

# CURRENT SITUATION ANALYSIS

**SPAIN**

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## INTRODUCTION

Brief INTRODUCTION to the current status and the legal framework of racism, xenophobia and racial discrimination in Spain.

Racism and xenophobia have intensified in Spain under the influence of political forces and traditional parties that have assumed postulates until now restricted to the extreme right.

In recent months, “a time bomb” has been created, while “the political class fails as a whole; ones for playing the racist game and others for not condemning it enough”

As a specific example to support this statement, SOS Racismo (non governmental organization) referred to the refusal of town councils in Cataluña to allow irregular immigrants to exert basic rights such as registering on municipal rolls, which has contributed to the criminalization of foreigners. Even in municipalities where the use of Burqas was never detected, a ban on this clothing was proposed.

This discourse, together with the aggravation of the economic crisis, has translated into an intensification of xenophobic attitudes and opinions. The Bertelsmann Foundation verified that 31 per cent of the Spanish population would expel immigrants that have been unemployed for a long time.

A clear cut in social rights for immigrants has also been registered, which increases the vulnerability of a group that is already subjected to a special, and many times discriminatory, regulation.

Immigrants in Spain are a group showing relative stability. According to the Ministry of Labour, by the end of 2014 the figure of foreign residents was very similar to that of the previous year:

4,926,608 people. The community regime (48.75 per cent) is practically the same as the general regime for foreigners -non-community (51.25 per cent). Notwithstanding this, immigrants continue to have an unemployment rate ten points higher than that of the native population.

We have also detected a reduction in the arrival of people in irregular situation, owing to the economic crisis and the change of route of migratory flows. This reduction, however, does not alleviate the tragedy involved in the attempt of reaching the Spanish coasts, which in 2014 - according to ACNUR (United Nations Agency For Refugees) data – resulted in the death of 3.419 people on the Mediterranean coast.

It also confirmed the existence of discriminatory actions in the work sphere and in relation to security forces, where an halo of impunity can be noticed.

Spanish political parties “have broken the ethical barrier by charging foreigners and minorities with accusations, expressions and actions that are even categorized as crimes”

“The populist discourse” and taking advantage of the “economic crisis to create fear, appealing to emotion, to the concept of survival, to the classical motto ‘primero los de casa’ (natives first!)” is gaining ground not only hand in hand with the extreme right but owing to the fact that “major political parties, such as the PP and national representatives that fail to unauthorize the discourse, are playing the racist game”, without condemning these practices.

“The idea that if there is not enough for everybody, natives are first, particularly in terms of health, education or basic services, is being increasingly accepted”,

## **II. CURRENT SITUATION OF RACISM AND XENOPHOBIA IN SPAIN: COMPREHENSIVE STRATEGY AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE**

a. We analyze this situation, in the most representative areas in which are affected by racism, xenophobia and racial discrimination.

### **i. Educationa**

#### *I Context*

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

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

- Programme of Action from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, September 2001;
  - UNESCO Declaration of Principles on Tolerance;
  - The European Commission against Racism and Intolerance, which published in 2006 its General Policy Recommendation number 10 about this issue. It also includes related proposals in General Policy Recommendation number 6, and more specifically it puts forward recommendations in its Fourth Report on Spain (2011);
  - The European Union, through its strategic framework for European cooperation in education and training (“ET 2020”), based on common objectives. Particular attention is drawn to Strategic Objective number 3: promoting equality, social cohesion, and active citizenship;
  - The European Union Agency for Fundamental Rights in its 2010 and 2011 annual reports also includes a series of pertinent recommendations for European member States;
  - Other international bodies, such as the OSCE, have also drawn up various proposals in this regard;
  - Lastly, the suggestions of other social organizations such as the European Network Against Racism, particularly important in the sphere of education, must also be included; International bodies’ proposals and recommendations in the fight against racism, xenophobia, and related intolerance through education could be grouped together under the following headings:
1. Access. Ensuring access to free, quality education for all citizens, particularly by:
    - 1.1. Reducing racially or ethnically motivated minority segregation in education;
    - 1.2. Ensuring adults’ access to lifelong learning;
  2. Eliminating inequalities in schools by:
    - 2.1. Improving academic performance,
    - 2.2. Reducing the numbers of early drop-outs, particularly among certain particularly vulnerable groups;
    - 2.3. Fostering the INTRODUCTION in school curricula of content to eliminate racism and xenophobia;

2.4. Promoting teacher training in content dealing with interculturality and the fight against racism and xenophobia;

2.5. Teaching the language and culture of origin.

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

3.1. Building mechanisms to detect incidents based on racism, xenophobia, or related intolerance;

3.2. Develop prevention and protection measures for victims of racist, xenophobic or related intolerance manifestations.

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

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

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

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

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

## ***II Action Carried Out***

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

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

It is also worth highlighting action in the area of Education for Citizenship and Human Rights, following Recommendation 2002/12 of the Committee of Ministers to European Member States on Education for Democratic Citizenship adopted on 16 October 2002. Part of the content, included in

Royal Decree 1631/2006 of 29 December, which sets out minimum schooling for compulsory secondary school, deals specifically with the “fight against xenophobia, racist social prejudice, and anti-Semitism”. Specifically, Royal Decree 1631/2006 includes the teaching of “Education for Citizenship and Human Rights” among the subjects in compulsory secondary education, and stipulates that one of the basic skills that a student should have obtained upon completion of compulsory secondary education is “competence in social and citizenship skills”. Furthermore, the issue of tackling xenophobia, racist social prejudice and anti-Semitism is also included in other subjects.

Both the Strategic Plan for Citizenship and Integration (PECI) and the Plan of Action for the Development of the Roma Community are aimed at ensuring the educational integration of migrants and racial and ethnic minorities. They highlight measures that promote academic success and capacity-building in schools and educational communities on the whole, such as learning the languages of the origin and host communities, cross-cultural mediation, and so forth.

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

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

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

More specifically, the following measures should be highlighted:

a) An Action Plan to promote and enhance harmonious interaction in school. Furthermore, through Royal Decree 275/2007 of 23 February (published in the Official State Gazette (BOE) dated 15 March 2007), the State Observatory for Harmonious Interaction in School (*Observatorio estatal para la convivencia escolar*) was created for this purpose.

b) The project Schools without Racism; Schools for Peace and Development (“*Escuelas sin racismo, escuelas para la paz y el desarrollo*” - ESR, EPD), financed by the European Integration Fund (EIF). This project came about in Belgium in 1988 as a reaction to intolerance and racism in society and is used as a flexible, open tool to work in schools towards intercultural, non-racist education. It enables differences to be understood and cultural elements from other groups to be integrated. This philosophy gradually spread to other European countries. Today, ESR can be found in schools in Belgium, Holland, Austria, Germany and Spain.

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

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

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

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

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

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

### ***III Comprehensive Strategy Objectives and Action***

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

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

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

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

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

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

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

**1.2.** Development of an inclusive school model ensuring access and integration of pupils.

**1.2.1.** Promotion of action aimed at establishing inclusive environments in schools and bolstering the educational community, particularly families.

**1.2.2.** Support for educational reception projects, monitoring and integration of both pupils and their families in schools.

**1.2.3.** Support for training intercultural mediators and for including their participation in the school's existing reception and integration programmes.

**1.2.4.** Support for guidance and information services on the educational resources available at both the local and regional levels for every stage of education.

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

**2.1.** Promotion of civic education and education for citizenship.

**2.1.1.** Support for projects to mainstream education in values and citizenship into the school curriculum.

**2.1.2.** Development of programmes in education for citizenship.

**2.1.3.** Promotion of human rights in the school environment.

**2.2.** Building of a strategy to combat racism, racial discrimination, xenophobia and related intolerance in schools.

**2.2.1.** Promotion of detection mechanisms and protocols on racist, xenophobic and discriminatory incidents.

**2.2.2.** Information for senior school management and the educational community at large about the arguments and legal measures to tackle racism and discrimination.

**2.2.3.** Development of educational programmes to combat racism and xenophobia.

**2.2.4.** Support for the innovative programmes that develop anti-racist pedagogy.

**2.2.5.** Promotion of teacher training on racism, xenophobia and other related intolerance by including specific courses in the Teacher Resource and Training Centres.

**2.2.6.** Fostering of cooperation agreements between textbook publishers and government to detect and rectify any potential discriminatory or prejudice-based content in textbooks.

**2.2.7.** Definition of indicators enabling the reliable measurement of awareness-raising and prevention interventions to combat racism and discrimination.

**2.2.8.** Promotion of “innovative” educational programmes on co-education and prevention of racism and discrimination.

**2.2.9.** Develop and disseminate audiovisual materials to show racism and discrimination as a social problem and acknowledge the educational community’s role in combating it.

## **ii. Employment**

### *I Context*

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

According to the report of the European Commission Network of Socio-economic Experts in the Anti-discrimination Field, the employment situation for ethnic minorities is one of greater unemployment, a higher rate of non-declared work (meaning less and/or more precarious or nonexistent social protection), lower salaries, less skilled work for those with more training, low selfemployment rates, and fewer lifelong learning opportunities than for the rest of the population. As a result, the fight against racial discrimination in the workplace has been one of the essential goals of international bodies, primarily:

- The Programme of Action of the World Conference on Racism, Racial Discrimination, Xenophobia, and Related Intolerance.
- The Committee for the Elimination of Racial Discrimination.
- The International Labour Organisation.

- The European Union, through its Directives 2000/43/CE and 2000/78/CE, through the Network of Socio-economic experts and through recommendations made by the Fundamental Rights Agency, particularly in its Annual Reports.
- The Council of Europe's European Commission against Racism and Intolerance (ECRI) through its Fourth Report on Spain.

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

**1. Access to the job market**, which in the interpretation given by the Court of Justice of the European Union (CJEU), covers not only the necessary conditions for attaining employment, but also those factors of influence that must be taken into account by the worker when deciding whether or not to accept a job (FRA, 2011), in other words, access to employment through hiring, objectives, and so forth.

**2. Job conditions**, including dismissal and wages. Several studies still indicate that immigrant workers' job conditions are precarious (SEN Report 2010). Labour legislation and practices channel immigrants into certain sectors and categories, which results in job conditions that are generally worse than those of the autochthonous population (Pajares, 2010).

**3. Access to training and promotion.** The CJEU defines vocational training as any type of education or training enabling qualification to be attained for a given profession, business, or job, or that provides the required preparation and knowledge for that profession, business or job, irrespectively of age or levels of education, and although the training programme may include elements of general education. Insofar as promotion is concerned, discrimination may be very subtle (Pajares, 2010). For this to be avoided certain basic action must be taken such as full, transparent notification of job vacancies in companies.

## *II Action Carried Out*

Job integration is one of the priority areas of action of the second Strategic Plan for Citizenship and Integration (PECI II) together with the Action Plan for the Development of the Roma Community. The Evaluation of PECI I illustrates the importance of action taken in this area by the Secretariat of State for Immigration and Emigration:

- The total budget was €796,006,622, making it the area in the PECI I plan with the highest amount allocated to it, accounting for 34% of the overall budget.
- The evaluation highlights the extent to which objectives were met and programmes and measures were performed in this area, which concluded with 72% fulfilment 64.

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

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

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

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

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

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

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

### ***III Comprehensive Strategy Objectives and Action***

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

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

**2.1.** Ensure that public employment services, their collaborating entities, and public and private job placement agencies safeguard the respect for non-discrimination on the grounds of racial or ethnic origin.

**2.2.** Foster dialogue with social partners aimed at promoting codes of conduct and best practice in employment.

**2.3.** Include in the framework of collective bargaining:

- a) Limitations, segregation or exclusion from access to and permanence in jobs.
- b) Developing objectives, information mechanisms and periodical evaluations of the measures adopted in order to curtail racially or ethnically motivated discrimination.

**2.4.** Enhance training activities for social partners in order to:

- a) Increase knowledge of anti-discrimination law on the grounds of race or ethnicity.
- b) Increase knowledge on the rights of victims of racist or xenophobic acts in the workplace.
- c) Provide a diversity management tool for companies.

**2.5.** Improve information on racism, racial discrimination, xenophobia and related intolerance in employment through studies and research.

**2.6.** Carry out awareness-raising activities aimed at eliminating racially and ethnically motivated discrimination in job access, continuity and promotion.

**2.7.** Foster social responsibility consisting of economic, business, labour, assistance or any other type of measure to promote equal treatment and non-discrimination within companies or in their social environment.

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

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

**3.2.** Create mechanisms for denouncing, protecting and assisting victims of racist and xenophobic incidents in the sphere of employment.

**3.3.** Formulate and apply Diversity Management Plans in organisations and encourage:

- “Diversity Charters”-statements made by the organisations themselves as proof of their commitment and determination to promote diversity;
- “Diversity Labels” and other “Diversity Awards or Acknowledgements”, for the commitment to seek and achieve diversity among employees and at work.

### **iii. Health**

#### ***I Context***

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

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

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

- a) Promoting access to health care without any kind of discrimination.
- b) Setting up effective mechanisms for monitoring and eliminating racism, xenophobia and other related intolerance from the health care system.
- c) Enabling training for professionals working in the health care system to improve their familiarity with cultural diversity.
- d) Coordinating prevention and protection programmes and action against racism and xenophobia to be carried out among professionals, care staff, researchers and private companies.

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

## ***II Action Carried Out***

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

1. The Human Rights Plan, to which four measures to promote public health and prevention have been included. The General Public Health Act 33/2011 of 4 October, published in the 5 October 2011 Official State Gazette (BOE), includes and recognises the right of all citizens to public health care via universal coverage provided by the National Health System (*SNS*).

2. Article 12 of Organic Law 2/2009 of 11 December, which modified Organic Law 4/2000 of 11 January on the Rights and Liberties of foreigners in Spain and their Social Integration, regulates the right to health care.

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

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

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

## ***III Comprehensive Strategy Objectives and Action***

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

**1.1.** Develop plans and programmes by the Public Health Administrations, according to their competences, in order to adapt the health system to incorporate the axis of nondiscrimination on racially and ethnically motivated grounds..

**1.2.** Encourage capacity-building and training in racially and ethnically motivated discrimination of professionals working in health care professions.

**1.3.** Develop intercultural health mediation measures and peer education in the healthcare sphere.

**1.4.** Cultural adaptation, whenever necessary, of teaching and information and awareness-raising materials, and preparation of training material (guides and technical resources).

**1.5.** Facilitate translating of documents and interpreting.

**1.6.** Dialogue with professionals, health care staff, researchers and private companies to develop measures to prevent racially or ethnically motivated discrimination in the health care system.

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

**2.1.** Pursuant to the legislation in force, foster public health care authority monitoring of racist and xenophobic incidents in the sphere of health care.

2.2. Create mechanisms for denouncing, protecting and assisting victims of racist or xenophobic incidents.

#### **iv. Housing**

##### ***I Context***

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

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

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

##### ***II Action Carried Out***

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

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

Housing policies are developed based on:

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

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

- a) Extending the groups that are granted preferential protection, including dependents, separated or divorced persons who have not defaulted in their alimony payments, the homeless, and residents affected by slum eradication operations.
- b) Creating protected lodging for vulnerable groups. This is low-income rented lodging in the form of residences with large common areas and services.
- c) The plan also ensures citizens' access to protected housing under equal conditions, and includes the creation of registries of those seeking housing.

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

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

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

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

1. Promote access to standard quality housing for the Roma population.
2. Put forward measures to eradicate sub-standard housing
3. Lead an integration-based housing policy for the Roma community.
4. Maintain a housing information and Roma community information system.

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

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

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

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

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

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

### ***III Comprehensive Strategy Objectives and Action***

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

**1.1.** Establish dialogue with the property industry and particularly with those providing sales, leasing and brokering services, so that they include the right to equal treatment and nondiscrimination on racial or ethnic grounds in their business.

**1.2.** Promote mechanisms so that victims of racially or ethnically motivated discrimination, both in access to housing and in the conditions required by the various actors that intervene, can denounce and receive assistance.

**1.3.** Ensure that the public administrations, within their competences, respect the right to nondiscrimination on racial or ethnic grounds with regard to access to public housing, both in aid policies aimed at home ownership and public leasing policies.

**1.4.** Develop mediation and community action in neighbourhoods where conflict, cohesion and communication are issues.

**1.5.** Develop legal mechanisms and initiatives to prevent discrimination generated through segregation in housing.

**1.6.** Promote awareness-raising action so that knowledge can be gained on entitlement to mortgages.

### **v. The Mass Media**

#### ***I Context***

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

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

Various research and analyses<sup>80</sup> have shown that ethnic minorities are negatively represented in the media owing to different types of practice used in the news (i.e. associating minorities with delinquency, crime, overwhelming the local population in numbers, and so forth).

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

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

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

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

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

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

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

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

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

## ***II Action Carried Out***

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

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

The National Plan of the Kingdom of Spain for the Alliance of Civilizations, which represents a commitment to human rights without any type of discrimination, includes among its areas of action “the

promotion of the responsible use of the media and the fight against programmes fuelling hostile, violent, or discriminatory stereotypes.”

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

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

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

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

### ***III Comprehensive Strategy Objectives and Action***

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

**1.1.** Encourage self-regulation of the social communication media contributing to compliance with legislation on racism, racial discrimination, xenophobia and related intolerance<sup>81</sup>.

**1.2** Promote agreements with publicly owned media on equal treatment and non-discrimination based on race and ethnicity.

**1.3** Analyse the State Council of Audiovisual Media (*Consejo Estatal de Medios Audiovisuales*) instructions and/or recommendations on not fostering hate, disparaging attitudes, or discrimination for reasons of birth, racial origin, race or ethnicity, gender, religion, nationality, opinion, or any other personal or social circumstance<sup>82</sup>.

**1.4** Foster training and awareness-raising of media professionals on racism, racial discrimination, xenophobia and other forms of related intolerance <sup>83</sup>.

**1.5** Continue to encourage research and analysis of how racial or ethnic minorities are treated by the media.

**1.6.** Support the participation of associations working against racism, xenophobia and related intolerance in media debates.

**1.7** Promote the participation of immigrant persons and minority groups in the media.

**1.8** Generate incentives for acknowledgment of work in the media projecting a positive image of human mobility as a global process towards development.

## vi. Internet

### *I Context*

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

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

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

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

The danger arising from the spreading of hate over the Internet has been broadly recognised by the international community, although the Internet’s enormous potential to overcome both this trend and prejudice based on race, colour, language, nationality, national or ethnic origin, and religion is also explicitly recognised. This potential should certainly be used while taking care not to undermine the right to freedom of expression.

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

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

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

- a) Take the necessary measures to develop international cooperation among police and judicial authorities;
- b) Ensure enforcement of national legislation;
- c) Carry out sustained efforts in training police and judicial authorities;
- d) Support anti-racist activities on the Internet,

- e) Define Internet service providers' responsibilities;
- f) Foster the development of self-regulation measures for Internet companies;
- g) Raise citizens' awareness on the spread of racist and xenophobic materials over the Internet.

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

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

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

Identifying and locating the perpetrators of this type of criminal activity is thwarted by the previously mentioned Act 25/2007 where Article 1 provides for judicial authorization to detect, investigate and prosecute (solely) serious crimes, and also provides for judicial authorisation to be required to obtain certain data that are not protected by the right to secrecy in communications (see Article 18.3 of the Spanish Constitution), such as the identity of the parties communicating.

Before this legislation was enacted, this information could be obtained directly by the police or the prosecutor's office, pursuant to Article 22 of Organic Law 15/1999, of 13 December on Data Protection, and to the previous wording of the Information Society and E-business Services Act 34/2002 of 11 July.

The sentences for many offences committed over the Internet and social networks are light (prison sentences ranging from three months to five years), even though they cause fear and concern among victims and groups of victims and generate a worrying social climate of hostility towards these individuals and groups on the grounds of origin, race, ethnicity and other reasons for discrimination, such as sexual orientation, religion, beliefs, illness, disabilities, and so forth.

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

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

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

## ***II Action Carried Out***

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

1. A special prosecutor on Internet-related crimes has been instated in all of Spain's Central Prosecutor's Offices. The court prosecutor delegated for computer-related crimes is in charge of coordinating prosecutors' work in taking criminal action on crimes committed over the Internet. This is done by making proposals for investigation and by formulating the corresponding charges, and also by determining the proper criteria for the investigation to be implemented by Spain's national and regional police force. Protocols to facilitate this work in court should also be sought with a view to unifying criteria on fighting crime. The special prosecutor is also in charge of coordinating basic prosecutor training with the centre for legal studies to investigate Internet-related crimes.

2. Specialised services on internet-related crimes have been established in Spain's Law Enforcement Authorities. Both the National Police (*Comisaría General de Policía Judicial del Cuerpo Nacional de Policía*) and the Civil Guard (*Jefatura de Policía Judicial de la Guardia Civil*) have units based both in the capital and around Spain to face the challenges posed by new forms of crime such as child pornography, swindling and fraud, threats, and slander and libel, including inciting of racism and xenophobia.

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

In addition, the Cybercrime Unit (*Unidad de Delitos Telemáticos*) falls under the Civil Guard's Central Operational Unit (*Unidad Central Operativa -UCO*) which is that force's central service for investigating and combating the most serious types of crime, including organised crime committed both nationally and internationally. It also provides operational coordination and technical support for the various units of judicial police covering Spain's different geographical areas.

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

## ***III Comprehensive Strategy Objectives and Action***

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

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

**2.1.** Amend the Economic Community Data Concentration and Public Network Act 25/2001, of 18 October in order to reflect the purposes of the investigation, in order to ascertain whether a crime was

committed and who the perpetrators were, the seriousness of the crime is not solely determined by the legally stipulated sentences, but that other factors are taken into account, such as the nature of the legal rights protected; the social significance of the behaviour; whether or not the crimes were committed by criminal organisations; and the impact of the use of information technology which facilitates perpetration and thwarts combating the crime.

**2.2.** Analyse the potential opportuneness of modifying the Economic Community Data Concentration and Public Network Act 25/2001, of 18 October so that the police or public prosecutor without the need for judicial authorization can obtain data on traffic and location, such as the origin of a communication, IP address identity and consequently the identity of those communicating via that IP address, that is not protected by the secrecy of communication, even though the data may be personal, in order to enable a swift investigation and rapid judicial action. This was previously provided for under this law.

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

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

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

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

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

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

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

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

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

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

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

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

## *vii. Sport*

### *I Context*

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

As indicated by the European Commission against Racism and Intolerance (ECRI) in its General Policy Recommendation Number 12 on the fight against racism and racial discrimination in sports, racist and xenophobic manifestations in sports go far beyond individual or group behaviour of fans.

This same behaviour may come from leaders of clubs or federations, athletes and players or trainers. In short, racism and xenophobia affect all areas of sport, professional and amateur alike.

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

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

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

### *II Action Carried Out*

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

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

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

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

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

The work of the Special Committee, which was established in the Senate to study steps to eradicate racism and xenophobia in sport in Spain, culminated its work with the approval of Act 19/2007 of

11 July, against violence, racism, and xenophobia and intolerance in sport. This legislation introduces a series of new features, which can be summarised as follows:

1. In order to deal more uniformly with all law on the prevention and repression of sports-related

violence, racism, xenophobia and intolerance, the new legislation reiterates the entire section devoted to the prevention of violence in sporting events as well as certain aspects of the disciplinary regime from the Sports Act.

2. Also, for the first time in Spanish legislation, there is a definition, or more accurately, a list of acts and behaviour that is considered to be racist, xenophobic or intolerant. This list is separate to the definition of violent conduct or acts that incite violence in sports. These lists are set forth in Article 2 and are decisive when it comes to sanctions. For the first time, committing these acts not only in or around the sports arena, but also in public transportation organised to attend the event, is included.

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

This act has been further developed through two Royal Decrees: Royal Decree 748/2008, of 9

May, regulating the State Commission on Violence, Racism, Xenophobia and Intolerance in Sports (Comisión Estatal contra la violencia, el racismo, la xenofobia y la intolerancia en el deporte) which replaces the previous national commission against violence in sporting events; and Royal Decree 203/2010, of 26 February which approves the regulation on the prevention of violence, racism, xenophobia and intolerance in sports.

### *III Comprehensive Strategy Objectives and Action*

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

**1.1.** Establish a monitoring system on discrimination motivated by ethnic or national origin, in access to practicing sports in all federations, particularly in amateur and children's sports.

**1.2.** Establish a registration system of racist and xenophobic manifestations and of related violence and intolerance, particularly for professional football grounds. Special attention must be paid to grounds frequented by extremist groups.

**1.3.** With cooperation from the Higher Council for Sport (Consejo Superior de Deportes), extend international recommendations and action against racism, racial discrimination, xenophobia and other forms of related intolerance to all sports federations.

**1.4.** Promote training for sports entities (leaders of clubs and federations, athletes, coaches and staff, etc.), in racism, racial discrimination, xenophobia and other forms of related intolerance.

**1.5.** In cooperation with the Higher Council for Sport (Consejo Superior de Deportes), foster investigation of racial discrimination, xenophobia, and related intolerance. Work with all signatory parties in applying the protocols for action signed in this area, particularly regarding action to protect and prevent racist and xenophobic action and related violence and intolerance.

**1.6.** Cooperate with the State Commission and Observatory on Violence, Racism, Xenophobia and Intolerance in Sport to compile statistics, questionnaires and other work pursuant to current legislation.

**1.7.** Encourage the application of strategic prevention, monitoring, sanction, and repression measures against racist hatred, xenophobic, or discriminatory intolerance, or violent behaviour as set forth by law and by regulation.

**1.8.** Adopt the tools and procedures required to begin proceedings to ban those who participate in racist and violent intolerance incidents from football grounds, pursuant to current law.

**1.9.** Adopt the necessary mechanisms and requirements for clubs to keep a record (Libro de Registro) of football hooligans. This will ensure that these individuals cannot remain anonymous and

put an end to the privileges of extremist groups by enforcing sanctions for racist conduct and related intolerance and violence pursuant to current law, including closing down grounds and other legal action stipulated for the criminal conduct of racism, xenophobia and related intolerance and violence.

**1.10.** Promote measures to underpin harmonious interaction and integration in sport (Articles 16 and subsequent articles in Act 19/2007, of 11 July against violence, racism, xenophobia and intolerance in sport), as a form of awareness-raising.

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

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

### **viii. Awareness-Raising**

#### ***I Context***

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

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

The seventh of the European Union's Common Basic Principles for Immigrant Integration, approved by the Council of Ministers of Justice and Home Affairs in Brussels on 19 November

2004, highlights the importance of the "implementation of active anti-discrimination policies, anti-racism policies, and awareness-raising activities to promote positive aspects of a diverse society".

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

Awareness-raising is also a basic, strategic component of the various recommendations of the Durban World Conference Plan of Action as well as various periodic reports of the CERD, ECRI and FRA. As seen above, the importance of raising awareness and educating in values of mutual tolerance, respect for cultural diversity, intercultural dialogue, peaceful interaction, human rights, and democratic citizenship is highlighted by all of these organizations, which also indicate the importance of relying on civil society for carrying out awareness-raising.

According to 2009 Eurobarometer data<sup>85</sup> on perceptions and experiences regarding discrimination, the European population perceives racially or ethnically motivated discrimination as the most widespread form of discrimination in the EU (61%), followed by discrimination due to age (58%) and disability (53%). The perception of racially or ethnically motivated discrimination has not substantially varied as compared to other surveys done in previous years.

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

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

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

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

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

## ***II Action Carried Out***

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

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

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

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

- Implementation of activities that enable transfer of knowledge and best practices.

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

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

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

### *III Comprehensive Strategy Objectives and Action*

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

**1.1.** Hold meetings and workshops to exchange and spread experience and best practice linked to awareness-raising.

**1.2** Disseminate informative material on how the population's perception of the fight against racism, xenophobia, discrimination and related intolerance has evolved.

**1.3** Foster and implement action to disseminate the anti-discrimination legislation among those working in protecting rights.

**1.4** Foster and implement action to disseminate European anti-discrimination legislation.

**1.5** Recommend to political parties that they avoid making generalisations or incriminating groups due to their racial or ethnic origin, beliefs, religion, etc.

**1.6** Recommend to political parties that they avoid the use of pejorative, racist, or discriminatory language in their public discourse as this fosters the perpetuation of negative stereotypes, prejudice, and attitudes of rejection.

**1.7** Foster inclusive political discourse that reflects understanding and respect for differences, harmonious interaction, and positive relations, and that fosters the right to equality and promotes the value of a diverse society in order to ensure that all citizens can actively exercise their prerogatives as such.

**1.8** Publicly condemn acts of discrimination, rejection and violence.

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

**2.1.** Carry out training: courses, seminars, workshops, etc. for civil servants and public employees, primarily in the areas of health, employment, social services, security, and justice.

**2.2.** Develop training plans for social partners and anti-discrimination professionals.

**2.3.** Develop specific awareness-raising aimed at civil servants in the Justice Administration and the Police Force.

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

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

**4.1.** Work towards the establishment of awareness-raising plans and strategies on both the regional and local levels.

**4.2** Establish forums so that equal treatment and non-discrimination policies from the various levels of government can be shared and compared.

**4.3** Support initiatives between associations, establishment of forums and/or platforms, or any other initiative geared towards awareness-raising against racism, xenophobia and related intolerance

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

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

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

**b.** We further propose actions to be carried out to eradicate this problem of Spanish society.

### **III. GOVERNMENTAL ORGANIZATIONS AND NONGOVERNMENTAL ORGANIZATIONS**

Some of the organizations that can be found in Spain, related to the topic of our project, would be:

#### **1. GOVERNMENTAL ORGANIZATIONS**

#### **2. NON-GOVERNMENTAL ORGANIZATIONS**

##### **GOVERNMENTAL ORGANIZATIONS: “OBERAXTE”**

The Spanish Observatory on Racism and Xenophobia, depends on the General Secretary of Immigration and Emigration (Ministry of Employment and Social Security). The RD 343/2012, of 10 February, the Centre in the following functions:

1. Collection and analysis of information on racism and xenophobia to the knowledge of the situation and its prospects for development, through the implementation of an information network.

2. Promoting the principle of equal treatment and non-discrimination and combat racism and xenophobia.

3. Collaboration and coordination with various public and private, national and international agents involved in preventing and combating racism and xenophobia.

##### **NON-GOVERNMENTAL ORGANIZATIONS:**

##### **“SOS RACISMO”**

The Federation of SOS Racism Spain was established in 1995 between the different existing associations of SOS Racism in Spanish territory. It is a Federation of Associations in defense of human rights, which focuses its activities in the fight against racism and xenophobia.

### “ASOCIACIÓN KARIBU”

Karibu means “welcome” in Swahili language. The Karibu Association, Friends of African Village is a Non Governmental Organization (NGO), based in Madrid, designed to accept and try to encourage the integration of African immigrants in Madrid. The Karibu Association is apolitical and secular states in its statutes. The Association has served since its inception tens of thousands of sub-Saharan Africans. The vast majority of its 150 employees and collaborators are volunteers.

### “UNIÓN ROMANÍ ESPAÑOLA”

The Romani Union is a nongovernmental organization dedicated to the defense and social and cultural development of the Roma community in Spain. Founded in 1986 and chairman since that date Juan de Dios Ramirez Heredia.

## REFERENCES AND BIBLIOGRAPHY

### OBERAXE:

- <http://www.oberaxe.es/>
- [http://explotacion.mtin.gob.es/oberaxe/enlace\\_inicio](http://explotacion.mtin.gob.es/oberaxe/enlace_inicio)

### SOS RACISMO:

- <https://federacionsosracismo.wordpress.com/>
- <http://www.sosracismo.org/>