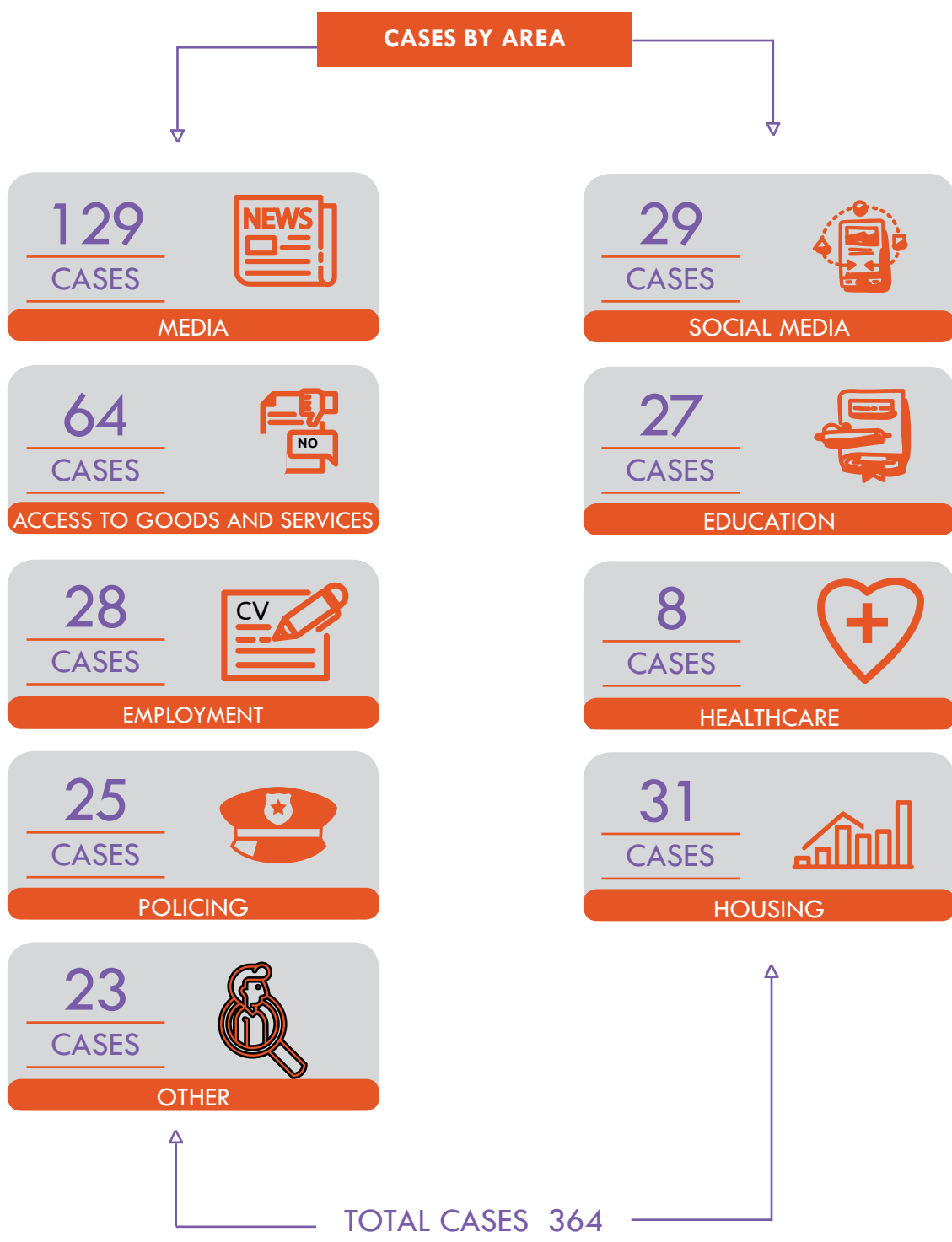


Presentation of disaggregated data

In this section will present disaggregated data for the **364 cases** collected by FSG during 2020.

Definitions of categorisation of cases:

- 1) **Individual Cases:** When the discrimination or hate crime is exercised on a specific, identified person.
- 2) **Collective Cases, three sub-categories:**
 - **Roma community in genera:** Cases affecting the image of the whole Roma community, or that encourage hate towards the Roma community (e.g. poor journalistic practice where ethnicity is cited in a news article, or antigypsy hate phrases posted on social media: “All gypsies ... “).
 - **Case with indeterminate victims:** Indeterminate group case: cases that affect a specific group of Roma people, but where the exact number is unknown (e.g. a group of young people are refused entry to a nightclub due to their Roma ethnicity, but we do not know who they are or how many they are).
 - **Case with identified victims:** Case where a group of Roma people are discriminated against, and we know how many and who they are (e.g. five Roma boys are refused entry to a nightclub).



CASES OF INTERSECTIONAL DISCRIMINATION → 27

ANALYSIS OF CASES

INDIVIDUAL AND
COLLECTIVE DATA

142
INDIVIDUAL
CASES



222
COLLECTIVE
CASES

222 COLLECTIVE CASES



158
CASES
ROMA
COMMUNITY
IN GENERAL



47
COLLECTIVE
CASES WITH
IDENTIFIED
VICTIMS



17
COLLECTIVE
CASES WITH
UNIDENTIFIED
VICTIMS



ANALYSIS OF VICTIMS

DATA BY GENDER
PERSONS IDENTIFIED 257

148
WOMEN



109
MEN

AGES OF THE VICTIMS IDENTIFIED

36
0 TO 15 YEARS

97
16 TO 30 YEARS

87
31 TO 45 YEARS

34
46 TO 65 YEARS

3
NOT KNOWN

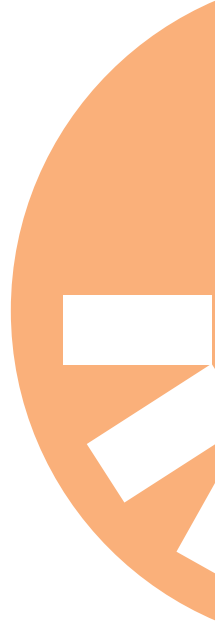
TOTAL No. OF VICTIMS IDENTIFIED 257

Chapter 3



Strategic litigation undertaken in cases of discrimination, hate crime and antigypsyism







Introduction: the FSG focus on strategic litigation

Once again this year, which has been marked by the health crisis caused by the COVID-19 pandemic that has made antigypsyism even more visible, we have chosen for this chapter the most emblematic cases of discrimination and antigypsyist hate crime, due to their context and the situation of the persons affected, in which we have pursued a strategic litigation. In all instances we have pursued court proceedings either in the provincial public prosecutors for hate crime and discrimination or in the courts corresponding to the area in question.

The majority of cases were brought to court on the initiative of FSG, following an exhaustive examination of the facts, victims' testimony, evidence and likelihood of success. In all the cases we have chosen the most strategic cases to represent in court, using lawyers specialising in human rights (specifically discrimination) and in the proper legal matter according to the nature of the case.

Once again this year, when the health crisis and lockdown have promoted the onset and development of discrimination and antigypsyism, we must recognise the effort made by our teams nationwide, particularly the equality officers who specialise in equal treatment and gender equality, more than 30 professionals, mostly Roma, who are part of the Cali programme for the equality of Roma women, and who are precisely the focal points for advice and the detection of the most representative cases, providing informed and empathetic support for victims of discrimination and antigypsyist hate, which during this pandemic year has had to be more virtual than normal.



In this year of health and social pandemic, flexibility and the ability to adapt to change in our ways of working is important; together with the strong commitment and efforts behind each case of discrimination and antigypsyism, they have been the driver behind the strategic litigation going further than the courts and entering forums and spaces in which these issues have previously been absent in public debate, public opinion and political agendas. This is all for the purpose of changing mentalities in society; there are a great many stereotypes and prejudices that persist about the Roma population. It is important to publicly raise awareness and shine a light on situations of antigypsyism, so that society as a whole can respond to and condemn them, thus generating the social change needed to see the principle of equal treatment, human rights and social justice realised.

Strategic litigation also opens up the possibility of applying national legislation and international standards on human rights, European case law, especially that of the European Court of Human Rights. It highlights the legal gaps that persist, and even has an impact on passing new legislation to make the right to equality and non-discrimination real and effective. This is not only with respect to the principle of equal treatment and non-discrimination; we are also working to achieve an intersectional focus in case law, fundamentally in cases specifically affecting Roma women, who receive specific aggravated responses to the type of discrimination (in the meaning of the Supreme Court Judgment in the case of Beauty Solomon, in which Spain was condemned for discrimination and violence towards a black woman).

Finally, we must stress that strategic litigation would not be possible without the bravery and persistence of the people we support to report antigypsyism; they face lengthy procedures that are not always successful, and they do it not just to defend their own rights but to defend those of people who may have suffered similar discrimination and violation of their rights.

Summary of strategic litigation cases brought in 2020 and follow-up of those pursued in previous years

In 2020 we advised and supported 19 cases through the courts, 11 of which were begun that year and the other eight being cases begun in previous years. Of all the cases, we have been party to and provided legal representation in a total of seven cases, of which five are still ongoing and the other two have been heard in court: in one case the defendants were acquitted, while in the other the defendant was found guilty of an offence under section 510.1 of the Criminal Code for antigypsyist hate speech.

2020 was a year marked by the COVID-19 health crisis, which pushed up the number of reported cases of antigypsyist hate speech directed to the Roma community on social media. **Seven of the 11 cases reported to specialist provincial public prosecutors this year were for antigypsyist hate speech.** The lockdowns **have also driven up the number of cases of antigypsyist neighbourhood harassment**, which we have reported to the authorities.

We have summarised all the cases below.

A. CASES REPORTED THROUGHOUT 2020

1. Complaint with the Santander public prosecutor for hate speech through WhatsApp audio files in Cantabria

FSG filed a complaint with the Santander public prosecutor specialising in hate crime relating to six audio files being shared on WhatsApp containing antigypsyist hate speech. One of the most serious audio files said:

- *“Round them up and put them in jail, for fuck’s sake, and leave them there in those four walls to do their singing and their dancing, locked up like a concentration camp til they’re all dead, the fucking scum. They’re infecting everyone, the gypsies, and they say we’re racist. Well we are, we are fucking racist against them. Let’s hope every single last fucking one of them die, the little ones, the kids, the grannies and fucking everyone.”*

We also included a **Twitter comment** in the complaint, which, relating to some comments by the Santoña Mayor, said:

- *“The transmission in Santoña of a Roma clan leaves 5 dead: the mayor calls for help. Here’s your help, Mayor”. The comment was accompanied by an image of gas cannisters.*

FSG pursued a private prosecution for hate crime under article 510.1 of the Criminal Code, due to severity of the comments, the evidence obtained, the repercussions of the audio files and their circulation across the countries, and having located the author of the most serious comment.

The public prosecutor forwarded the complaints, and although the examining court shelved the matter because “the remarks made are not significant enough to be covered by hate crime under section 510.1 of the Criminal Code”, **FSG filed an appeal for reconsideration, which was upheld on 3 June 2021**, with the Court agreeing to continue the investigation stage



2. Complaint to the Madrid public prosecutor for antigypsyist hate speech in online forum Burbuja.info

FSG filed a complaint with the Vallecas National Police Station, in Madrid, concerning antigypsyist hate speech posted on an internet forum Burbuja.info, such as: *“Exterminate the gypsies once and for all”, “Send them back to where they came from. I hear Kashmiri Punjab has room”, “Send them all to the gas chamber and use them to make soap”, “Not even that, burn them all and send their ashes to space - the further the better”, “They make me want to grab my gun and shower them with bullets”, “If there was really freedom of expression I’d say, with the conviction I’m not allowed in this country, that the Gypsies need exterminating”, “This was never a problem under Franco”, “Snatch a Gypsy and use it as a guinea pig”, “This never would have happened under Hitler”, “We’re all at the mercy of this fucking sect that is dominating the world”.*

FSG reported this antigypsyist hate speech to the specialist public prosecutor in Madrid, who referred them to court, which opened an investigation, and on 5 July 2021 an FSG employee testified in Navalcarnero examining court. We are currently awaiting a ruling from the court on the opening of the oral hearing phase.

3. Complaint to the Madrid public prosecutor for antigypsyist hate speech on Mediterráneo Digital

FSG made a complaint for hate crime under section 510.1 of the Criminal Code, relating to a news item dated 4 February 2020³ in the online newspaper “Mediterráneo Digital”, with the title: “Hoards of Roma overwhelm the Emergency Department of Salamanca Hospital like zombies”, relating Roma people to the living dead, directly and publicly inciting, encouraging and promoting the dehumanisation of Roma people, promoting and reinforcing a destructive feeling that encourages people to be violent to Roma people on ethnic grounds.

The Madrid specialist provincial public prosecutor informed us that the case had been shelved because it believed that the news item fit within the realms of freedom of expression and was not a crime under section 510.1 of the Criminal Code.

4. Complaint to the Toledo public prosecutor for antigypsyist hate speech on Twitter

FSG made a complaint with the Toledo provincial public prosecutor on 8 April 2020, relating to a post on Twitter containing 36 antigypsyist comments made further to the posting of a video in which the local police in the town of Talavera stopped some cars parked in a majority Roma neighbourhood of the town, while some local residents questioned them. Some of the most serious comments were: *“They are a bunch of fucking street rats and deserve to be rotting in the gutter”, “Line them up for the firing squad; I’m sorry but they piss me off, especially what they did in Vitoria at the start of the pandemic”, “Get them all to fuck off, they’re a repulsive race”, “The Führer was right about what to do with that garbage...”, “That race is the pandemic virus”, “The police do nothing, a shot to the head is what they need to get them in line. Those people”.*

The public prosecutor referred the case to the presiding court of Talavera de la Reina, and it is currently awaiting criminal investigation, which we hope will result in the identification of the writers of the comments and, ultimately, the opening of the oral hearing

3- <https://www.mediterraneodigital.com/espana/castilla-y-leon/gitanos-salamanca>

5. Complaint to the Cadiz public prosecutor for antigypsyist hate speech in WhatsApp audio files

Following the death of a Roma person in Cadiz hospital, a series of WhatsApp audio files circulated in which people in a town with a large Roma population were urged not to go to local supermarkets. In one of the most serious audio files, the voice said: “A Roma man has died from COVID-19. He had diabetes, but he died from COVID, okay? He was supposed to be isolating, but he carried on going to the Mercadona in Los Junquillos. His whole family have it. He’s dead and the family are still going out, they’re not bothering to isolate. They’re now all in hospital. What a mess. Tell everyone you know not to go to the Mercadona in Los Junquillos, because they’re still doing their shopping there, ok? And be really careful, wear a mask and gloves. Because with the Gypsies not giving a damn about isolating, it’s going to spread like wildfire. Try not to go shopping. If you do, disinfect everything, every packet and tin, okay? I’m telling everyone the same, all my contacts. Tell everyone you know, ok? Your family and everyone. This is real. I have a picture of the guy and the audio from a friend who is in the same hospital. It’s a true story. I’m not kidding.”

FSG filed a complaint with the specialist provincial public prosecutor on 21 April 2020 for the three audio files circulated, arguing that they were a hate crime under section 510.1 of the Criminal Code. Following the complaint, the FSG Andalusia regional director gave a statement to the judicial police to contextualise the criminal comments. We are currently awaiting the conclusion of the investigation stage.

6. Complaint to the Jaen public prosecutor for antigypsyist hate speech on Twitter and Facebook

Following two different posts containing two videos of allegedly Roma ethnicity people dancing on a road in Jaen and Linares, antigypsyist hate comments were made, some of the most serious being: “They are human garbage. Then there’s the problem of integration.... The majority who call themselves Roma aren’t trying to be part of society. They’re criminal wasters living off the state. It’s incredible that we have to put up with this garbage on our streets”, “Semi-human”, “you can see their faces and the licence plate, what can you expect from the worst animals in Spain... ? THE GYPSIES...”, “Fucking gypsies... They’re a cancer”, “I hope they’re the first to become extinct, those people aren’t part of “humanity””, “Easy - fumigate them all like cockroaches...”

FSG filed a complaint with the Jaen provincial public prosecutor on 5 May 2020, relating to the spread of 14 antigypsyist hate comments, 10 on Twitter and four on Facebook.

On 28 July 2020 we were informed that the court had **provisionally dismissed the case because: “The commission of the crime has not been duly justified”**. FSG examined the decision, which was not properly justified because it had only considered three of the 14 comments reported, and had considered them covered by freedom of expression. After examining the criteria referenced by the national public prosecutor and applicable European case law, we believe that the comments are criminal pursuant to section 510.1 of the Criminal Code⁴. **We passed on our comments to the public prosecutors, and were informed that they had already filed an appeal against the court order.** We are currently awaiting the court’s decision on the appeal.

4- See Judgment of the ECHR dated 8 July 1999, Ergogdu & Ince vs. Turkey, of 4 December 2003, which stated “freedom of expression cannot cover hate speech, much less when the subject or recipients of such speech belong to a highly socially stigmatised population group”.

7. Murder of a Roma man in Huelva⁵

On 8 May 2020, FSG filed an application with the Huelva provincial public prosecutor to be included in the case of a fatal shooting of a Roma man, who was surprised while stealing some beans and was shot by the owner of the property. FSG asked the public prosecutor to consider adding an aggravating racist element pursuant to section 22.4 of the Criminal Code. On 22 May we were informed by the public prosecutor of the actions of the court in relation to the case. We were thanked for our complaint and told us that based on the investigation carried out so far, **“there is no objective data to point to antigypsyist hate”**.

8. Complaint to the Huelva public prosecutor for antigypsyist hate speech on social media

Following a news article published about the fatal shooting of a Roma man (see case above), featuring the photo of grieving family members, some antigypsyist comments were posted on social media, specifically YouTube and Twitter, for instance: **“At the end of the day, the only good Gypsy is one that isn’t alive. Nobody gets hold of a Gypsy and shoots them just for a pot of beans, especially when this “ethnicity” are known for being spiteful and vindictive, among other things”, “Not all heroes wear a cape, thanks for killing the weeds”, “A 75-year-old man has shot some Roma ethnicity criminal who was trying to steal a pot of beans. Not all heroes wear a cape”, “I’m pleased, cos all this vermin do is steal, kill, traffic and screw everyone else over, so it’s about time a bit of Gypsy blood runs down the street”. “I only know that once you show them you’ve got and go grab your gun, they back down. Words and the law of the land don’t mean anything to that scum”, “Defending your property should never be a crime, so what if some vermin get killed? If the ethnic in question had stayed at home or was out picking up scrap metal, he wouldn’t have been shot”, “What a shame we can’t impale thieves like Vlad did, or cut off their hand like Islam says. More than one parasite will think twice text time”, “A good Gypsy is a dead Gypsy”**.

FSG filed a complaint with the specialist public prosecutor on 21 April 2020, who informed us that the case had been forwarded to the court in La Palma del Condado for criminal actions. We are currently awaiting a decision from the court to conclude the investigation phase and begin the oral hearing.

9. Case of the police assault of a young Roma man in the town of Toledo

The events took place when two Roma girls were followed and harassed by an older man. When they arrived at the front door of the aunt of one of the girls, the aunt called the police for help. One of the girls also called her boyfriend to ask for help because the man would not leave the lobby of the building. When her boyfriend arrived, the police were already on the scene. They pushed the boy to the ground, **stamping on his neck and causing him injuries, to the point of stopping him breathing for a few moments**. The boy was unconscious. When he regained consciousness, he was still lying on the ground, face down, very confused, not able to breathe properly, while they told him **“you’re all so brave, but when the police arrive you’re not so brave”, in a generalised slur on Roma people**. They then picked him up and sat him on the ground, they removed his mask and he spat blood. The officers asked him for his ID, and he gave them his ID card.

When the girls came out, who had hidden in the lobby as they were afraid of the older man, **the police officers did not even advise them of their rights, and their right to make a complaint about the man who was harassing and following them**.

5- See press release: <https://www.gitanos.org/actualidad/prensa/comunicados/131126.html>

FSG filed a complaint on 9 October 2020 for torture under section 174 of the Criminal Code, for the police attack to the boy, and for breach of the police's obligation to prosecute crime, under section 408 of the Criminal Code, due to their failure to inform the victims that a crime of coercion had potentially been committed against them. The complaint also indicated that both offences could be racially aggravated, pursuant to section 22.4 of the Criminal Code, since the excessive force and the comments from the police officers represent antigypsyism.

FSG helped the boy to seek free justice, and **supported him in court, on 24 February 2021, when he gave evidence during the investigation phase. We have been coordinating with the duty lawyer to prepare his legal strategy.**

We are currently awaiting the ruling from the investigating court, which we hope will include a racially aggravated element to the police's actions, and set and date for the oral hearing.

10. Case of harassment of a family by neighbours on antigypsyist grounds in Badajoz

A Roma family reported to FSG in Badajoz that they were being constantly harassed by one of their neighbours ever since they moved to their current residence. The harassment had an antigypsyist element and was getting worse over time. Initially, the neighbours repeatedly called the police to complain for any reason, and insulted the mother and the children. But things got worse when the family when they found all four of their tyres slashed, and even graffiti on their car, which read in large letters: **"GYPSY PAY OR GET LOST"**.

FSG filed a complaint on 27 October 2020 with the public prosecutor specialising in hate crime and discrimination, for criminal damage under 263.1 of the Criminal Code, aggravated pursuant to section 22.4 of the Criminal Code. We also believe that the antigypsyist graffiti on the family vehicle, which is identifiable in their neighbourhood, may be a crime under section 510.2 of the Criminal Code.

Although the investigating court shelved the case on the basis of: **"Objective absence of minimal incriminating evidence to continue to pursue the case"**, **the public prosecutor appealed the decision, following the legal arguments outlined by FSG, which the court upheld and agreed to hear witness testimony in October 2021. FSG will support the woman's testimony during the investigation phase.**

11. Case of harassment of a family by neighbours on antigypsyist grounds in Burgos

The events concerned the antigypsyist harassment suffered by a Roma family who moved into social housing by their neighbours (the mother and two sisters) in the housing complex, which was worsening over time.

The neighbours were calling the local police constantly to complain about noise from the Roma family's home, followed by antigypsyist insults such as: **"Fucking Gypsies" or "animals", graffiti in the entrance way about the family and antigypsyist hate speech about the family on social media.** The family considered moving home, as suggested by social services, and eventually left the home where they were being persecuted and harassed by their neighbours.

FSG filed a complaint with the specialist public prosecutor on 10 February 2020, for coercion under section 172.1 of the Criminal Code, racially aggravated pursuant to section 22.4 of the Criminal Code, and for harassment of Roma ethnicity persons under section 510.2 a) of the Criminal Code

On 10 February 2021, **the public prosecutor issued a decision to forward the proceeding to the Burgos presiding court, for racially aggravated coercion.** We are currently awaiting a ruling from the court to end the investigation phase and open the oral hearing phase.



B. FOLLOW-UP OF CASES REPORTED BY FSG IN PREVIOUS YEARS⁶

1. Case of an aggravated racist attack against a Roma teenager in Castellon

This is a case of a continuation of the proceeding opened by the complaint that FSG made with the Public Prosecutor in 2016 for an aggravated racist assault, under section 147.1 and section 22.4 of the Criminal Code, where a Roma child was assaulted with a broken bottle, accompanied by shouts of antigypsyist comments such as “the Roma race should be exterminated” or “get out of this town”. **“exterminate the gypsy race”** and **“get out of our town”**. Due to the severity of the crime, FSG was a party to the case, representing the victim.

The oral hearing has been repeatedly postponed, scheduled for 12 November 2020, then 6 July 2021, which was also postponed for reasons relating to the defendant, and the most recent date scheduled is July 2022. **When it is eventually held, a total of six years will have passed since the incident was reported**, which is an undue delay that undermines the victims’ right to justice.

2. Case of an aggravated racist attack against a Roma woman in Ontur (Albacete)

This case is a continuation of the proceeding opened on 4 April 2019, when a complaint was made with the Albacete public prosecutor for hate crime and discrimination for assault under section 147.1 of the Criminal Code, aggravated by racism under section 22.4, when a woman was assaulted for being Roma by her neighbours in Ontur, who stopped her as she was leaving a church service and assaulted her and told her: **“You’re not coming in here, fucking Gypsy”, “Fuck all your race, Gypsy”, and hit her multiple times and threw her on the ground.**

The woman, convinced that what had happened to her was down to her ethnicity, reported it to the Guardia Civil, submitting a statement of her injuries. FSG advised the woman and supported her to extend the nature of her complaint to include antigypsyist hate crime within the assault. On 4 April 2019 a complaint was made to the Albacete Provincial Public Prosecutor for an assault under section 147.1 of the Spanish Criminal Code, aggravated by racism under section 22.4 of the Criminal Code. Due to the seriousness of the incident, the context and the documentary evidence gathered (photos and medical report), we decided to represent the case in court.

The Court downgraded the proceeding to a case of minor assault, removing the aggravated racist element. **We filed an appeal for reconsideration on 7 October 2020, asking for the aggravated racist element to be reintroduced, and on 24 November 2020 we submitted an extended complaint for antigypsyist threats and insults by the defendants**, and for some new incidents that had occurred after the proceeding had begun. On 7 June 2021, the Court dismissed our appeal, agreeing to continue to hear the facts as a minor offence. We appealed that decision with the Albacete Provincial Court of Appeal on 18 June 2021. We are currently awaiting a decision.

3. Case of violation of fundamental rights of Roma families in the northern district of Granada

This concerned the violation of fundamental rights of families living in the neighbourhoods of northern Granada, through continued power cuts since the beginning of January 2019. Certain Roma families we were supporting in the neighbours on the north side of the city explained to us that their children were missing numerous days of school, the healthcare centre suffered power cuts, some people’s breathing equipment they had at home had stopped working, and the streets were unsafe particularly for women and children, etc.

6- In this section we will remark on certain cases that we reported in previous annual reports. We will update on the latest developments of proceedings brought by FSG.

Given the electrical company Endesa's lack of a solution, **on 15 May 2019 a number of social organisations, parishes and families affected, with the collaboration of FSG, filed a Claim for the Protection of Fundamental Rights** with the Granada Court of First Instance. Although we were not cited as a party in the claim, FSG supported and advised families and was actively involved in all coordination meetings with the lawyer arguing the case and the social organisations and persons affected. We also submitted an expert report to the case, written by an electrical engineer, setting out alternatives to the power cuts. **On 25 November 2019, the claim was admitted for processing and the parties were ordered to appear in a preliminary hearing on 12 December 2019.**

In parallel to the court proceedings, social organisations took part in rallies, sit-ins, public statements, press conferences and letters to the company and to city hall⁷.

The Granada ombudsman filed a petition with the European Parliament for: *“social emergency caused by the precarious situation of residents in the north of the city, which is violating their fundamental rights as set out in international law, as well as EU, national and regional law.”* FSG signed the petition, which was accepted and is being examined.

4. Case of denying 14 young people access to an establishment in Jerez because they were Roma⁸

The incident took place on 13 July 2019 when a group of 14 young people went to the Banana nightclub to celebrate a stag party. When entering, they showed the booking they had made three days before. The doorman told them: **“You can't come in because you're not our type”**. One of the guys asked how they were not the right type and the doorman insisted: **“Just that - you're not the right type”**. The guy asked if that meant **“because we are Roma”** and the doorman responded: **“Yeah, we don't want that kind of clientele in here”**.

The nightclub owner denied that the incident or the discrimination had taken place and, accordingly, FSG filed a complaint with the Jerez Provincial Public Prosecutor **for refusal to access goods and services in the private sphere, under article 512 of the Criminal Code.**

Due to being one of the most common forms of antigypsyism, FSG decided to support the victims to jointly pursue a private prosecution, hiring a lawyer specialising in hate crimes.

Witness statements were taken and the pertinent evidence has been submitted. We are currently awaiting a court order to conclude the examination stage and open the oral hearing.

5. Case of violation of a Roma girl's rights, having been prosecuted for a theft she did not commit in a shopping centre in Madrid

The case concerned a young Roma girl who went to Carrefour with her sister-in-law and her baby. When leaving, she was stopped by the security guard who was convinced that the toy that her baby was holding, with a value of 6.90 euros, was stolen. The girl assured the security guard they she had not even been to the toys section of Carrefour that day, and that the toy was a free gift she received when a toy shop had opened. However, the girl heard the security guard tell his colleague: **“They're Roma, of course they stole it”**.

7- https://www.granadahoy.com/granada/Fotos-Granada-vuelve-manifestarse-Norte_3_1617768232.html

8- https://cadenaser.com/emisora/2019/07/15/radio_jerez/1563187162_904253.html



In spite of the girl's explanation, the security guard detained her for more than an hour and a half, with her baby, in the cold and without being able to feed her or change her nappy, until the police arrived. When the police officers, they booked the complaint, solely on the basis of the security guard's testimony and without considering the girl's explanations, who asked for the security footage to be consulted as evidence that she had not been in the toys section.

She left with a citation to appear in court for a speedy trial for one count of petty theft.

The next day the speedy trial took place, in which the girl asked the judge to call the toy shop assistant as a witness and to view the security cameras. However, the judge only considered the security guard's version of events, sentencing the girl to a fine of 26 euros for petty theft, plus a criminal record.

We filed an appeal before the Provincial Court of Appeal on the basis of violation of fundamental rights, such as **the right to effective judicial protection under article 24 of the Constitution, due to the girl being deprived of a fair trial due to her ethnicity and the right to equality under article 14 of the Spanish Constitution**, which in this case is clear since the girl's version of events, which is consistent, coherent and persistent, is not taken into account.

In the appeal we called for the trial to be void and repeated with all appropriate safeguards, and also for the girl to be acquitted. The appeal was dismissed, in a ruling from the Court of Appeal that fails to address any of the fundamental grounds of the violation of the principle of equality and non-discrimination.

We filed **an appeal with the Constitutional Court on 11 January 2021, which was refused on the basis of "lack of constitutional relevance"**.

FSG decided to pursue the case further, since it is such a representative case of intersectional discrimination, and due to the evidence, and **decided to write to the UN CEDAW Committee on the Elimination of Discrimination against Women, supported by a lawyer specialising in intersectional issues and the international protection of human rights.**

6. Case of denying three Roma ethnicity boys access to a nightclub in Puertollano

FSG reported this case on 5 December 2016 before the Ciudad Real provincial public prosecutor, for denial of access to goods and services on the grounds of discrimination (set out in section 512 of the Criminal Code). This is a case of three young people who went to a nightclub in Puertollano. When attempting to enter, a doorman told them: **"I can't let you in because my boss goes mad if we let in Gypsies"**.

The trial was held on 16 January 2020 and the three defendants were acquitted (the two doormen and the nightclub owner) due to contradictory versions and disputes in the versions of events. **FSG filed an appeal against the Court's ruling on 19 February.** We were notified of the **Appeal Court's decision, which was to deny the appeal and uphold the original ruling.**

7. Case of denying three Roma ethnicity young people access to a nightclub in Valencia

This is a case of discrimination on ethnic grounds through refusing three Roma boys access to a nightclub; when they approached the establishment, the doorman told them that they could not enter: **"I've been told by my boss not to let Gypsies in"**. FSG filed a **complaint with the Valencia Public Prosecutor for hate crime and discrimination on 16 April 2018 for refusal of access to goods and services in the private sphere, under section 512 of the Criminal Code.** An investigation was opened and the boys were ordered to give a statement and participate in an identity parade.

On 17 July 2020, one of the boys was summonsed by the police to give testimony. The boy gave the same statement, stating that the security guard had been instructed by his boss not to let Roma into the club. They showed him some photos, but he was unable to identify the security guard.

Since we were not a party to the case, we called the court for an update and we were told that the case had been **shelved on 21 September 2020 because the victims were unable to identify the perpetrator.**

8. Case of antigypsyist hate speech on online forum Burbuja.info

FSG filed a complaint with the Santiago de Compostela public prosecutor for a series of remarks constituting extreme hate speech against Roma people on the internet forum Burbuja.info, such as, **“that garbage are screaming to be exterminated”, “they’re asking for extermination, it’s what they need” “...we know what that scum is, they’re subhuman and we all know what they deserve. It’s just a matter of time.... Are you listening you subhuman scum, come after us, we are going to end you anyway...”**. The Santiago Court recused itself in favour of the Ourense Court, where the author of the comments was located.

We joined the case and pursued a private prosecution pursuant to section 510.1 of the Criminal Code, due to the severity of the comments, the evidence obtained and that the perpetrator had been located.

On 15 June 2021, a trial was held in which the defendant was sentenced to one year in prison, which will be suspended if the author of the messages attends anti-discrimination training and changes their antigypsyist attitudes. The defendant was also given a €540 fine⁹.

Conclusions

1. The strategic litigation cases that FSG has undertaken have achieved major steps forward:

- The possibility of passing the standards of international human rights organisations in the fight against discrimination and racism to national case law, as well as case law of the European Court of Human Rights.
- Practice and experience in the years that FSG has been litigating has equipped us with tools and coordination networks with key players in the justice administration (specialist public prosecutors, judges and lawyers) and we have established synergies and alliances with organisations that work to tackle racism and discrimination.
- An important achievement is to reach people who have suffered discrimination and hate and are not in a position to pursue litigation themselves, either due to fear of retaliation, lack of knowledge of the courts system or the high cost of legal representation. That is one of our main goals, to provide support in long and complex situations that are difficult for an individual to manage.
- When attackers answer in court, even when the eventual ruling is not in favour of the victim (frequently, through application of the principle of minimum intervention of criminal law), Roma people feel less of a sense of impunity, have greater trust in institutions, and the rate of reporting goes up.

9- See press release: <https://www.gitanos.org/actualidad/archivo/133424.html> and reported in the press: <https://www.europapress.es/galicia/noticia-condenado-vecino-ourense-mensajes-foro-internet-incitaban-odio-contra-comunidad-gitana-20210615142844.html>



- We shine a light on cases that perpetually arise, such as denial of access to goods and services or intersectional discrimination suffered by Roma women in shopping centres. These are cases that arise year after year, and we continue to denounce them.
- Roma people who we accompany and represent in court tell us that they feel empowered to be claiming and exercising their rights, as holders of these rights. Litigation empowers and gives a voice to Roma men and women who decide to report their case in exercise of their rights and that of their community.

2. A series of procedural difficulties arise when pursuing strategic litigation in cases of discrimination, hate crime and antigypsyism:

- Lack of response on many occasions, creating impunity: in spite of the creation of the figure of Provincial Public Prosecutors for Discrimination and Hate Crimes, which was a major step forward to guarantee specialist knowledge in this kind of crimes. However, there is no such speciality in the justice administration.
- We must emphasise that the complexity of these discrimination and antigypsyist hate crimes necessitates a comprehensive approach, with a focus on human rights, diversity and gender that is currently practically non-existent.
- Antigypsyist prejudice in the judiciary and police persists, as well as a lack of empathy with victims and continued ethnic bias, sometimes aggravated by gender prejudice..
- In criminal proceedings it is very difficult to produce evidence, since this boils down to the testimonies of the assailants and the victims. In such cases, the proceeding is often shelved due to “the presence of contradictory versions”. Since it is not possible to reverse the evidentiary burden, it is difficult for criminal proceedings to succeed in cases of discrimination.
- The slowness of trials, taking up to seven years to reach oral hearing stage (see the case of Castellon), which as well as having an undue delay and therefore violate the right to a fair trial, give a sensation of impunity and the system’s failure to grant justice. It also takes an emotional toll on victims.
- The low rate of convictions of perpetrators of discrimination and racism in general, and antigypsyism in particular. Likewise, there are cases in which a conviction is secured but without the aggravating factor.

3. Moreover, from the victim's perspective, there are other barrier to access to justice:

- Deadlines can be disadvantageous to the victims: they need time to absorb what has happened to them and to take the decision to file a complaint, but statutory deadlines in many proceedings do not allow them to take that time.
- On the other hand, many proceedings are excessively drawn out, preventing victims from achieving swift and effective justice.
- The delay in holding oral hearings is detrimental to victims, who are not able to recall the events in detail or fail to recognise the perpetrator in an identity parade, leading to an acquittal.
- Sometimes, opening a court proceeding raises expectations that are not fulfilled, due to difficulties indicated above preventing a satisfactory outcomes for victims.

4. Taking into account the above circumstances, it would be helpful to continue to make progress in the response by police and the courts to cases of hate crime and discrimination:

- A training plan is needed for the national security forces. In spite of the progress that the creation of specialist hate crime units within the national security forces has made in combating hate crime and discrimination, many officers still lack sufficient training to address this kind of crime, and strong prejudice and stereotypes against the Roma community persist.
- Awareness and training for key officers in the court setting (judges, prosecutors, duty attorneys), helping to combat prejudice, coming into play when addressing cases and questioning the credibility of victim testimony, and exploring the intersectional focus and knowledge of national and international regulations and standards that apply in cases of hate crimes, discrimination and antigypsyism.
- The creation of provincial prosecutors that specialise in hate crimes and discrimination was a huge step forward in the fight against all forms of racism, including antigypsyism, which we have seen in many of the cases we have brought before the courts. However, it is important that more resources are poured in, and to continue to push coordination with the organisations we work with in the fight against discrimination and hate crime, to enable the continued tracking of reported cases.
- In order to place greater focus on hate crimes, discrimination and antigypsyism affecting Roma people, the statistical reports of the Public Prosecutor's Office and the Judicial Power Council should include a category on antigypsyism, as has been the case since 2020 in the annual reports of the Ministry of the Interior, and in the monitoring rounds on hate speech published by the European Commission.

Chapter 4



In depth: The impact of the pandemic on discrimination and antigypsyism





Discrimination and antigypsyist: the pandemic's other virus.

Cristina de la Serna and Selene de la Fuente

Fundación Secretariado Gitano

Introduction.

COVID-19 has caused a crisis on an immense scale, the effects of which we will feel for years to come across the health, economic and social sectors, affecting everyone to a greater or lesser degree. The crisis has also sharpened focus on existing societal gaps: those in more disadvantaged groups have suffered its effects far more acutely, and the Roma community has been very severely affected from the very onset of the pandemic¹⁰.

But the pandemic has not only had an impact on situations of socio-economic vulnerability; it has uncovered racist and antigypsyist attitudes that, despite always being entrenched in our society, have come into sharp focus during the crisis period. In effect, from the onset of the pandemic and throughout 2020, we saw how certain forms of discrimination and antigypsyism gained prominence. This took the form of attitudes that generated hate speech, refusal of access to goods and services, greater police enforcement, and a lack of protection by the authorities; in short, the violation of the fundamental right to equal treatment and non-discrimination.

Below we explain the extent of the impact of the pandemic on cases of discrimination and antigypsyism that we have handled, and the victims and how prepared they are to seek justice

1.- Antigypsyism hate speech relating to the spread of the virus.

The COVID-19 crisis had barely started when the spread of extreme hate messages against the Roma community rose to levels never seen before. Roma people became a scapegoat, for no apparent reason. They were blamed, unfairly and unjustly, for spreading the disease or for failing to follow the health control measures issued by the authorities. The unfounded accusations are the result of poor news reporting practices by the media or from people holding public positions of power. That spurred extreme antigypsyist hate messages, which even go as far as to call for the extermination of the Roma people.

As we explained in the chapter on strategic litigation, we had to file a number of complaints with specialist hate speech prosecutors, and even pursued private prosecution in some cases. But this situation is such a paradigm shift that we decided to examine in greater depth (i) how hate speech comes about, (ii) how it spreads, and (iii) the impact these messages has on their recipients.

We recently published the report “antigypsyist hate speech and the COVID-19 crisis”¹¹ with the conclusions we drew from this study, which are also summarised in this chapter by two of its authors, Javier Sáez and Demetrio Gómez. Of everything we drew from our analysis, the primary point to raise is the human impact of hate messages. Thanks to interviews with Roma people, we saw that hate speech differs from other hateful messages, precisely because of the profound harm it inflicts on the people it is intended for, who, as is the case of the Roma community, historically belong to discriminated against and excluded groups.

10- Fundación Secretariado Gitano, Impact of the COVID-19 crisis on the Roma population, available (in Spanish) at: https://www.gitanos.org/upload/31/97/ENCUESTA_PARTICIPANTES_FSG.pdf

11- Available (in Spanish) at: https://www.gitanos.org/centro_documentacion/publicaciones/fichas/133448.html.es

Fear, public finger pointing, scapegoating, stress, harm to dignity, childhood trauma, dehumanisation, discrimination in access to goods and services, hypervigilance of Roma women, isolation... These are specific effects that we document in this study, showing that when it comes to hate speech, words stick.

2.- Discriminatory actions from the police during the state of emergency.

The measures implemented in Spain at the beginning of the pandemic, with the declaration of the state of emergency, were some of the harshest and most restrictive in Europe. The almost total lockdown and a lack of clear rules on the consequences of breaking it prompted a large police presence on the streets with no rules to really guide how police officers should behave. That was doubtless a poor combination, prompting conflict on the streets and arbitrary police behaviour, and a rise in discriminatory action and ethnic bias.

Policing is an area in which we usually document few cases in our reports, due to underreporting being more common, for fear of retaliation, lack of trust in the system, etc. However, the rise in recorded cases is very noteworthy: while in the year before the pandemic we recorded nine cases, in 2020 we handled 25 cases of antigypsyism by police officers. This is clearly an alarming increase that is indicative of the situation on the street during the worst months of the lockdown.

In this period we encountered cases of Roma people being issued fines even when leaving their homes for legitimate reasons (to buy groceries or medicine for their children), of excessive enforcement without any justification in neighbourhoods where the majority of local residents are Roma, and even of excessive use of force by police.

What happened in pandemic times confirms the need to regulate and control police powers and to take measures to prevent discrimination in this area (police supervisory bodies, identification forms, etc.). As we have said for quite some time, this will not only reduce discrimination but will make the police more effective and instil more trust by the Roma community in the security forces.

3.- Institutional discrimination in access to basic social rights during the state of emergency.

The health crisis led the Government to establish a series of measures to protect the vulnerable, which the authorities had the obligation to implement.

The measures included a ban on cutting off basic utilities such as electricity, water and gas, the suspension of evictions where there was no alternative living arrangement for vulnerable people, the extension of the right to the social welfare payments for certain groups and the extension of the application period to extend rental agreements for up to six months.

Many Roma families suffer from energy poverty and precarious living situations, and the intention was that they could benefit from these measures to ease some of the harsh effects of the pandemic. In spite of this, many families have been subject to lockdown with no income at all and no option to have electricity and water in their home at a time when hygiene was so important to stop the spread of the virus, and in spite of the ban on cutting of utilities.

We have recorded cases where the discriminatory component was obvious, as they occurred at the height of the pandemic with the aim of harassing families and forcing them out of their homes. This is clear violation of rights, the effects of which were exacerbated by the pandemic.

4.- Refusal of access to supermarkets and pharmacies.

During the harshest lockdown periods, one of the few permitted reasons to go outside was to visit supermarkets and pharmacies to buy groceries and medicine. As can be seen in the section "Access to goods and services" in the online version of our report, during the harshest lockdown period we were informed of a great many cases of discrimination in access to supermarkets and pharmacies.

In effect, antigypsyist hate speech, which, as we said, soared at the onset of the COVID-19 crisis, struck deep and caused discrimination in the only place where society, at that point, was able to mix. There, Roma people found themselves



denied entry to supermarkets and pharmacies, due to supposed fear (totally unfounded and unscientific) that they were more likely to spread the coronavirus than anyone else.

Antigypsyism is always damaging and must be combatted in any circumstances, but in the situation we found ourselves in, the harm to victims was even greater than ever: not only were they being discriminated against, but they were being denied access to essential goods when they most needed them, and when there were few other options for getting them and for exercising their rights.

5.- Heightened neighbourhood conflict during lockdown periods, with an antigypsyist tone.

Neighbour conflict due to antigypsyism has been commonplace in our society for quite some time. Having to stay in our homes, with the stress and tension that caused, prompted a rise in hostile behaviour towards Roma neighbours during the COVID crisis.

We have been told of violent and unpleasant situations that have disrupted the peace and tranquillity of people's homes. Antigypsyist feeling manifested in certain behaviours that crossed the line from mere differences of opinion to the criminal.

Fundación Secretariado Gitano filed a complaint with the public prosecutor in relation to one case, which is currently being heard by the courts, concerning a case of coercion with an aggravated racist element. The incident in question concerned a Roma family with three children, who moved to a new home and immediately received serious abuse from the downstairs neighbours, who accused them of being excessively noisy. There were daily calls to the local police, who never found there to be any noise problem. The other neighbours in the building never had any complaint about the family. The situation worsened, with graffiti in the entrance way, violent and threatening notes in the communal areas, the spreading of the story on social media, and banging on the ceiling. Officers from the diversity unit of the local police force were involved throughout, keeping us updated on

the situation and working collaboratively. From the outset, they believed that the family were suffering discriminatory treatment to the extent of being criminal.

The family's home was publicly owned social housing. Both social services and the city's housing department were aware of the case, and offered no help to the family, even though the housing was managed by the authorities.

Such a situation would be very unpleasant for anyone, but we must remember that it took place in the midst of a health crisis, thus exacerbating the negative impact on the family. Home was

much more important during this time, not just because the family had to stay there during the lockdown period, but because it was one of the only safe places to be.

6.- School: disproportionate control of absence for Roma pupils.

The health crisis cause distrust and fear of going to and staying in enclosed spaces, and the education authorities were not always clear about the measures they would take to stop the outbreak of the virus. That meant that many parents, both Roma and otherwise, decided not to send their children to school, for fear of the virus.

However, Roma families faced much greater enforcement of their children's attendance than other families. Schools performed more attendance enforcement checks on the parents of Roma children, even though their attendance rate was the same as non-Roma pupils. Roma parents also reported more conversations and correspondence where the tone used by teaching staff was not friendly, or at times was even challenging or threatening. This behaviour stems from prejudice, stereotypes and poor expectations by teachers and school management about the commitment and academic success of Roma pupils.

The authorities play a key role in people's respect of measures, obligations and defence of rights. During the pandemic, they operated in a much more restrictive way, often resorting to sanctions as a first response, failing to take into account the extenuating circumstances. At times

that everyone in society has found so challenging, and where many people were confused, fearful and insecure, a more empathetic and effective way of handling the situation by the authorities would have been an education-based approach, based on explaining which measure needed to be followed and the potential consequences of not doing so. This would have helped many families, both Roma and non-Roma, to understand the repercussions of their actions and to correct their behaviour.

7.- Street selling: greater restrictions on markets than on any other commerce. A clear case of indirect discrimination.

Street selling is a trade mostly carried out by Roma people. For many families, it is the main or sole source of income.

When the pandemic hit, street selling was majorly affected, as were many other businesses, but it found the impact to be disproportional compared with other trades. During the lockdown period, only supermarkets and other establishments that provide essential goods were allowed to remain open. Street markets sell a great many essential goods, such as clothes and food, but they were not allowed to operate.

Once the restrictions were lifted, shopping centres and department stores began to reopen with no limits on capacity, but street markets were not afforded the same treatment. Many of them were forced to relocate to further out, less occupied areas, and were limited in the amount of stalls and the days they could operate.

The justification given by the authorities for taking such measures was public health and safety, to reduce the infection rate. These arguments had no basis, as science had demonstrated that the infection rate in the open air was practically zero, so long as safety measures were taken. Nevertheless, street markets were banned or subject to restriction, while shopping centres opened as normal.

This practice is a real-world example of indirect discrimination. It can be classed as a totally neutral measure, designed to protect public health, but its effects are not neutral. There is a difference in

treatment for street selling compared with retail in large department stores. The greatest impact of this totally discriminatory measure is indirectly felt by the Roma community. Although there is no explicit ban on Roma people selling, the majority of street sellers are Roma ethnicity, and so the leading people indirectly discriminated against are Roma people.

8.- Demotivating effect on victims during the social emergency.

The health, social and economic crisis caused by the COVID-19 pandemic has not only conditioned the way in which discrimination and antigypsyism have played out, but has also had a clear impact on victims and how predisposed they are to report incidents and exercise their rights.

As we have already said, the extreme lockdown and restrictions on activity imposed during the state of emergency caused many Roma people to experience catastrophe, including hunger. When you have to worry about whether you can put food on the table for your children the next day (and we must never forget the stories our participants told about that period, of extreme poverty we never expect to hear in the 21st century) your life priorities change. We saw this with victims of discrimination: many of them, in spite of their rights having been violated due to antigypsyism, would rather focus on getting out the other side of the severe crisis they were going through than exercise their rights not to be discriminated against.

We also saw cases and circumstances of institutional discrimination, where people or groups of people who were victims of these incidents decided not to pursue their cases because the discriminating body was the same institution that they depended on for basic social welfare (such as food) during the social emergency.

All this has led to a situation where the exercise of rights has been set back, even though the starting point of underreporting was already bad. At the time of writing, the pandemic has now eased due to the advent of vaccines. We hope that victims will slowly recover trust in the system, but their experience thus far reiterates the need to tackle the problem of underreporting.



Conclusions

The pandemic has caused everyone to experience difficulties and trauma, on so many levels. Some people have lost loved ones and have not even been able to say goodbye to them or mourn them properly. Other people have found themselves unemployed or in a worsening economic situation. We have all experienced a great deal of fear and uncertainty, and we have also been forced to spend time apart from our friends and family. When a little more time passes, we will be able to measure the magnitude of the damage in terms of health, socially, economically and psychologically, for every single member of society.

But many Roma people have not only been through all this (to an even greater extent in terms of poverty) but have suffered finger pointing from their neighbours and even political representatives, hate speech against this community on social media or through WhatsApp viral gossip, discrimination and violation of rights, and sometimes disproportionate police or even military enforcement in their neighbourhoods.

Nobody could have been prepared for a pandemic of this nature, and much of the suffering experienced was inevitable. But mainstream society and institutions should have been in a position to avoid the discrimination and stigmatizing suffered by Roma people—that could have been avoided.

Instead, we have seen how antigypsyism continues to be highly prominent in our country, and in periods of crisis it gains ground. Once the pandemic is over, we should be able to reflect, learn lessons and take decisive action to put an end to this scourge affecting our society.

Pandemic, police and discrimination.

Carolina Coldeira and David Martín Abanades¹

A whole year has now passed since the restrictions were first imposed due to COVID-19. It has been an intense year in which we have all suffered the impact of this virus, to a greater or lesser extent.

It has been the first time in our democracy that the democratic mechanism of “state of emergency” has been used to restrict people’s right to move. It has been a difficult year also for the police services, who found themselves in a position of having to tackle a health situation using police measures.

It seems long ago, but we can still remember the alarming image of daily press briefing in which senior members of the police, the Guardia Civil and the army announced the daily number of offences and enforcements carried out.

But did anyone stop to think about the impact that it has had on the population to see that the pandemic would be enforced by the police? We do not want to question whether the movement restrictions were effective—they clearly have been—but rather the negative impact and repercussions that the measures have had on people, particularly the more disadvantaged.

The public institutions of power need to assess the impact that certain measures may have had. In some cases, it is as simple as carrying out a cost-benefit analysis. Without doubting that the restrictions have helped to keep the pandemic at bay, what is more questionable is whether that is down to the police’s enforcement of the restrictions or due to the majority of the population complying with them

The first issue to raise must be the uncertainty generated by changing regulations, causing discrepancies and conflicts with police officers in charge of enforcing the rules. We have had to enforce restrictions such as a ban on sharing a car, or that a vehicle can only be occupied by one person per row of seats; 15 days later the rule changes. In a town, a rule might apply to one side of the road and a different one does on the other. We have seen differences due to being in different regions or healthcare areas; and that is without forgetting that, at time, police officers themselves were unaware of which rules to apply—the media broadcast a news item, the official bulletins published another and, the cherry on the cake, sometimes the courts either suspended or needed a rule to be ratified in order to apply it.

Certainly, the pandemic has put stress on the integrity of our system. There should perhaps be a reflection on whether our system needs to be reinforced, particularly around the weak points of ethnic, cultural and socio-economic difference in our society.

When you put a strain on the system, inevitably the people who suffer the most are the minority social groups or those who are less represented in the places where decisions are made.

If we suppose that restrictions will be enforced by random controls by the police, it will be those who are most frequently stopped by the police in everyday life (Roma people in Spain) who will have to endure those controls the most². In Spain, stereotypes are deeply entrenched when it comes to Roma people, and when you put a strain on society, the structure of social cohesion built on the foundations of democracy and the bricks of the Constitution, and the mortar of the various international rules that protect human rights and combat discrimination, all begin to crumble.

1- Carolina Coldeira and David Martín Abanades are local police officers who specialise in managing diversity. This article represents their personal experience and is not representative of the police services they work

2-<https://www.uv.es/uvweb/universidad/es/listado-noticias/policia-diez-veces-mas-gitanos-identificarlos-pa-yos-idh-1285846070123/Noticia.html?id=1285896015161>



All that was needed was a video of Roma people shopping in a supermarket, victims of the mad panic that came over everyone about shortages of basic products, to spread³ fake news that they had received a payment from the state to go shopping.

The message is ignored by a large chunk of society, but there is still a considerable minority who believe it as if it were published in the Spanish State Gazette.

When the system is not well constructed, any bad element can make the whole thing topple. All it took was for it to be claimed that the pandemic could be traced back to the Chinese Wuhan province for the Asian population to be tarnished by the society⁴, even though they knew the severity of the situation and voluntarily closed their businesses even before the state of emergency was called. But just an ethnocentric or even identarian attitude was enough to label them as to blame for spreading the virus.

But the restrictions fed on those with the least options; conversely, those who could work from home not only reduced their chances of catching the virus but were less likely to break the rules. In the same way, the anxiety caused by not being able to leave home was not the same for a family in a detached home with a back garden they could stroll around in, as it was in a shared apartment in a city in Spain where multiple families resided, each one sharing a single room for adults and children. Going out for some air was not dissimilar to Clint Eastwood escaping Alcatraz. It was an ordeal, and there was continued fear of being stopped by the police or being accused by your neighbours from their windows and balconies, as if they had their searchlights out looking for an escaped inmate in the prison yard at nighttime.

People on these furtive outings sometimes encountered the police. The police officers acted—and continue to act—legitimately and pursuant to the law. We cannot forget that, currently, just driving down the road could prompt the police to ask for

your identification document and check that you are covered by one of the exemptions.

When the police act, they do not do so, as John Rawls would say⁵, from behind a veil of ignorance, but burdened with the prejudices, stereotypes and communicative traits that every individual officer has as a result of their life, social and professional experiences. Very occasionally, but still alarming, these actions influenced by prejudices and lack of empathy cause clashes between the police and certain groups of people.

When the police officer is dealing with someone of their own ethnic-cultural group, empathy, dialogue and finding a peaceful, consensual solution can be easier. During the state of emergency, conflict could mean a person being caught strolling down the street without a proper reason.

It is easier for a human being to empathise with behaviour they are familiar with, and often share. For instance, going to church: if it is part of your religion or if traditionally it has been normalised in your society, it is easier to understand the need to attend and for the healing of the soul, than another religion where you are unfamiliar with how they worship and its meaning.

Added to this situation, not all religions have places of worship in every city, let alone every neighbourhood, so that in the event of a local lockdown or restricted movement per healthcare area, people can pray, worship or find the peace and tranquillity that attending their religion's rituals can offer. Added to that were the cremations carried out on health reasons—fully justified, but for people with different religious beliefs it meant not being able to bury their loved ones according to their ritual and traditions. That made mourning even more difficult, if followers of a certain religious could not attend their regular places of worship.

This invites us to consider as a society the question of whether we are capable of protecting the fundamental right to religious freedom as set out

3- <https://www.rtve.es/noticias/20200428/coronavirus-gitanos-tarjeta-mercadona/2012985.shtml>

4 - <https://www.rtve.es/noticias/20200204/racismo-xenofobia-contra-chinos-se-expanden-mas-rapido-coronavirus/1998847.shtml>

5 - Rawls tried to establish principles of justice that are acceptable to all in a democratic society, irrespective of differing ethical, philosophical or religious beliefs. To do so, he turns to the classical theories of social contract, and coins a new vocabulary. Rather than “natural state” he talks of the “original position”, in which before coming under the rule of law we are all under a “veil of ignorance”, not knowing where our place will be in society.

in our constitution, and whether our public institutions—in this case the police—have enough awareness of the religious plurality of our citizens to protect that right, particularly in conjunction with what we understand as minority groups or minority creeds, and whether these circumstances were taken into account when drafting the rules.

Socio-economic situation has also had a bearing on the likelihood that restrictions will be breached and that people will have an encounter with the police, and of catching the virus. For example, if you do not allow more than one person to sit in a row of seats in a vehicle, those who will suffer the most are families that do not have their own vehicle or who share a vehicle between various people to get to work, so are forced to use public transport, which is already at breaking point. Likewise, the people who make a living collecting scrap metal or selling in street markets have seen their income drop heavily or disappear altogether, due to the restriction on movement, and have been taking the risk to continue these activities and be punished for breaking the restrictions.

During the state of emergency, migrants who had not regularised their status were afraid to go outside to do anything, even to buy bread, for fear of being identified by the police.

The haste in drafting the regulations that enabled the state of emergency caused Kafkaesque situations, such as the fact that the street homeless were immediately in breach of them—a totally involuntary and, it goes without saying, unwanted breach by the person living on the streets.

It took days to deal with that issue and to offer temporary housing. Meanwhile, the notion of a police solution to the health crisis, alongside the curtain twitching enforcement from homes, made the police quicker to act with the street homeless, causing the use of police force to soar towards people in this situation. We must remember these two details: this was a situation caused by a health crisis, and there was no solution from the Government.

We must not forget about people with learning disabilities or developmental difficulties, people with autistic spectrum disorder, etc., who have suffered greatly during the lockdowns, with restrictions on their daily activities and no ability to

go outside. Even though this was corrected with the publication of the instruction⁶ to cover those with needing so-called “therapeutic outings”, so important for these people, exercising that right was extremely daunting for them and the people assisting them. It even got to the point that there was consideration of using some sort of identifier, such as a blue band or reflective vest, to prevent the insults and abuse from the “balcony police”. That would not only be discriminatory and humiliating but could cause even more stress and aggravate the situation for the people suffering it.

Entities that represent those with learning disabilities, such as CERMI and Plena Inclusión⁷, and their families were completely against this practice, considering it discriminatory and stigmatising once again to a group that historically has been victimised.

Added to this were the unfortunate police interventions with people suffering mental health problems, sometimes undiagnosed, who did not have a disability certification to allow them therapeutic outings.

Although these criticisms and unfortunate police interventions have been on the more minor side, they had a great impact on society and cast a shadow on the good work of many police officers, who strive every day to make a better society, protecting people and their rights, and on many occasions risking their life and physical health.

This article only wants to state that there is still much more work to do within the public authorities to know that when restrictions are imposed, the people who suffer the most are the minority groups; on the one hand they are subject to biased application of the rules, due to stereotypes and prejudices, and on the other, due to the socio-economic situation, they have the least options and suffer most under restrictions of rights such as the state of emergency.

6 - Instruction of 19 March 2020 by the Spanish Ministry of Health establishing the interpretation criteria to manage the health crisis caused by COVID-19.

7- <https://www.plenainclusion.org/informate/actualidad/noticias/2020/plena-inclusion-denuncia-ante-el-defensor-del-pueblo-los-ataques>



As a final consideration, we suggest that the police services reflect on the lessons that can be learned from criticism from individuals and collectives who have suffered discrimination. This reflection should be geared towards improving how they work, to offer an appropriate response to society as public servants, recognising that society is diverse and requires different responses, not a one-size-fits-all approach.

This approach to building a cohesive and zero-violence society is needed so that any person in any social sphere (irrespective of their origin, culture, ethnicity, religion or beliefs, disability, illness, sexual orientation or gender identity) considers as the first option when they need help to find a police officer, with the peace of mind of knowing that their needs will be met.

But this need to reflect is also for the legislative powers. They need to revise the regulations, since the majority of rules that

restrict rights do not reflect the reality of society and its diversity. In those circumstances, those responsible for enforcing compliance and guarantors of rights and freedoms are thrown under the bus by applying rules that do not consider the plurality and diversity of citizens, but compliance with rules that are discriminatory because they do not take into account the whole of society when they are drafting them.

Fortunately, the majority of police services in Spain have been up to scratch when undertaking the task at hand, since the very onset of the state of emergency. As a final note, the authors would like to suggest that the state of emergency has pushed our system of values and fundamental rights to the brink; enforcing the state of emergency rules has only shone a light on and exacerbated prejudice and stereotypes in society and parts of the police services, by delegating enforcement to the everyday street police who look after our safety on the streets of cities across Spain.

The COVID-19 crisis, antigypsyist hate speech and the impact on people.

Demetrio Gómez and Javier Sáez

The COVID-19 pandemic has caused an enormous shift in how we relate to each other, and in our economic, social and cultural activities. Unfortunately, it has also been an opportunity to spread hate and to stigmatise certain social groups as being responsible for the disease or for its spread.

The discourse of “infection” and of claiming a whole social group is a threat to social order or collective health, is nothing new. In fact, one of the origins of modern racism is related to this discourse about an ideal, homogeneous and “clean” or “pure” group, which is threatened by the foreigner, the “other”⁸, who is blame for all the ills in society, including disease and the crisis (the so-called “scapegoat” discourse). Peoples such as the Jews or Roma have been victims of this phenomenon for centuries, and we can find blame and otherness discourse in the origins of antigypsyism.

In the context of the health and social crisis resulting from the COVID-19 pandemic and the state of emergency, Fundación Secretariado Gitano has been identifying and reporting numerous cases of the media, and sometimes political leaders, stigmatising. **These messages were generated and spread in various ways: as gossip on social media, as WhatsApp audio files, and as fake news that blamed Roma people for causing the pandemic and spreading the virus, or for breaking lockdown rules, with alarming language that linked Roma people to “the spread and the danger”.** These messages then spawned a whole raft of hate speech against

Roma people. FSG decided to report some of these instances to the public prosecutor. But as well as responding by reporting cases, which are currently being investigated, we decided to go further.

Policies and strategies on hate crime (including hate speech when illegal) usually keep within the legal or judicial realm, i.e. to improve legal instruments, the response from the criminal system, the penalties framework, the awareness of key agents such as law enforcement and the judiciary (judges, public prosecutors, etc) and debating the limits of freedom of expression and respect for people’s dignity.

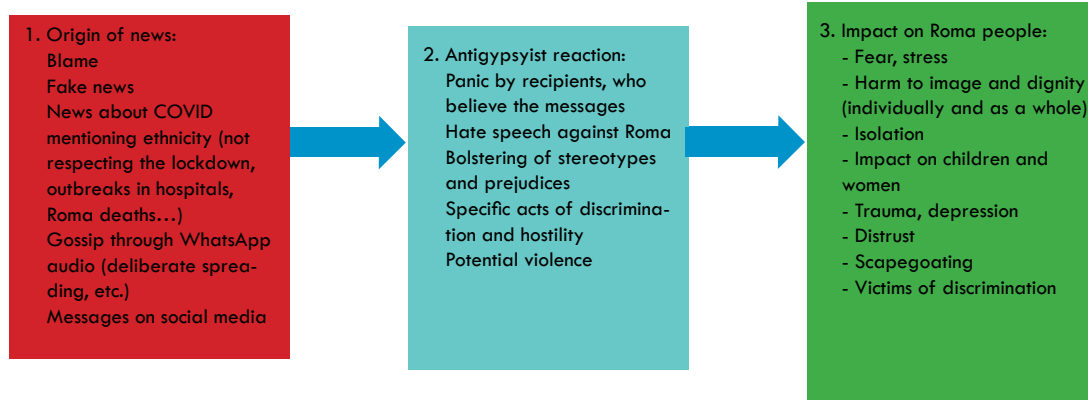
On this occasion, Fundación Secretariado Gitano decided to go further and embark on a study of the impact of this antigypsyist hate speech on the Roma people and community.

The study would be carried out through analysis of six incidents of hate speech identified in the context of the COVID-19 pandemic, five of which were reported to the specialist public prosecutors on hate speech. In order to analyse the impact on the recipients of hate speech we held six telephone interviews with Roma people who were affected by or closely witnessed one of the six cases. The aim was to uncover the personal and collective impact of these situations, and to show that hate speech has a broader impact beyond the specific fact of broadcasting some messages, sentences or posts.

8 -On the perspective of the origin of racism, see Sáez J., “Genealogía del racismo”, in Diccionario crítico de ciencias sociales, Plaza y Valdés, Madrid-México, 2009. https://webs.ucm.es/info/eurotheo/diccionario/R/racismo_genealogia.htm



The cycle of antigypsyist hate in the context of COVID-19



The study provided very valuable information on the damage done, at a number of levels: psychological (on an individual basis), family, collective, childhood and gender bias.

A logical reaction of Roma people who witness these message is fear. Hate speech is an expression of hostility towards the Roma community, which can evolve into violence. Knowing this can trigger a feeling of vulnerability and fear. A clear example can be found in the testimony of one of the people affected by an incident of hate speech in Talavera de la Reina. The community had been living in fear that at any moment a spark could ignite violence in the community: "So many times we've said, look, it just might be that some crazy person, I dunno, one day throws something at you from a car"... "We've said, be careful and when, if they try to start something, don't say a word, and basically, just warning people."

Another form of impact is public finger pointing. Sometimes, antigypsyist hostility prompted unfounded public accusations against Roma people. This stigmatising causes shame and blaming, and is detrimental to the mental state of the person being accused. A clear example of this can be seen in the testimony of a person in Talavera de la Reina. To offer some recent context, he told us about an experience he had with one of his grandchildren. The school was doing remote learning due to COVID, and some pupils were lent tablets that they were to return

later. One Roma pupil was accused, in front of his classmates, of having stolen one of the tablets. Soon after, the tablet was found elsewhere and it was realised that accusation was baseless. The grandfather explained the damage that this kind of blaming does:

"If a nine-year-old who is just starting to grow into a person, so that, as you say, one day they become something and have a place in society, they have to integrate and understand they need to study, to work... the teachers will set him apart and accuse him, at nine years old, that because he's Roma he took the tablet..."

Stress is another form of impact. In the interviews we recognised that there is awareness of racism in the Roma community, and of the rejection of Roma people because of their ethnicity, and even of possible violence towards them. This fact, which becomes a constant concern and something present in the everyday lives of many Roma people, causes stress. One of the interviewees made a poignant comparison to speak about antigypsyism as an invisible but dangerous form of racism: *"It's like COVID: they don't know they have it until they start the feel the initial symptoms... they are asymptomatic until they come across a Roma person... Then the mask drops and they are all the same."*

Another effect of these messages is harm to people's dignity. Many Roma people, aware of the hate comments on social media at bottom of

news items, feel their image and personal dignity have been harmed. This causes shame, fear and a need to justify themselves. An example of this harm can be found in the testimony from Santoña.

In this case, one of the first issues that struck us is that our interviewee began the interview asking permission, as if to justify himself: *“The Roma people of Santoña are civilised Roma, we are not the Roma from 100 years ago. We’ve been in Santoña for more than half a century, 50 or 60 years in a town of 12,000 people, and there has never been a problem, we’ve coexisted peacefully.”* He proudly declared himself a Santoña native, born and raised.

In addition to this explanation, there is an element of “he who excuses, accuses” and also a feeling of unrest when local residents who have lived in their town all their lives are attacked. The Santoña audio files that accused the Roma population of spreading the virus caused outrage and indignation, not just because it was an unfounded accusation but above because of the negative impact that it had on the rest of the population, leading to antigypsyist hate.

The traumatic impact on children. Sometimes, Roma children witness these comments, threats and public finger pointing. This can have traumatic effects, because children and the most vulnerable and have fewer resources at their disposal to understand what is going on.

In Santoña we found a clear example of this impact, where comments calling for antigypsyist violence and genocide cropped up. The interviewee was shocked by how violent the comments were, even calling for the death of children, hate against everyone that grew exponentially in the form of racist attacks online. References to Hitler, aggrandising Nazism, concentration camps and gas chambers were continuous, calling for the extermination of Roma people—a degree of violence very seldom recorded.

When the restrictions began to be relaxed, the interviewee told us that children started to go outside, but it was not the virus they were afraid of: *“I have a 10-year-old girl, the little ones, and I have another boy who is six, and apart from how scared they were of the virus and of not touching things, we would see people and the children would*

huddle up against me, staring, and, well...” *“We walked past the local police from here in Santoña and the children were afraid, it’s really, really bad.”* **It was like the children didn’t even want to go outside, it was even hard to get them to go to school because there were so frightened.**

The “scapegoat” effect. As we have seen in certain cases, Roma people are singled out as being responsible for spreading the virus; as we have said, this process of “scapegoating” is blaming a social group collectively for a complex situation or crisis—in this case, COVID-19. In the city of La Línea de la Concepción we took a testimony that offers an excellent example of the scapegoating effect:

“When the lockdown began, in March or the beginning of April, we got some audio files on WhatsApp because the first person had died from Covid in La Línea and it turns out that person was Roma.” *This lit the fuse that blew up all the hate against the Roma population.* **“Some sound files started to go around, not just breaking data protection, sharing the photo of the person who died that was taken from his social media, but saying that it was a mess, that the guy who died is Roma, that they are infected, that they are spreading it around the whole of La Línea because they don’t respect social distancing and in lockdown they are going out as a whole family, even though they are infected, going shopping everywhere, and now the Gypsies are going to bring covid to La Línea...”**

The news had a profound impact because the press published that the first person to die from Coronavirus in the city was a Roma person—the reference to ethnicity was utterly irrelevant, but the damage was huge.

Dehumanisation as a form of impact.

Dehumanisation⁹ is a common technique employed by the intolerant to minorities, as a way of stripping these people from their human attributes to exercise violence without regret. In the hate speech reported we have seen numerous

9 - On the mechanism of dehumanisation, see the article by Demetrio Gómez in “Baxtalo Blog”: <https://baxtalo.wordpress.com/2020/01/13/mecanismo-de-cosificacion-de-una-persona-o-un-grupo-humano/%20%20%20%20%20ver%20todos>



racist, antigypsyist reactions that called for the extinction and extermination of Roma people (the “final solution”), and references to Nazism and ethnic cleansing. Aggrandising the Nazi death machinery is, unfortunately, commonplace in this discourse, and sometimes is justified precisely by attempting to dehumanise (they are not persons, so they don’t have rights, and they can be killed with impunity, their life has no value), comparing them with animals (rats, dogs, cockroaches, “pseudo-people”, chimpanzees, etc).

The case in Beas de Seguro (Jaén) is a good demonstration of how this dehumanisation works. Our informant explained the details: “Once the news was broadcast, social media lit up with a tremendous amount of hateful comments”... “We collected all the comments we found from all kinds of places, comments that I have in front of me to show I haven’t made them us, and they were, what scum, pseudo-people...” (where their faces and registration are there) “Fucking Gypsies, they’re a cancer.”

Discrimination in entertainment spaces and refusal of services. Another of the important effects of hate speech is that they lead to specific acts in everyday life. The message does not stay in the “virtual” domain, but generates attitudes and reactions in society: for example, we see cases where, further to such messages and rumours, some Roma people have been discriminated against when trying to enter entertainment or leisure premises or trying to shop in pharmacies or supermarkets.

In Beas de Segura (Jaén), this discrimination took place, as reported in the testimony of one of the persons affected:

“The hate spread to the whole Roma population, with harassment on social media, which got a lot worse, harassment in supermarkets, which seems minor but we are talking about this happening in the height of the lockdown,, when we could only go out for basic needs like going to the doctor, going shopping, in the supermarkets it was really noticeable, well it was noticeable and it still is, harassment when Roma people go shopping, it was really noticeable”.

Hypervigilance in shopping centres, with gender bias (intersectional impact). Another effect of these messages is that, at time, they lead to harassment, and excessive and persistent vigilance towards some Roma women in shopping centres by security guards. This is also an example of intersectionality, where ethnicity and gender meet.

Once again, we found an example of this discriminatory effect in Beas de Segura (Jaén):

“To alleviate the effects of COVID, we gave a young woman a voucher, that she had to take immediately to a supermarket to redeem it and buy some groceries. She went to the supermarket with her son, with the voucher, and as she queued, one of the shop managers grabbed her by the arm and shook her. He asked her what she was doing, and that one of his colleagues had caught her stealing. What she was picking up was the food that she was going to redeem against the token.” “Of course, when the young woman saw him grab her like that, she started to cry. She was also there with her mother, an elderly lady, and they wanted him to let go of her.” “(the shop manager) started to tell her off, the crying lady, and the older woman told him to let go, and that she hadn’t stolen anything. She showed him the voucher, showed him everything, and that they hadn’t stolen anything. The manager then calls the police. The situation calmed down a bit, and the manager acknowledged that she hadn’t stolen anything. But what if I’m next to go through something so horrid?”

The isolation. Another effect of these messages is isolation due to blame. When falsely accused, some people feel discriminated and retreat to their familiar surroundings, breaking social links with non-Roma people and no longer exercising certain citizen’s rights, such as political or social participation. A clear example of this took place in the case in Tres Mil Viviendas, Seville, where accusations that Roma people did not comply with the lockdown meant that some of them decided to shut themselves in at home and not to take part in cultural or social events.

Through witness statements we saw how antigypsyist hate speech has become more virulent during the pandemic, and how this has psycho-social effects at various levels on

the people they have been aimed at, either individuals or groups, of these antigypsyist acts.

These disturbances that affect the victims of antigypsyism **principally include depression, low self-esteem and high levels of stress. At a social or collective level, they lead to distrust in institutions or mainstream society, whom they perceive as threatening or dangerous to their safety. This, in turn, means that they do not report many of these cases.**

To be constantly stereotyped and subject to discrimination at social and institutional level, to violence, inequality and more, as well as the everyday language that normalises racist expressions, can turn into a real hurdle in everyday life for people who experience antigypsyism. This traumatic element (for individuals and collectives) should be remembered when implementing discrimination prevention and victim support policies, and to make society aware that words have the power to wound, and they directly affect the live and wellbeing of these people.

The study can be read here:

https://www.gitanos.org/centro_documentacion/publicaciones/fichas/133448.html.es



One year of the EU Action Plan against racism: the COVID-19 crisis and the importance of intersectionality in anti-racism policies.

Michaela Moua

Coordinator of the European Commission against racism

Vanessa Kabuta and Lavinia Banu

experts of the DG Justice of the European Commission

Discrimination on the grounds of racial or ethnic origin is prohibited in the European Union (EU). Yet such discrimination persists in our society. Over half of the people living in the EU believe that such discrimination is widespread in their country. Most directly, it means that a large number of people face discrimination, affecting their human dignity, their life opportunities, their prosperity and their well-being, and often their personal safety. Surveys show that those who felt discriminated against would not easily report the incident.

With racial inequalities and discrimination persisting in Europe and beyond and The Black Lives Matter movement becoming a global human rights movement sparked by the the murder of George Floyd in the U.S. at the hands of law, on 18 September 2020 the European Commission adopted an ambitious EU anti-racism action plan that sets out a series of measures in the course of 5 years.

Two months ago, we marked **the first anniversary** of the EU Anti-Racism Action Plan (ARAP) and I am happy to say that the implementation of the action plan is moving forward full speed, especially as we come from a long way.

Importantly, the EU Anti-racism Action Plan recognises the **structural dimension of racism** – which perpetuates the barriers placed in the way of citizens solely due to their racial or ethnic origin. The recognition of structural racism is a major step forward due to how racism is often deeply embedded in our societies' history, intertwined with its cultural roots and norms. It can be reflected in the way society functions, how power is distributed and how citizens interact with the state and public services. It can be unconscious and is often felt through a failure to reflect the interests of the people affected by racism, even if not necessarily a direct attempt to exclude.

Every day, people affected by racism can feel its impact on their access to jobs, healthcare, housing, financing or education, as well as cases of violence. Racism is robbing them of equal opportunities. Therefore **racism and racial discrimination needs to be tackled at all levels of society and should be addressed in a holistic way and in different policy areas**- from the international level to the Member state level all the way to the regional and local levels.

The Action Plan also clearly acknowledges that there are **different forms of racism**, for example antigypsyism, anti-black racism, antisemitism and anti-Asian racism, that link to religion or belief in cases such anti-Muslim hatred. All share the reality that the value of a person is undermined by stereotypes based on prejudice. In addition to religion or belief, racism can also be combined with discrimination and hatred on other grounds, including gender, sexual orientation, age, and disability or against migrants. This needs to be taken into account through an **intersectional based policy approach**. An intersectional perspective deepens understanding of structural racism, and makes responses more effective.

The protests for racial justice in the summer of 2020 all over the EU made it clear that **EU legislation and policies against racial discrimination needed to be reviewed**.

The EU has in place an advanced legal framework with which to promote equality and non-discrimination. All 27 EU Member States have transposed this legal framework into national laws, which is good. This often even goes beyond the minimum standards included in the Racial Equality Directive and the Employment Equality Directive.

Despite this, data collected by the European Union Agency of Fundamental Rights (FRA) show that many people in the EU still experience inequality and social exclusion on a regular basis. Discrimination can be based on disability, sex, age, racial or ethnic origin, skin colour, religion or belief, sexual orientation, and gender identity, or a combination of these.

The **report on the application of the Racial and Employment Equality Directives published in March of 2021** concluded that a closer monitoring is needed by Member States on the implementation of the Directives, in particular in relation to protection against victimization and the application of effective, proportionate and dissuasive sanctions.

The report pointed at the need to raise awareness among those particularly at risk of discrimination about their rights as well as existing support mechanisms.

It also stressed the need to increase trust in the authorities and to facilitate access to justice. Here is where the role of **National equality bodies** is so important.

National equality bodies are essential in ensuring that individuals and groups facing discrimination can enjoy their rights in full. They should be able to effectively perform the tasks assigned to them under EU legislation. The current EU law, leaves discretion to Member States on the powers and functioning of equality bodies. This results in major differences between national equality bodies, and many of them struggle with different levels of independence, resources and competencies. **The Commission commits to preparing new legislation to strengthen equality bodies by adopting binding legislation on standards for equality bodies by the end of 2022.** The standards would cover, among others, the equality bodies' mandate, their powers, independence and their resources.

EU member states play an important role in the fight against racism. The commission encourages member states to develop and adopt their respective **national action plans against racism and racial discrimination** by the end of 2022. To this end, the Commission launched the **subgroup on the national implementation of the EU Anti-Racism Action Plan 2020-2025.**

The subgroup is currently outlining **the common guiding principles for national action plans against racism** with the support and expertise of the EU Fundamental Rights Agency and Member States and the close involvement of civil society and equality bodies. The aim of the guidelines is to facilitate the nation action plan processes. In addition the Commission proposes to report regularly on the implementation of national action plans against racism, with a first report at the end of 2023. This will be instrumental for exchanges of good practices, mutual learning and for an assessment of progress at the national and EU level.

Accurate and comparable data is essential in enabling policy-makers and the public to assess the nature of discrimination suffered by marginalised groups. It allows policy-makers to better design, adapt, monitor and evaluate policies. Equality data are, therefore, a powerful tool in the fight against discrimination and exclusion.

The Commission is **fully committed to step-up the collection of equality data.** By equality data we mean any piece of information that is useful for the purposes of describing and analysing the state of equality. The need for reliable and comparable data at European and national level and for developing a consistent approach on equality data collection was stressed in all the Commission's initiatives in the area of equality. This includes the Gender Equality Strategy, the LGBTIQ Equality Strategy, the EU Roma Strategic Framework and the Anti-Racism Action Plan.

Nonetheless, there is still a lack of comparable and regular data collection on equality and non-discrimination. This limits effective monitoring of the application of the core legal EU frameworks in this area.

The collection of equality data was for a long time considered as a particularly sensitive issue in many European countries. Sensitive personal data should be collected based on self-identification and voluntarily. They are strongly protected by constitutional norms, the applicable European Union data protection law and the Charter of Fundamental Rights. However, if collected and processed in full respect of this legal framework, such data are essential for Member States



to assess their compliance with human rights obligations. They also enable policy makers to design evidence-based measures to address discrimination, inequalities and exclusion.

As announced in the Anti-racism Action Plan, on 30 September 2021, the Commission organised a **Roundtable on equality data**. The event brought together key stakeholders to examine obstacles to the collection of equality and identify paths to a more harmonised approach. The Roundtable marked an important step in our efforts towards a consistent approach on to equality data collection.

During the event, the Commission presented the Guidance note on improving the collection and use of ethnic and racial equality data. These non-binding guidelines provide practical assistance to Member States on improving the collection of data disaggregated by racial or ethnic origin. The Guidance note will feed into the guidelines the Commission will put forward by 2021 to support Member States in the development of their own national action plans against racism.

The Guidance note was developed by the Subgroup on equality data, under the guidance and expertise of the Fundamental Rights Agency (FRA). It is made up of experts from all over Europe dealing with non-discrimination policies, national statistical institutes and equality bodies¹⁰. The Subgroup provides an important forum for Member States and EU institutions, to discuss challenges and opportunities in improving the collection and use of equality data.

I must say that the EU Anti-Racism Action Plan is quite ambitious, and **consists of comprehensive, horizontal and intersectional measures** to step up the fight against racism and discrimination in the EU. The action plan is a key tool for the next five years to truly advance in the fight against racism and xenophobia, and the Commission is focused on how to effectively **consult with all relevant stakeholders** to ensure that we target the needs and concerns on the ground.

¹⁰ - At the beginning, it was made up of a handful of Member States but it grew to become a cohesive group of **23 countries**. The activities of the subgroup are varied and range from periodic meetings, to country visits, to written consultations.

The action plan includes important steps to **provide institutional support** for the longstanding work of civil society organisations, along with forthcoming legislation, funding and political commitment to the fight for racial justice.

In order to fight racism in a comprehensive way, the Commission has recently set up a **permanent forum of CSO's**¹¹ that wish to participate in the consultative processes and support the Commission in the implementation of the EU Anti-Racism Action Plan. The Commission encourages the Anti-Racism team to ensure that outside of the typical, established organizations, also other grassroots organizations and less heard voices are given an opportunity to state their case. It is important to recognize that marginalized groups are not a monolith. Against this background, antiracist civil society advocate for a structural sustained participation to provide them access in the design, implementation, evaluation and monitoring of relevant EU and national policies.

Local authorities have a lot of experience in developing effective strategies to combat racism and in building networks and they should prioritise raising awareness and building knowledge on the role of people with a minority racial or ethnic background in European society and culture. The Commission will continue to support such schemes and networks. This work can also draw on cooperation with the network of major European cities (EUROCITIES) and the UNESCO-led European Coalition of Cities against Racism (ECCAR). More concretely, the Commission will launch in November 2021 **the European capital(s) of inclusion and diversity award**, which sets out to give visibility as well as to highlight best practices that can be a source of inspiration for other European cities in creating more diverse and inclusive environment for their citizens.

We should organise the next **Anti-Racism summit** on 21 March 2022 at the occasion of the International Day for the Elimination of Racial Discrimination and the Commission intends to

¹¹ - That have proven expertise in racial justice, equality, reparations and decolonisation and/or anti-migrant racism on the European, national and local levels.

work closely with all the stakeholders in ensuring its success. The main objective of the Anti-racism Summit is to engage all stakeholders to address racism in all forms in Europe by ensuring strong commitment from the Member States and EU institutions to the implementation of the Action plan.

During our first official CSO meeting, held on 5 October 2021, the Commission exchanged with Anti-Racist Civil Society Organisations for the preparation of the Summit and as the EU Anti-Coordinator, I will do my best to have their suggestions largely reflected in the agenda.

At the end, the **COVID-19 crisis and its impacts** are disproportionately affecting certain marginalised racial, national or ethnic communities and population groups. The pandemic has highlighted and exposed underlying structural inequalities and fundamental problems in various areas of social, economic, civil and political life, and exacerbating racism and racial discrimination, which exist in many parts of the world.

The EU together with Member States have a joint responsibility to show solidarity in times of crises such as Covid-19 and protect all people, including Roma.

The systematic challenges that Roma were already facing such as antigypsyism, social exclusion and high rates of poverty, were deepened even further once Covid-19 emerged. The pandemic also revealed the extent of dire, hazardous, and overcrowded living conditions in segregated Roma communities. The extent of the challenges to which Roma have been exposed during the Pandemic, has also been reported by FRA in their [publication](#) of September 2020 or in the [Overview of measures regarding the impact of Covid-19](#), reported to the European Commission by the Member States.

For these reasons, the Commission has asked Member States to make better use of relevant EU funds related to COVID-19 recovery and put in place measures that conform with the guidance set in the [EU Roma Strategic Framework](#), to better face emerging challenges, such as the COVID-19 pandemic, by for example ensuring digital inclusion and delivering environmental justice.

This was further embedded in the [2021 Council Recommendation on Roma](#), which has been unanimously adopted by all Member States.

Moreover, the letter Commissioner Dalli sent on 8 April 2020, together with Commissioners Kyriakides and Schmit, to the relevant Ministers in each Member State drew attention to the importance of food and water availability and the delivery of key sanitation products and medicines to all, prioritising targeted support to the most vulnerable, such as marginalised Roma communities. The letter pointed to the pre-existing racial inequalities, exacerbated by the COVID-19 pandemic, and recommended the wide dissemination of information to both Roma and the majority population to avoid further hate spread. The Commission reminded Member States that the European legislation must be enforced fully also in times of the COVID-19 crisis. The legal tools remain in force and have to be complied with.

I would like to, once again, highlight that, in this unprecedented situation of the spread of the COVID-19 virus, a show of solidarity and mutual trust is more important than ever, benefitting the mutual public interest. Therefore, all public authorities and politicians should refrain from any stigmatisation, “ethnicization” or Roma scapegoating, including during the pandemic!

We have great challenges ahead of us, but therein also exist great opportunities. We are committed to showing leadership in the fight against racism and other forms of discrimination. My hope is that by the end of my mandate we have been able to effectively implement the action plan to where it has created change on the ground. I hope that there will have been a shift in recognizing the importance of mainstreaming anti-racism into policy making and stepping up actions against racism in the European Union. This can only be accomplished with a true commitment to anti-racism, working together horizontally and with an intersectional framework to ensure that the next years truly step up the fight against racism in the EU.



Chapter 5



Best practice and case law

Best practice and case law





1. Best practice

Recommendation from CEDRE to avoid discriminatory attitudes and discourse in the current context of health, social and economic crisis

The Council for the Eradication of Racial or Ethnic Discrimination (under the Spanish Equality Ministry) passed this Recommendation on 13 April 2020, in which it linked the COVID-19 crisis to the rise in discrimination incidents against certain ethnic or racial groups, identifying the Roma and Asian communities as the primary victims of these incidents, which have been documented and handled by the Assistance and Guidance Service for Victims of Racial or Ethnic Discrimination. These occur as much on the public road as they do on social media, and are accompanied by speech that finds its voice in the media and public representatives. The Recommendation makes a series of suggestions:

1. To avoid discriminatory discourse and stigmatising groups, above all by certain media outlets and public representatives, who allude to the alleged ethnic or racial origin or nationality of people who have caught the virus, died or broke the quarantine rules, fuelling the stigma against these groups.
2. To stop the spread of fake news and racist hate speech by reporting them and getting them removed from social media and internet platforms. Positive action should be shared from people and organisations that represent historically discriminated against communities and people, NGOs and social organisations.
3. To guarantee equal treatment for all by the authorities and security forces, whether public or private, regardless of racial or ethnic origin and administrative situation, with emphasis on access to health and banning identity checks that use ethnic profiling
4. To pay special attention to the most vulnerable groups and intersectional discrimination, since they have suffered the strains of the pandemic more acutely. That is why full access to social services must be secured, overcoming the language barrier. In addition, people experiencing severe residential exclusion are especially vulnerable, and therefore cannot comply properly with the lockdown.
5. To create anti-racist support networks, taking as an example the impressive self-organising and solidarity of Roma, African, African descendent, Muslim and immigrant associations.
6. To report discrimination, whether experienced or witnessed, to the Assistance and Guidance Service for Victims of Racial or Ethnic Discrimination, to prevent impunity.
7. To push equality as a national policy, combating racism and xenophobia from all perpetrators.

In conclusion, the Recommendation calls for individual and collective responsibility from Spanish society to stop the pandemic pushing up the number of incidents of discrimination and hate speech against racial or ethnic groups.

The Recommendation can be read at:

<https://www.inclusion.gob.es/oberaxe/ficheros/documentos/Recomendacion-Consejo-COVID19.pdf>

Study of the perception of racial or ethnic discrimination by potential victims in 2020 (CEDRE).

The Council for the Eradication of Racial or Ethnic Discrimination published its **4th study on racial or ethnic discrimination: the perception of potential victims** (2020). The study was carried out by Red2Red with the support and coordination of the CEDRE Studies and Reports Working Group, of which Fundación Secretariado Gitano is a member.

The Study surveyed a total of 1,624 people across all the autonomous regions of Spain, belonging to eight population groups: Eastern Europe, non-Mediterranean Africans, Maghreb, East Asia, Andean American, Spanish Roma, Afro-latino and Afro-Caribbean (people of African Descent), India-Pakistan. The purpose of the study was to discover the progression of racial or ethnic discrimination experienced by potential victims in terms of the extent, intensity and the areas, circumstances and specific forms or manifestations in which they occur. Specifically, employment and training is one of the main areas where the greatest discrimination was found.

The results show that more than half of the population surveyed (59%) used negative or derogative adjectives to characterise the image they think the majority population in Spain of their group of origin. However, the results offer a less negative image than that revealed by earlier years of the study. The groups who most believed they were seen in the worst light were the Roma and Maghreb populations.

It found a higher percentage of those surveyed believed that the majority of the population is more bothered by working with immigrants or **Roma** than by having them as neighbours or friends of their children.

Regardless of their group of origin, all people consider that the non-Spanish European Roma population (54%) is the ethnic minority most poorly treated by Spaniards, followed by the Spanish Roma population (45%) and, in third place, immigrants from the Maghreb (40%). The groups that perceive the highest levels of discrimination are non-Mediterranean Africans and Spanish Roma. However, perceived

spontaneous discrimination rose in all groups, especially the two mentioned above.

The study reveals a phenomenon of intersectional discrimination, where specific stereotypes about certain groups of origin are mixed with personal characteristics such as gender and levels of education or income. 28% of those who have suffered discrimination based on racial origin, culture and/or religion, have also suffered discrimination due to being a woman.

The discrimination rate in access to housing stands at 31%, the highest of all areas. The Roma population is the third most discriminated against in this area. Discrimination by neighbours was 8%, and **the people who feel the most discriminated against in their neighbourhood are Roma, non-Mediterranean Africans and those from the Maghreb.**

Discrimination based on ethnic group or race in public establishments or places and in access to goods and services stood at 31%. Along with housing, this was the area with the highest level of discrimination. This was supported by the in-depth interviews and was the area most spontaneously mentioned by those surveyed. **As in housing and neighbourhoods, the groups most discriminated against in this area are Roma, Africans and those from the Maghreb.**

As for integration, most of the people surveyed felt integrated in Spain, particularly the Roma population (95% very or quite integrated), even though it is one which endures the most discriminatory treatment.

The highest unemployment rates correspond to the Roma (34%), sub-Saharan African (31%) and Afro-Caribbean and Afro-Latino (27%) population groups.

The groups with the lowest level of education (no studies or only primary school education) are Roma (45%), Sub-Saharan Africans (28%) and people from the Maghreb (27%).

The population groups experiencing the highest rates of labour discrimination were the non-Mediterranean Africans, Afro-Caribbean and Afro-Latino, Maghreb and the Roma population (30% felt discriminated against at work).

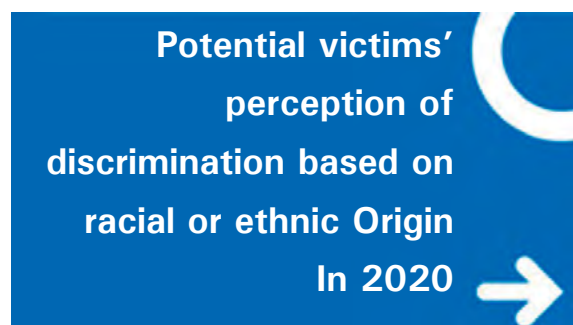
According to those surveyed, the Roma population is the group most affected by a lack of equal opportunity in the workplace: 74% believe that they are not given the same opportunities as others. 60% believe that the immigrant population and 55% believe that transgender people face this same inequality.

Reporting levels of discrimination remain very low: just 18.2% of all people who experienced discrimination spontaneously in the past year stated that they filed some kind of complaint or claim, compared with 10.2% in 2013. The phenomenon of racial and ethnic discrimination is becoming invisible, even though cases have more than doubled since last year.

There is a clear link between sex, discrimination and reporting: more than half those to report were women (59.3%).

The full study and executive summary can be downloaded here:

<https://igualdadynodiscriminacion.igualdad.gob.es/destacados/estudiopercepcion.htm>



Report by the Assistance and Guidance Service for Victims of Racial or Ethnic Discrimination. Cases related to the COVID-19 crisis and the state of emergency

At the request of the Directorate General for Equal Treatment and Ethnic-Racial Diversity, in June 2020, the **Assistance and Guidance Service for Victims of Racial or Ethnic Discrimination** submitted its report of 53 cases that the Service handed in the context of the COVID-19 pandemic and the declaration of the state of emergency in Spain until 8 May 2020, a concerning figure considering the home lockdown order. However, due to the impact that the crisis has had on minority ethnic and racial groups, there is considered to be some underreporting.

A striking detail is that the rates by gender are not representative, thus not allowing clear conclusions to be drawn about intersectional discrimination. Cases have been identified in different spheres, although some can fit in more than one area.

The conclusions drawn in the report is that bad practice exists within certain police forces, there is underreporting for fear of retaliation, stigmatisation and accusations of allegedly spreading the virus, fake news and rumours in the media and on social media (representing the majority of cases documented and mostly being against the Roma community) and barriers to access to basic services.

The number of cases of discrimination against people in the Roma community is worrying (46 of the 53 cases documents); together with the serious economic situation and reliance on welfare benefits by some members of the community, serious underreporting is a concern. Added to that is the spreading of fake news about links between the Roma community and the spread of the virus, and excessive vigilance by certain members of the security forces make the actions disproportionate. Finally, the report urges the introduction of enforcement mechanisms to prevent this behaviour.

European studies by the FRA, ERGO, Open Society Foundation, European Commission and the Commissioner for Human Rights of the Council of Europe on COVID-19 and Roma community

Various European institutions specialising in human rights have undertaken a number of studies on the impact of the COVID-19 pandemic on the Roma community in Europe in 2020.

The Council of Europe's **Commissioner for Human Rights** published a statement entitled **"Governments must ensure equal protection and care for Roma and Travellers during the COVID-19 crisis"** She indicated how substandard housing and segregated settlements make Roma communities more vulnerable to the pandemic. The situation is aggravated due to the lack of access to clean water and sanitation in many settlements, as well as overcrowding, which makes social distancing more difficult. Traveller communities are faced with a shortage of halting sites with access to water and electricity. Lastly, she urges governments to implement crisis plans to ensure that Roma and Travellers benefit from access to basic resources, and to avoid discrimination and hate speech accusing them of being a public health threat.

Available at:

<https://www.coe.int/en/web/commissioner/-/governments-must-ensure-equal-protection-and-care-for-roma-and-travellers-during-the-covid-19-crisis>

In 2020, the Open Society Foundation published the study "Roma in the COVID-19 crisis", in which

it issued a warning to six European Union member states (Bulgaria, Hungary, Italy, Romania, Slovakia and Spain) for not taking proper measures to protect Roma communities from the pandemic. The report issues a series of recommendations to those Member States in terms of health, security, emergency and humanitarian measures, social, education, economy and disinformation, which are in turn split into urgent and long-term measures.

Available at:

<https://reliefweb.int/sites/reliefweb.int/files/resources/Roma%20in%20the%20COVID-19%20crisis%20-%20An%20early%20warning%20from%20six%20EU%20Member%20States.pdf>

The United Nations General Assembly in its resolution **"global solidarity to fight the coronavirus disease in 2019 (COVID-19)"** dated 2 April 2020 makes no specific mention to the Roma community, but appeals for cooperation and multilateralism, i.e. a global response. It stresses the need to protect human rights during this crisis, particularly for the most vulnerable groups, as they are the least protected from the impact of the pandemic.

Available at:

<https://undocs.org/es/A/RES/74/270>

The **European Commission** has expressed its concern for discrimination against the European Roma community during the pandemic, in a report entitled **"Overview of the impact of coronavirus measures on the marginalised Roma communities in the EU"**. It highlights the priority areas in which the difficulties faced by the Roma community during the pandemic: health, employment, education, housing, social protection, migration for work, discrimination and antigypsyism, and unequal access to information. However, it indicates that there have been positive measures from Member States, as mediators to bring the necessary information to Roma communities that only speak the Romani language, but there is a failure to take into account the medium and long-term measures needed to recover from the socio-economic crisis caused by coronavirus.

Available at:

https://ec.europa.eu/info/sites/info/files/overview_of_covid19_and_roma_-_impact_-_measures_-_priorities_for_funding_-_23_04_2020.docx.pdf

The **European Union Fundamental Rights Agency** has shown interest in this issue, in its report **"Coronavirus pandemic in the EU - impact on Roma and Travellers"** from August 2020, in which it draws on data from 15 Member



States, including Spain. The report stresses that Roma and Traveller communities have been disproportionately affected by the pandemic and some of the measures taken, together with pre-existing systemic discrimination and antigypsyism, particularly in the areas of employment, education and housing. It proposes taking long-term measures to reverse the negative effects of the pandemic and greater involve Member States to end prejudice and antigypsyism. It stresses that the inability of local authorities to effectively support marginalised Roma communities.

Available at:

<https://fra.europa.eu/en/publication/2020/covid19-rights-impact-september-1>

Lastly, in December 2020, the **European Roma Grassroots Organisations Network (ERGO)** published its report **“The impact of COVID-19 on Roma communities in the European Union and the Western Balkans”**. The data collected by various Member States and EU neighbours show, akin to the FRA report, that Roma communities have been disproportionately affected. It recommends that Member States safeguard the rights of these communities highlighting the right to non-discrimination, to employment, to running water, to food, to health and to housing. It also stresses the need to help the poorest families to pay their bills and have access to the internet, and thus safeguard the right to education.

Available at:

<https://ergonet.org/wp-content/uploads/2021/04/Ergo-covidstudy-final-web-double-v2.pdf>



The 2020 report on hate crime in Spain by the Spanish Ministry of the Interior includes cases of antigypsyism for the first time.

The report on “Evolution of Hate Crime in Spain” by the Spanish Ministry of the Interior presents two important innovations in 2020, although keeping the structure and methodology of the previous reports.

On the one hand, hate crimes and incidents documented are split into two categories: criminal infringements and administrative infringements or other incidents, i.e. with no criminal repercussions. This is closely related to the phenomenon of **“underreporting”**, which, according to the FRA, is around 80% in Europe.

The category of **“antigypsyism”** is also established, which previously was included under “racism or xenophobia” in the statistical criminality system. **Identifying the discrimination, hate and stigma that Roma people suffer as a standalone category is essential to shine a light on the structural problem in Spain, and will serve as an incentive to people who may be experiencing this discrimination to report it.**

The total number of hate crimes and incidents is 1,706, an 18% rise on 2018, when 983 were handled. Of these, 108 concern administrative infringements and other incidents, i.e. with no criminal consequences. **In its first year, the antigypsyism category documented 14 of all the cases, 10 of which were resolved.**

Of the victims in this category, 75% are men aged between 26 and 40 years, and there are no victims under the age of 18. The study classified a crime committed online or on social media as antigypsyism.

Other relevant details include that the majority of cases took place on the public road or other transport means, followed by cases in homes, and the autonomous regions of Spain with the highest case numbers were Catalonia (6.7%), Melilla (5.78%), Navarre (4.74%) and Basque Country (4.67%).

Additionally, the measures of the action plan to combat hate crime that the Spanish Ministry of the Interior were first implemented in 2019, which through training of the national security forces, the prevention, assistance for victims and creation of appropriate responses, is designed to reduce the rate of these kinds of crimes.

Available at :

<http://www.interior.gob.es/documentos/642012/3479677/informe+evolucion+2019/631ce020-f9d0-4feb-901c-c3ee0a777896>



Publications from Oberaxe in 2020

OBERAXE (the Spanish Observatory on Racism and Xenophobia) has published a series of reports in 2020 on discrimination for ethnic, racial or religious reasons. These reports reach a common conclusion: hate speech, against whatever group, has spread and is being sustained on social media and the internet.

The **report on intolerance and discrimination towards Muslims in Spain: collection of information and practices to combat Islamophobia** takes an X-ray of statistics on this discrimination against a group that represents 4% of the total population in Spain. It points out the intersectional discrimination suffered by Muslim women, who are more easily recognisable from their clothing. In turn, the primary perpetrators are individuals with extreme right-wing views, the media, institutions and political groups. The main areas identified where Islamophobia takes place are on social media, public administrations, work and education. It highlights that social media is where Islamophobia thrives, as the source of 70% of the cases documented by the report.

It also identifies the phenomenon of coordinated hate attacks where the victim receives a large amount of hateful messages from various sources in a short period of time, mostly motivated by news or reviews in online media.

However, there is positive work to acknowledge from public bodies (national, regional and local), associations, foundations, civil society organisations and religious institutions, with projects and initiatives intended to raise visibility and awareness, and prevent and combat Islamophobia.

Available at:

https://www.inclusion.gob.es/oberaxe/ficheros/documentos/InfDiscrMusul_20201210.pdf

In 2020, OBERAXE has also published the **report on best practice and experience in the EU to analyse hate speech online** in the context of the **AL-RE-CO** project (hate speech, racism and xenophobia: alert and coordinated response mechanisms), that seek to create strategies to combat racist, xenophobic, Islamophobic or antisemitic hate speech by improving national plans to identify, analyse, monitor and assess online hate speech, since the Spanish institutions and authorities are lacking in that sort of programmes. For that reason, the report documents and analyses tools that are already used in Europe, whether similar ones or geared towards the counternarrative and awareness. The research focuses on literature review, interviews with key persons and a survey to systemise the information collected. The aim is to develop a protocol for action, with early warning indicators. It documented 55 experiences between 9 and 30 January 2019, and selected 20 for analysis. Its main conclusions are that to make a tool functional it needs to be multilingual, include a gender perspective and have a monitoring system.

Available at:

<https://www.inclusion.gob.es/oberaxe/ficheros/ejes/delitosodio/buenas-practicas-exper-analisis-discur-odio-en-linea.pdf>

Lastly, as part of the United Nations International Decade for People of African Descent (2015-2024), a **study has been published to discover**



and characterise the community of Africans and those of African descent, in which Africans and people of African descent, African-Spaniards and Spanish citizens without African descent volunteered to take part, relating to civil society organisations. The study was based around the collection of data and information from the INE National Institute of Statistics, the collection of quantitative and qualitative data and a research seminar in which the data was shared. The aim is to paint a truthful image of the reality of this collective by quantifying and identifying the main problems faced.

The recommendations made in this study are principally around raising awareness in society as a whole, through education, legislative change, specialist training and dissemination campaigns to foster dialogue between institutions and civil society. This is because the discrimination faced by the African and African descendant population is based on stereotypes that are, in turn, based on an identity built through a conditioned gaze by non-racialised people, i.e. the issue comes from a cultural problems that cannot be solved by merely safeguarding basic rights.

Available at: https://www.inclusion.gob.es/oberaxe/es/publicaciones/documentos/documento_0128.htm



5th Evaluation of the EU Code of Conduct on online hate speech 2020

On 22 June 2020, the European Commission published the results of its fifth evaluation of the Code of Conduct on Countering Illegal Hate Speech Online. The results were broadly positive: internet companies review 90% of reported content within 24 hours and delete 71% of content considered illegal hate speech. However, platforms need to further improve their transparency and response to users.

On average, platforms review 90% of flagged content within 24 hours and 71% of content considered illegal hate speech was deleted in 2020. The average removal rate, similar to that recorded in prior reviews, shows that platforms continue to respect freedom of expression and avoid deleting content that they do not class as illegal hate speech. Platforms responded to 67.1% of notifications received, which is an improvement on the previous year (65.4%). However, it was only Facebook that systematically informs users; all the other platforms need to make improvements in this area.

The Commission will continue these rounds in 2021 and 2020 to facilitate dialogue between internet companies and civil society organisations that work on the ground to tackle illegal hate speech.

The Code of Conduct is based on close cooperation between the European Commission, internet platforms, civil society organisations and national authorities. All stakeholders meet regularly under the auspices of the high-level group on combating racism and xenophobia, to discuss current challenges and next steps.

In 2019, Fundación Secretariado Gitano secured the inclusion of the category “antigypsyism” within the monitoring cycles. As a result, we have the specific figure of antigypsyist hate content reported, which in this 5th cycle is 9.9% of content (435 messages). This makes antigypsyism the third leading cause of hate speech, behind hate based on sexual orientation (33%) and xenophobia (15%).

As well as flagging the content with internet companies, the organisations taking part in the monitoring round reported 475 cases of hate

speech to the police, the public prosecutor or other authorities. .

In Spain, it was Fundación Secretariado Gitano that reported the highest number of cases (108). Stakeholders in the round included FELGTB, Oberaxe and the Spanish Ministry of the Interior.

In Spain, the removal rate of reported content this year is lower than in the previous round, at 46.9% this round compared with 59.7% in the previous one. This drop was caused by content being reported that did not meet the criteria for hate speech. **Of the antigypsyist hate speech reported by FSG, 80% was removed, which is a satisfactory rate.**

FSG is pleased with how these monitoring rounds are carried out, because they are a tool to improvement enforcement of online hate speech and to offer greater visibility to the reality of antigypsyist on social media, making companies more aware of this reality and helping to improve how hate content is managed, one of the greatest discrimination issues in the present day.

Available at: https://ec.europa.eu/info/sites/info/files/codeofconduct_2020_factsheet_12.pdf



Report by the Public Prosecutor, 2020

The report of the General State Prosecutor was published once again in 2020. The chapter on hate crime recognises defects due to certain failings when accounting for data, such as the disconnect between regional judicial IT systems and the low rate of forwarding copies of statements to public prosecutors, where there is an alleged hate motivation, by national law enforcement.

Another problem is the difficulty or lack of oversight and tracking of cases, whether in tracing cases of hate speech on social media or through communication and information technologies, in minor or major crimes that do not carry criminal consequences or in crimes that, without the element of hate, may trigger discriminatory situations throughout the legal proceeding.

Of a total of 1,167 cases of hate incidents pursued by the public prosecutor in 2020, a judgment has handed down in 166 of them. Of these, 10 have been cases of inciting hate / violence / discrimination (art. 510.1 of the Criminal Code), 42 cases of humiliation or justification of crimes (art. 510.2 of the Criminal Code), 3 cases of refusal of benefits (art. 511-512 of the Criminal Code) and 48 cases of aggravated crimes (art. 22.4 of the Criminal Code). It is surprising that there have been no judgments on employment discrimination (art. 314 of the Criminal Code), when considering that, according to the studies and reports mentioned above, one of the leading problems of groups discriminated against on racial or ethnic grounds is discrimination at work.

Available at: https://www.fiscal.es/memorias/memoria2020/FISCALIA_SITE/recursos/pdf/capitulo_III/cap_III_12_7.pdf



Assistance and Guidance Service for Victims of Racial or Ethnic Discrimination, 2020.

The Assistance and Guidance Service for Victims of Racial or Ethnic Discrimination was established in the context of the activities of the Counsel for the Elimination of Racial or Ethnic Discrimination (the “Council”), which reports to the Directorate General of Equality and Ethnic-Racial Diversity, of the Ministry of the Interior.

Its objectives are:

1. To provide technical assistance required to assist victims of racial or ethnic discrimination in order to promote equal treatment and eradicate racial or ethnic discrimination, including direct assistance for people who suffer, have suffered or are aware of situations of discrimination based on racial or ethnic origin, and on-line or telephone assistance to victims of discrimination. That assistance may be individual or group for victims of discrimination or their relatives.
2. To develop information and awareness activities for key professional agents and potential victims of racial or ethnic discrimination, including the development of activities on information, awareness and impact of the Service, through collaboration with public and private agents in each autonomous region.

On 26 March 2020, a new contract was signed with the state to provide the service, with the coordination of Fundación Secretariado Gitano, for a two-year period. Between 26 March and 31 December 2020, Fundación Secretariado Gitano coordinated the service together with eight other organisations (ACCEM, CEAR, Cruz Roja Española, Fundación Cepaim Acción Integral con Migrantes, Movimiento contra la Intolerancia, Movimiento por la Paz, MPDL, Red Acoge and Asociación Rumiñahui) through a network of 20 official offices and more than 100 points of contact (present in all autonomous regions and in the autonomous city of Melilla). The presence of the assistance service in the various autonomous regions has enable assistance to be provided to victims of racial or ethnic discrimination nationwide, serving a total of 569 cases of racial or eth-

nic discrimination, of which 307 were individual cases and 262 were group cases. Of those, 194 women were identified and 141 men.

During this period, as well as between 26 March and 31 December 2020, the Service organised and deployed 175 actions. Of those, 25 actions were service coordination, 16 were training activities, 47 were informative and awareness activities, 28 were service impact activities, including the deployment of generic communication and awareness actions from organisations of the service to a whole range of recipients (web information, distribution of leaflets, posting of news on Twitter, diffusion of the Assistance Service’s video, taking part in interviews and newspapers, radio and public television programmes. Etc.), the scope of which is not possible to determine in terms of the exact number of participants or organisation.

Lastly, with the aim of encouraging new forms of collaboration and consolidating those that already exist, the Service has organised and developed 34 actions with other public authorities and private entities, in which a total of 277 people of varying profiles have participated. The total number of participants was 1,238.

More information is available at:

<https://asistenciavictimasdiscriminacion.org/>

Legislative progress and studies in the fight against antigypsyism in Europe

2020 was characterised by a series of legislative initiative and studies published by different European bodies to combat racial and ethnic discrimination, specifically antigypsyism.

These initiatives include the Communication from the Commission to the European Parliament and the Council “A Union of Equality: **EU Roma strategic framework for equality, inclusion and participation**”²³, which mentions the fight against antigypsyism as a core objective of the strategic framework, and the “European Parliament resolution of 17 September 2020 on the implementation of National Roma Integration Strategies: **combating negative attitudes towards people with Romani background in Europe**”²⁴. As the title suggests, this aims to include in national strategies specific measures to combat anti-Gypsyism, with a new introduction, in paragraph 15, of **an intersectional focus**. The text not only “Calls on the Member States to officially recognise antigypsyism as a specific form of racism against Romani people”, but also “Takes the view that EU and Member States should take action regarding the situation and the rights of individuals at the intersections of discrimination grounds in the EU, in particular women, LGBTI people, people with disabilities”.

Additionally, the **EU Anti-racism Action Plan 2020-2025**²⁵ was published in 2020, which recognised the Roma community as one of the groups worst to suffer racism in many European countries, and proposes that antigypsyism be tackled as a serious issue that violates Roma people’s right to equality. This plan is a major step forward in fighting all kinds of racism, and we hope that soon it will translate in the passing of national plans to tackle racism in the various areas it takes place.

Another important publication is the **EU Strategy on victims’ rights (2020-2025)**, which includes Roma people as common victims of hate crime.

The Council of Europe also published its **Strategic Action Plan for Roma and Traveller Inclusion (2020-2025)**²⁶ in 2020²⁷. Combating antigypsyism is its No. 1 priority. The Plan’s objectives are to combat antigypsyism and discrimination, support equality and encourage democratic participation and support access to inclusive, quality education and training. The Strategic Action Plan for Roma and Traveller Inclusion (2020-2025) translates the Council of Europe’s strategic objectives on protecting and promoting human rights, democracy and the rule of law into a political framework for the social and intercultural inclusion of Roma people and Travellers in Europe. It offers a flexible framework that is adaptable to the specific conditions of each country, serving as a roadmap and practice tool to design, implement and adjust programmes and actions.



23 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0620&qid=1606229270819>

24 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020IP0229>

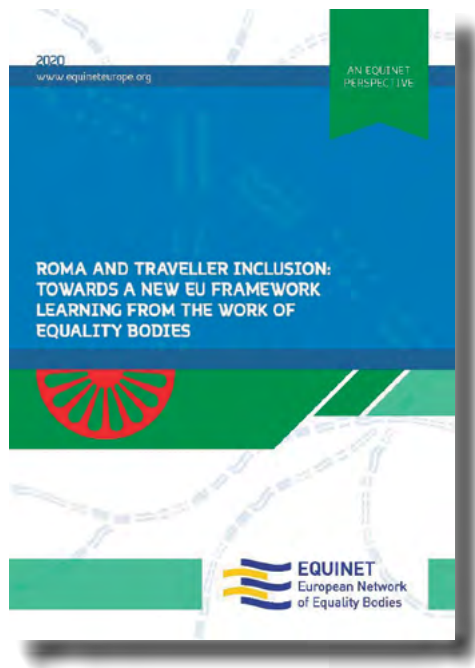
25 - <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52020DC0565>

26 - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0258>

27 - <https://edoc.coe.int/en/roma-and-travellers/8508-council-of-europe-strategic-action-plan-for-roma-and-traveller-inclusion-2020-2025.html>



In 2020 **EQUINET** has published an interesting document on the role of equality organisations on the inclusion of Roma communities and travellers and to counter discrimination: **“Roma and Traveller Inclusion: Towards a new EU Framework Learning from the Work of Equality Bodies”**²⁸. Since the European Commission’s EU Framework for National Roma integration strategies 2011-2020 came to an end in 2020, this document aims to help the Commission prepare a post-2020 framework by collating, examining and presenting the work and experience of equality bodies across Europe to respond to the specific needs of Roma and Traveller communities. EQUINET suggests that the next EU framework should include a comprehensive focus on combatting discrimination, with specific measures to strengthen access to justice, with the aim of safeguarding a critical mass of cases submitted by Roma people, which demonstrates compliance with equality legislation. It also proposed developing and deploying system to prevent institutional and systematic discrimination against Roma people and Travellers.



28 - <https://equineteurope.org/roma-and-traveller-inclusion-towards-a-new-eu-framework/>

2. ECHR case law from cases of antigypsyism during 2020.

AP VS. SLOVAKIA (28-01-2020)

The case concerns a sixteen-year-old Romani student who complained that he was beaten by police officers outside his school. They tried to get him to confess to a minor offence. His complaint was investigated but ultimately rejected by prosecutors and Slovakia's Constitutional Court.

The Court found that AP (the person who made the complaint with the court) had been a victim of degrading treatment by police. AP had swollen upper lip and bruising to the nose after the incident. So it was up to the Slovak Government to show that this was not a case of ill-treatment by police. The Government failed to show that. This amounted to a violation of what is called the "substantive limb" of Article 3. That article refers to the prohibition on torture and inhuman or degrading treatment.

The European Court also found a violation of what is called the "procedural limb" of Article 3. This means that the authorities in Slovakia did not properly investigate the complaints about degrading treatment. On this basis, the European Court awarded AP 5,000 euros. This is the amount that the Slovak Government must pay him as a result of those violations.

But the European Court rejected AP's claim that the police violence and failure to investigate were discriminatory. The Court found that there was insufficient evidence that the police acted in a way that was discriminatory based on AP's ethnicity. They said that the discrimination claim was "manifestly ill-founded" and did not need to be considered.

Two of the seven judges who decided the case disagreed on the discrimination. In their dissenting opinion, those two judges mentioned the European Roma Rights Centre's third-party intervention and said that **"Confronted with the degrading treatment of a Roma boy by police against a background of racial tension", the Court should have considered the claim**

of discrimination, instead of dismissing it as manifestly ill-founded.

X & Y VS. MACEDONIA DEL NORTE (05-11-2020)

This case refers to the arrest of two Roma boys (aged 16 and 13 years at the time) 10 minutes after a woman was assaulted nearby. According to the claimants, their parents and bystanders, the arrest was carried out by four officers using batons and other officers who arrived 10 minutes later. The details of Y's mistreatment are unclear and are not stated in the judgment, apart from a statement from a witness who stated that he was crying and that his cheeks were very reddened. Therefore, the following description will be focused on the circumstances relating to X. He was arrested and questioned for two hours without his father or a lawyer present. Throughout, they continued to hit and threaten him, forcing X to admit to the crime. The next day, when he was released, together with his father and in the presence of a duty lawyer, X signed a statement to say that neither he nor his father had any complaint to make about the police's conduct. However, the same day, the hospital wrote a medical report indicating that X had injuries to the head, neck and chest.

Subsequently, the claimants made a criminal complaint for abuse and racial discrimination against unidentified police officers. When the ECHR judgment was handed down, six years after the incident in question, this criminal complaint was still ongoing. The claimants also presented two rounds of civil claims, both dismissed.

The claims refer to abuse contrary to article 3, in the substantive and procedural sense. The court reiterated its judgment in the Assenov case, which was the first case of police violence against Roma people to be submitted to the ECHR. The court reaffirmed the implicit obligation to carry out an effective investigation when a vulnerable person made disputable claims about mistreatment from



police or other officers of the state. In this case, the court was convinced that the criminal complaints made by the claimants against unidentified police officers, supported by medical evidence (in the case of X) and by copies of the previous request to the sector, which contained witness testimony, was a disputable claim of mistreatment. The Court therefore invoked the positive obligation of the authorities to carry out an effective investigation.

Turning to the substantive part of article 3, the court found “owing largely to the national authorities’ inactivity and failure to carry out an effective investigation into the applicant’s allegations, the Court is not in a position to establish which version of events is the more credible” (§62). The court concluded that it could not be determined beyond reasonable doubt that the claimants had been mistreated during their arrest. As such, there was no proven violation of article 3.

In terms of the discrimination claim, although the claimants submitted their claims under article 1 of Protocol no. 12, as well as article 14 in conjunction with article 14 of Protocol no. 12, as well as article 4 in relation to article 3, the court decided to consider this last combination. It reiterated the judgment of the Grand Chamber in the case of *Nachova and others v. Bulgaria*, the main authority in cases of police violence against Roma people. In this judgment, for the first time the court distinguished between a substantive and a procedural branch of article 14, similar to the *Assenov* proceeding in article 3, as has been described above. However, immediately after laying out principles that apply, the court declared that the discrimination claim was inadmissible.

The court argued that, from a procedural point of view, the claim was inadmissible because the mistreatment was never determined beyond reasonable doubt. From a substantive point of view, it reasoned that the claim was manifestly unfounded, because the evidentiary material submitted to the national authorities was not sufficient to force an investigation into the racist motives.

HIRTU AND OTHERS VS. FRANCIA (14-05-2020)

This case referred to the eviction, in April 2013, of an unauthorised camp in which the claimants, of Roma origin, had been living for six months. The claimants complained, in particular, that their right to a private and family life and their home had been violated, and argued that they had not been provided with an effective way of challenging their eviction. They also argued that the circumstances of their eviction and subsequent living conditions had been tantamount to inhuman and degrading treatment.

The court found that article 8 of the Convention (right to respect of private and family life and home), due to finding that the way in which the claimants were evicted had violated their right to respect for their private and family life. In particular, it indicated that the authorities, in theory, had the right to evict the claimants, who had been illegally occupying municipal land and could not argue that they had a legitimate expectation to remain on it. However, in terms of how the claimants were evicted, the court found that the measure was not supported by a court decision, but by the formal notification procedure pursuant to a July 2000 law.

The decision to use this procedure had various consequences. Due to the short amount of time that passed between issuing the order and it being carried out, there was no accounting of the repercussions of the eviction or the specific circumstances of the claimants. Moreover, the procedure applied meant that the appeal provided for by internal law was made after

the decision of the administrative authorities and was not effective in this case. The Court of Justice also underlined that the claimants belong to a disadvantaged social group, and their particular needs in this respect need to be considered when assessing the proportionality that the national authorities must exercise. However, this did not happen in this case.

R.R. & R.D. VS. SLOVAKIA (01-09-2020)

The claimants, all of Roma ethnicity, were detained during a police raid in an area of their camp and were brutally beaten on the basis that allegedly they had resisted arrest. The Constitutional Court rejected claims of inhuman and degrading treatment and discrimination.

The ECHR stressed that Article 3 of the Convention strictly prohibits torture and cruel, inhuman or degrading treatment, irrespective of the victim's behaviour. The ECHR found that the behaviour of the claimants was not such to require the use of exhaustive coercive measures, and found that the use of force during their arrest was excessive and in violation of article 3 of the Convention.

The ECHR also found that the investigation was delayed, that the witnesses were not interviewed in person, the forensic report was based on photographs of the injuries and the diagnosis of family doctors, and there was no in situ investigation. It also found that the procedural element of article 3 of the Convention has been violated.

The ECHR found that, although the claimants did not make solid arguments for the alleged racial discrimination, **the failure to properly investigate whether there was a racist motivation to the assault was incompatible with the state's positive obligation to comply with article 14 on taking reasonable steps to determine whether there is bias. Therefore, it determined that article 14 of the Convention had been breached** in relation to the investigation, but not in relation to the racial discrimination.

The ECHR awarded €20,000 to each of the claimants in non-pecuniary damages and €6,500 jointly for costs.

HUDOROVIC & OTHERS VS. SLOVENIA

(10-03-2020)

The claimants in this case are all Slovenian Roma citizens living in informal settlements of Roma people in Slovenia. They complained about lack of access to basic public services, especially

clean drinking water and sewerage. They also argued that they had been subjected to negative and discriminatory attitudes from the local authorities.

In its Judgment, the ECHR found that the actions of the Slovenian Government were lawful in respect of the respect of a private life (article 8 of the Convention), the prohibition of inhuman or degrading treatment (article 3 of the Convention) and the prohibition of discrimination (article 14 of the Convention).

The ECHR noted that positive obligations under article 8 of the ECHR can only be activated by the persistent and prolonged failure to satisfy basic needs that has negative consequences for health and human dignity. It also underlined the point that the existence and scope of the positive obligations must be determined on a case-by-case basis, taking into account the specific circumstances of the people affected, the legal framework in place and the socio-economic situation of the defendant country.

In this case, the Strasbourg court noted that the measures taken by the authorities to improve the precarious living conditions of Romani communities in Slovenia, as well as the fact that the claimants receive welfare benefits and did not live in a state of extreme poverty. The ECHR found that the Slovenian authorities had recognised the claimants' situation, had taken some specific measures to ensure that they had access to safe drinking water, and that, through the welfare benefits system, they had secured a basic level of subsistence for the claimants.

Therefore, it concluded that the Slovenian authorities respected the ECHR because they met their positive obligation to provide the claimants access to public services.





Chapter 6



Appendices

Appendices





Appendix I:

Current legislation on equal treatment and non-discrimination

Domestic

- Act 4/2015, of 27 April, on the Statute for victims of crime.
- Basic Act 1/2015, of 30 December, amending Basic Act 10/1995, of 23 November, on the Criminal Code.
- Act 19/2007, of 11 July, against violence, xenophobia, racism and intolerance in sport.
- Basic Act 3/2007, of 22 March, on effective gender equality.
- Act 62/2003, of December 30, on tax, administrative and social order measures. (Chapter III: “Measures to apply the principle of equality”).
- Royal Legislative Decree 5/2000 of 4 August, approving the consolidated Act on Social Infractions and Sanctions.
- Basic Act 4/2000, of 11 January, on the rights and freedoms of foreign nationals in Spain and their social integration.
- Practical protocol for Security Forces when dealing with Hate Crime and Conduct that Violates Statutory Discrimination Rules. Official Bulletin of the Civil Guard, no. 1, section 1, page 51-108, 7 January 2015.
- Action plan to combat hate crime. Ministry of the Interior. 2019.

<http://www.interior.gob.es/documents/642012/3479677/plan+de+accion+delitos+de+odio/d054f47a-70f3-4748-986b-264a93187521>

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.
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services.
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

- European Union Charter of Fundamental Rights. OJEC, C 364/1, 18 December 2000.
- Directive 2012/29/EE of the European Parliament and of the Council, of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

International

- Instrument of Ratification of the Convention on the Rights of Persons with Disabilities, made in New York on 13 December 2006, ratified by Spain on 23 November 2007. (Official State Gazette no. 96, of 21 April 2008).
- Instrument of Ratification of the Framework Convention for the Protection of National Minorities (number 157 of the Council of Europe) made in Strasbourg on 1 February 1995. (Official State Gazette no. 20, of 23 January 1998).
- Resolution of 5 April 1999, Convention for the protection of human rights and fundamental freedoms, Official State Gazette A-1999-10148 (Council of Europe).
- Universal Declaration of Human Rights, adopted by the General Assembly in resolution 217 A (III) on 10 December 1948.
- International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.
- International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.
- Optional Protocol to the International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted and proclaimed by General Assembly resolution 44/128 of 15 December 1989.
- International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 (CERD).
- Convention on the Elimination of All Forms of Discrimination against Women, Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 (CEDAW).
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by General Assembly resolution 45/158 of 18 December 1990.
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by General Assembly resolution 47/135 of 18 December 1992.
- Equal Remuneration Convention, adopted on 29 June 1951 by the General Conference of the International Labour Organisation at its thirty-fourth session.
- Convention concerning Discrimination in Respect of Employment and Occupation, adopted on 25 June 1958 by the General Conference of the International Labour Organisation in its forty-second session.



- Declaration on Race and Racial Prejudice, approved by the General Conference of the United Nations Educational, Scientific and Cultural Organisation on 28 November 1978.
- Convention against Discrimination in Education, adopted on 14 December 1960 by the General Conference of the United Nations Educational, Scientific and Cultural Organisation.
- World Conference against Racism, 2001 (Declaration and Programme of Action).
- Declaration on the human rights of individuals who are not nationals of the country in which they live, adopted by General Assembly resolution 40/144 of 13 December 1985.

Appendix II

European bodies and institutions that work in the field of equality, non-discrimination and the Roma community

- Amnesty International

<https://www.amnesty.org/en/search/?q=Roma+people>

- Council of Europe. Roma Unit.

<https://www.coe.int/en/web/roma-and-travellers>

- Equinet

<http://www.equineteurope.org/>

- ENAR

<http://www.enar-eu.org/>

- ECRI

<https://www.coe.int/en/web/european-commission-against-racism-and-intolerance>

- ERIO

<http://www.erionet.eu/>

- EUROMA

<http://www.euromanet.eu/>

- EU DG Justice

http://ec.europa.eu/justice/discrimination/roma/index_en.htm

- European Roma and Travellers Forum <http://romapolicy.eu/>

<http://www.ertf.org/>

- European Roma Policy Coalition

<https://ergonetnetwork.org/2020/04/post-2020-european-roma-coalition/>

- European Roma Rights Centre

<http://www.errc.org/>

- Fundamental Rights Agency FRA

<http://fra.europa.eu/en/theme/roma>



- International Roma Women Network

<http://www.advocacy.net.org/page/irwn>

- Open Society Foundations

<http://www.opensocietyfoundations.org/explainers/roma-and-open-society>

- Osce-Odhir Roma and Sinti

<http://www.osce.org/what/roma>

- Policy Center

<http://www.policycenter.eu/>

- Roma Education Fund

<http://www.romaeducationfund.hu/>

- Roma Youth Action Plan

http://www.coe.int/t/dg4/youth/Training/Roma/2013_FEB_Roma_Youth_and_Council_of_Europe_en.asp

- Roma women

<http://romawomen.org/>

- Romed

<http://coe-romed.org/>

- Romea news

<http://www.romea.cz/en/>

- Lengua Romani

<http://romani.humanities.manchester.ac.uk/>

- European Court of Human Rights http://www.echr.coe.int/Documents/FS_Roma_ENG.pdf

- Heidelberg University Department of antigypsyism Studies.

https://www.uni-heidelberg.de/fakultaeten/philosophie/zegk/histsem/forschung/Forschungsstelle_Antiziganismus.html

- Romani Studies Program. Central European University. <https://romanistudies.ceu.edu/>

APPENDIX III

Legal texts and documents adopted by European and international institutions on antigypsyism and papers on antigypsyism

Council of Europe:

Thematic report on combating antigypsyism, hate speech and hate crime against Roma

Declaration of the Committee of Ministers on the Rise of antigypsyism and Racist Violence against Roma in Europe

ECRI:

Recommendation n°. 3 on combating racism and intolerance against Roma people

Recommendation 13 on antigypsyism:

<http://rm.coe.int/ecri-general-policy-recommendation-no-13-on-combating-anti-gypsyism-an/16808b5aef>

European Parliament:

European Parliament resolution of 12 February 2019 on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against antigypsyism (2019/2509(RSP))

https://www.europarl.europa.eu/doceo/document/B-8-2019-0098_ES.html

A Union of Equality: EU Action Plan Against Racism 2020-2025

https://ec.europa.eu/info/sites/info/files/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_es.pdf

European Parliament resolution of 17 September 2020 on the implementation of National Roma Integration Strategies: combating negative attitudes towards people with Romani background in Europe (2020/2011(INI))

http://www.europarl.europa.eu/doceo/document/TA-8-2019-0075_ES.html

European Parliament resolution of 25 October 2017 on fundamental rights aspects in Roma integration



in the EU: fighting antigypsyism (2017/2038(INI))

http://www.europarl.europa.eu/doceo/document/TA-8-2017-0413_ES.html

European Parliament resolution of 15 April 2015 on the occasion of International Roma Day — antigypsyism in Europe and EU recognition of the memorial day of the Roma genocide during World War II (2015/2615(RSP))

http://www.europarl.europa.eu/doceo/document/TA-8-2015-0095_ES.html

United Nations

CERD General Recommendation XXVII on Discrimination Against Roma

https://www.gitanos.org/upload/29/00/CERD_rec_XXVII_romanies.docx

Report of the Special Rapporteur on minority issues, Rita Izsák:

Comprehensive study of the human rights situation of Roma worldwide, with a particular focus on the phenomenon of antigypsyism

<https://www.ohchr.org/EN/issues/Minorities/SRMinorities/Pages/GlobalStudyonRomaworldwide.aspx>

Books and papers on antigypsyism

Agafin, Timofey et al. *When Stereotype Meets Prejudice: Antiziganism in European Societies*, Ed. ibidem, 2015.

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FRA: *A persisting concern: antigypsyism as a barrier to Roma inclusion*. 2018.

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FSG. Annual Report on Discrimination and the Roma Community 2016. Paper on Anti-Gypsyism.

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European Parliament *Scaling up Roma Inclusion Strategies; Truth, reconciliation and justice for addressing antigypsyism*. 2019.

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http://ergonetnetwork.org/wp-content/uploads/2019/01/Valeriu-Nicholae_towards-a-definition-of-anti-gypsyism.pdf

