

Cases of discrimination



2. Cases of discrimination

2.1 Complex discrimination

Cristina Domínguez

From a legal standpoint, multiple discrimination is when two or more types of illegal discrimination exist simultaneously. According to EU Directives on the protection of equal treatment, this particularly refers to discrimination on the grounds of: gender, race, disability, religion or belief, sexual orientation and age. For example, a person treated less favourably at the workplace for being a woman over the age of 45 would be considered a victim of multiple discrimination.

Paragraph 14 of the preliminary considerations of Directive 2000/43 provides as follows:

14) In implementing the principle of equal treatment irrespective of racial or ethnic origin, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.

Aside from that Article, however, no provisions are made for specific measures to combat multiple discrimination and, from a legalistic point of view, in most European countries it is not possible to claim the simultaneous occurrence of several grounds for discrimination before the Courts; claimants must opt for the one they consider to be most serious while ignoring those which are apparently less damaging.

The problem is that, on many occasions, a number of different discriminatory elements occur simultaneously and interact in such a way that it is impossible to separate them from one another such that they create an undividable identity. Some authors call this phenomenon *inter-sectoral discrimination* but, due to the difficulty in finding an element of comparison, this is not admissible in court either. In this connection, legally speaking a Roma woman cannot compare herself to a non-Roma man in setting a benchmark for discrimination but would have to be compared either to a non-Roma woman or to a Roma man.

Over and above all of the legal difficulties inherent to multiple discrimination, in the case of the Roma community additional elements typically come into play which go beyond the traditional definitions and analyses associated with discrimination and need to be addressed from a new perspective using a more comprehensive approach.

It is therefore safe to say that Roma and other groups facing similar situations tend to suffer complex discrimination, i.e. a social phenomenon which transcends the legal dimension and therefore differs from the legal notions and definitions associated with multiple discrimination. It is not simply a matter of the simultaneous occurrence of several types of discrimination



with all of the latter's legal implications which have been analysed in the preceding paragraph. Moreover, other factors analysed below come into play in complex discrimination:

- **Multiple causes**

Pursuant to EU Directives on the protection of equal treatment, complex discrimination would include cases of multiple and inter-sectoral discrimination. However, we could also consider another series of causes of discrimination which are yet to be legally recognised or protected, i.e. discrimination based on economic or social status.

- **Multiple effects**

The impact of complex discrimination cannot be measured in an isolated manner but rather permeates and has consequences on different facets of the victim's life which are all interrelated: education, labour, social, economic, etc.

- **Multiple actors**

A number of different subjects take part in complex discrimination in addition to the victim and the discriminating agent. Also, the latter may be multiple as well including individuals, residents' associations, public authorities, the media, etc.

- **Multiple responses**

The problem will never be completely eliminated by intervening only on some aspects of discrimination. It is therefore necessary to come up with a comprehensive response involving each and every one of the actors taking part in the conflict.

In order to better illustrate this phenomenon, following is an analysis of 3 case studies chosen from among those collected by the FSG in 2007 with a view to looking more closely at each of the elements composing complex discrimination and which point to the need to come up with new measures taking legal and social dimensions into consideration when protecting the right to equal treatment.

In this connection, anti-discrimination strategies must be multi-dimensional and combine the needed attention to victims with another series of supplementary measures including community awareness-raising, mediation and legal action.

And lastly, we would insist that if the said measures are to be effective and have a real and significant impact, they must be fostered, enforced and evaluated by the public authorities in close coordination with a wide range of social agents, especially organisations representing victims of discrimination.



Case 1. Housing

Case description

On 16 December 2002, Court No 3 of Pontevedra ordered the demolition of the homes of 10 Roma families of the *O Vao* shanty town in Poio (Pontevedra) before 31 October 2007. The FSG has been collaborating in the resettlement process of the affected families as from the end of 2006 through a series of meetings with the Delegate and Provincial Secretary of the Regional Department of Housing giving rise to an agreement to identify those homes where resettlement is justified either as leased or owned properties.

The FSG then commenced a thorough search both within and outside of the municipality of Poio, the place of residence of the families affected. A few flats within the municipality of Pontevedra were located but we had to extend our search to bordering municipalities to find single-home flats meeting the needs and characteristics of the families. The information gathered was used to generate a list of alternatives and we decided to carry out an on-site inspection to check whether the flats needed to be refurbished.

The first evictions took place in April 2007 when some sub-standard housing was demolished. The affected families were offered the possibility of taking part in a regional housing rental scheme but one of them refused for work reasons and decided to resettle in the home of a relative. The second family was awarded a flat in the municipality of Marín where no incidents worthy of mention occurred with the neighbours or authorities. The FSG closely monitored this family which participated in its community education programme.

In October of that same year, two further sub-standard houses were demolished and one of the two families opted to resettle with relatives while the other decided to look for a home on the market where they were successful and were well received by their new neighbours. Before the deadline date for the demolition of the last several homes, one of the affected parties found a home in the parish¹ of Vilarchán (Pontecaldelas), contacted the owner, reached an agreement on the price and paid a sum to reserve the property. However, when the neighbours discovered that this was a Roma family from *O Vao*, they decided to pool their resources and purchase the home to prevent that family from moving in. They claimed that this had nothing to do with racism but that they simply wanted to avoid conflict which could damage the parish. In the end, the family was unable to move into the home.

After that incident, there were protests in several parishes such as Lárez, Xeve, Alba, Campañó, Verduci-do and Monteporreiro against the resettlement of families from the homes demolished in *Vao*. These protests were given ample coverage by the local media and this led to a multiplier effect. In all of the cases the neighbours claimed that this was not racism but rather neighbourhood security but their statements inevitably relate Roma with delinquency and marginalisation.

By the end of November 2007 the demolition order was nearly complete following an extension of the deadline to carry out the judgement. The authorities were unable to permanently relocate the six families in need of housing and decided to temporarily house them in bungalows at a campsite in Portonovo until a better solution was found. The owner of the campsite informed the FSG that he had received several telephone calls from a residents'

¹ In some Autonomous Communities the term "parish" is used to refer to an area or territory where several homes or neighbourhoods with a common identity are clustered.



association of Portonovo and even from a representative of the San Xenxo city council advising against the settlement of the families there but decided to remain steadfast in his decision which he considered a humanitarian act.

However, when some of the families criticised the campsite in a television interview stating that it did not meet the needs of the families lodged there, the owner ordered them to leave claiming that they were giving his facilities bad press. He finally agreed to let them spend the night but insisted that they leave the following morning.

In response to this situation, the FSG and the social services of the City Council of Poio contacted different hotels, campsites and motels in the towns of Poio, Pontevedra, Marín and Vigo. In this latter city they contacted a hotel which on other occasions had given lodging to Roma families in the aftermath of demolitions which again agreed to host the families based on positive past experience. However, the affected families refused claiming that they felt they were being cast out of their home environment given that the city of Vigo was too far away. For lack of any other alternative, they decided to seek housing individually within the municipality of Poio so as not to invite rejection from hotel owners.

On Monday 26.11.07, a meeting with the families was held at the Social Services Department of the Poio City Council with a view to distributing the families among the different local hotels where they were temporarily hosted until the authorities could come up with a permanent solution. It was not until February 2008 that they were assigned a home with a purchase option through the Shanty Town Eradication Scheme. When the families finally moved in, they were once again faced with even more marked and numerous signs of rejection and discrimination from their neighbours.

Analysis

Reasons

This is a clear example of inter-sectoral discrimination because the factors composing the multiple identity of the targets of the discrimination are joined together; in other words they interact so closely that it is impossible to separate them.

It is not a matter of the families suffering discrimination in some cases on the grounds of their ethnic background and in others due to their social status. Not even due to the two motives at the same time; the two are separated into different acts perpetrated by different actors. In this case, discrimination occurs based on both ethnicity and social status in equal measure, the treatment received by victims being different in the absence of one of the two factors indicated.

Paradoxically, however, if we were to file a legal suit for violation of the right to equal treatment, we could only claim the ethnicity factor as a cause because there is yet to exist expressed acknowledgement in our legal system of social status among the causes of discrimination. However, it is important to point out that this cause is acknowledged in Article 14 of the Council of Europe's Human Rights Convention and the latter's Protocol 12 affirming that *the enjoyment of any right set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*

In the information on this case published in the local press the neighbours, either individually or through spokespersons of their representative associations, deny that this is a case of



racism and insist that it is a security issue because, in their opinion, the families involved are marginalised, socially excluded and take part in drugs trafficking.

Discrimination on the grounds of social status is, therefore, clear and has been expressly acknowledged on numerous occasions. Owing to the fact that they come from marginalised areas with clear security problems, it is assumed *a priori* that all of these families are trouble-makers and are all involved, at one level or another, in criminal activities relating to drugs trafficking. Hence, discriminatory generalisations are applied to all families subject to resettlement without assessing individual circumstances.

Moreover, although neighbours and home owners attempt to deny the ethnic issue, the problem is exacerbated and magnified because the resettled persons are not only in risk of social exclusion but are also Roma. Some representatives of residents' associations stray from the official policy of denying ethnic discrimination reminding their audiences of *the problems caused a few years ago by a Roma family from O Vao that tied a pony to the rain gutter drain spout of the rented house they lived in*. This family was described by the representative of that association as trouble-makers, *especially the husband because he refused to fit in*. The representative went on to say that *we non-Roma are not the ones who reject Roma, it is they who do not want to live side by side with us*.

The media consistently link the ethnic issue to social danger as if these were inseparable elements: *neighbours are on alert to prevent the hypothetical arrival of Roma families to protect themselves against petty crime and co-existence problems*. Statements such as these would lead one to believe that Roma is solely responsible for petty crime, the latter being unable to engage in any type of activity within the legal framework established for the rest of society.

In this connection, some editorials featuring statements such as the following are especially damaging, even when expressed with irony and criticising the neighbours as well: *I am touched by this massive, assembly-like and dignified reaction of our community which has risen up to prevent the arrival to our provincial outpost of Roma-tinker shanty-town dwellers, in other words, the nouveau Gypsies*.

The foregoing reinforces the dual cause underlying discrimination; ethnic and social factors forming an indivisible unit which therefore must be addressed jointly.

Actors

The targets of this discrimination are the Roma families affected by the demolition in El Vao. However, all Roma families living in the area could also be considered collateral victims of this discrimination given that, owing fundamentally to media pressure, they suffer the consequences of the resettlement process and encounter difficulties gaining access to housing as renters or homeowners as shown in numerous cases appearing in this Report.

There are a number of different perpetrators including individuals (home and hotel owners, etc.) as well as residents' associations and even some municipal representatives.

Individuals put a series of barriers in the way to the fundamental right to housing by refusing to sell, rent or simply offer lodging to Roma families. Residents' associations plan and coordinate these discriminatory practices and also organise protest demonstrations and even pool resources to buy a home which the owner already agreed to sell to a Roma family in order to prevent the latter from moving into the neighbourhood.



As seen in the press clippings included in the supplementary documentation, some local governments openly agree with these practices, oppose the resettlements and foster neighbourhood protests claiming, once again, that this is a security problem. Even the mayor of Vilarchán, for example, says that he understands the concern of local residents and, in his opinion, their attitude *should not be interpreted as being racist*.

All of this leads to generalised collective rejection making social integration processes enormously difficult and entailing the risk of self-marginalisation on the part of the affected families that are unable to find their place in the community.

The role of the media is also especially significant in light of the sensationalist approach they take in incessantly disseminating all of the events relating to the evictions, running the risk of causing excessive social alarm instead of contributing to easing tension.

Effects

The effects of discrimination in an area such as housing are numerous. It is not only a matter of preventing the exercise of a constitutionally guaranteed right such as the right to dignified housing; denial of this right also has a direct effect on other areas of the affected families' social lives.

First of all, problems finding housing means that the family has to live at a greater distance from urban centres which means longer travelling time to work for adults and school for children. Delays in awarding permanent housing also affect families insofar as they have to take up lodging outside of their normal environment in temporary facilities which are ill-equipped to meet their specific needs.

Neighbourhood rejection also engenders serious difficulties in finding labour opportunities close to their place of residence when they are finally settled resulting in a series of labour barriers which are much more serious than those faced by other social groups.

We would note that, according to the media, some residents' associations warned that: **we want them to know that they will be received with hostility**, thus reaffirming that these attitudes of rejection are widespread and are not limited only to housing.

Also, owing to the media attention given to this issue, the discriminatory effects are multiplied as seen in the large number of "contagious" neighbourhood protests even in towns where no plans were made to resettle Roma from El Vao. This also increases the risk that reactions of this sort could extend to other parts of the country where similar problems could arise.

Lastly, as already mentioned in the foregoing, the whole of the Roma community residing in these places is affected by these discriminatory practices because the rejection of the El Vao resettlement efforts ends up spreading and creating serious difficulties for all Roma to gain access to housing and a whole array of other services.



Response

The reaction of home and hotel owners in general is in clear violation of Article 512 of the Criminal Code which provides that “...those who, in the discharge of their professional or business activities, refuse to provide a service to an eligible person on the grounds of their ideology, religion or belief system, their belonging to a certain **ethnic group**, race or nation, their gender, sexual preference, family status, disease or disability, will be disqualified from the exercise of their profession, trade, industry or business for a period of between one and four years”. The problem here is that law suits would have to be filed for each discriminatory practice and to do that victims would have needed specialised legal service to provide guidance and follow up on each of the proceedings. For all of the foregoing, and in light of the difficulties and lack of means to cover all of the discriminatory practices, the FSG decided not to take legal action against private citizens.

However, some public protests by individual citizens and residents' associations, especially many of the protests against resettlements, could be a violation of the provisions of Article 510 of the Spanish criminal code which provides as follows: ...those inciting discrimination hatred or violence against groups or associations on the grounds of race, anti-Semitism or other ideologies, religion or belief, family status, ethnicity or race, national origin, gender, sexual preference, disease or disability shall be punished with a prison term of between one and three years and a fine to be paid over a period of between six and twelve months. However, as pointed out in previous reports, it is extremely complicated to take collective legal action and criminal liability is usually diluted owing to the difficulty in identifying those responsible.

Therefore, the case of the El Vao resettlement raises a series of difficult challenges which, due to their diversity and complexity, can only be adequately addressed by the public authorities. First of all, due to the number and variety of actors involved, an urgent government response is needed. On the one hand, to help the families themselves whose housing problem was not permanently resolved until February 2008 and that suffered constant discriminatory practices throughout the entire resettlement process. And on the other hand, to address the local residents who called on the public authorities to put a stop to the resettlements allegedly to ensure their security.

Despite the will of the administrations to eradicate the shanty towns and offer the Roma people who were in that situation new opportunities, the process was not properly coordinated among all of the social agents and this did considerable damage, especially to the families directly affected.

Although the FSG did undertake a number of different actions in the form of mediation and awareness-raising aimed at residents and their associations, this case especially illustrates the lack of public policy in this connection. Public initiatives should be periodically implemented as just one more element of those comprising housing programmes targeting the Roma population.

Due to the impossibility of covering all of the fronts opened by this case and in light of the difficulty in taking legal action against local residents and hotel owners, the FSG focused its efforts on accompanying families but this is also an area where the public authorities should be doing more in order to prevent situations of defencelessness. Detailed monitoring of the resettlement process necessarily implies paying attention to possible conflicts of interest and discriminatory practices which could arise in the new living environment and the public authorities should play a key role in mediation and dispute settlement. It is likewise



essential to work with Roma families to enhance and facilitate their social integration in coordination with the different organisations developing programmes in this connection.

And lastly, it is indispensable to train and make the media aware of the grave risks associated with the publication of information with discriminatory content as referred to earlier and the important positive role that the media can play in fostering equal treatment and combating discrimination.



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Carlos Jiménez, a la izquierda, charla con otros chabolistas y su abogado, ayer a las puertas del Concello | CAPOTILLO

Los afectados dicen que quieren marcharse de O Vao, pero se preguntan adónde

La familia gitana no renuncia a la casa apalabrada en Vilarchán

Cristina Barral

PONTEVEDRA | Miembros de la familia gitana de O Vao que tenía apalabrada la compra de una casa en la aldea de Vilarchán, en Ponte Caldelas, se desplazaron ayer, a última hora de la tarde, al Ayuntamiento de Poio. Allí tuvo lugar una reunión con políticos para abordar los realojos ante el inminente derribo de las chabolas ilegales del poblado que dará cumplimiento a una sentencia judicial. Un plazo que concluye, como muy tarde, el 31 de octubre.

Antes del encuentro, Carlos Jiménez accedió a dar su opinión sobre la decisión de la comunidad de aguas de Vilarchán de hipotecarse en 250.000 euros para adquirir la misma vivienda con el objetivo de evitar que acabe en sus manos. «Me siento fatal, fatal, porque teníamos la ilusión de comprar esa casa para marcharnos de O Vao. Aproveché la

oportunidad de vender mi casa y con lo que me dio la Xunta e hipotecando lo que me faltaba era posible marcharse de O Vao», subrayó Jiménez.

Pese al rotundo rechazo vecinal registrado en Vilarchán, esta familia no renuncia todavía a la vivienda apalabrada. Al menos eso dijo ayer el padre: «De momento todavía seguimos con esa idea, están trabajando los abogados y la inmobiliaria». Un joven de la misma familia no quiso hacer comentarios.

Carlos Jiménez sí se mostró muy decepcionado e indignado con la reacción de los habitantes de la aldea de Ponte Caldelas. Las palabras más duras llegaron, sin embargo, de otros gitanos concentrados en las mediaciones del monasterio y el consistorio de Poio.

«Somos personas, nosotros marchamos, pero adónde. Los payos de O Vao nunca nos han

tratado como a vecinos», gritaba un varón que estaba de luto, y que pedía no ser retratado por cámaras de televisión y fotógrafos.

La única mujer gitana que acompañó ayer a los chabolistas de O Vao comentó que la familia que pretende instalarse en Ponte Caldelas para empezar una nueva vida vive de la charrarra, la venta ambulante y las pensiones: «Lo de la droga es por racismo; de lo bueno no se dice nada, solo lo malo».

Los afectados por los derribos estuvieron acompañados por su abogado, que indicó que el episodio de Vilarchán demuestra que los realojos no son posibles porque nadie quiere a los gitanos. También se refirió a las posibilidades de mantener la opción de compra e incidió en que los terrenos donde se levantaron las chabolas ilegales son propiedad de las familias.

La Fundación Secretariado Gitano atribuye la situación de discriminación al desconocimiento

Dos colectivos, la Fundación Secretariado Gitano y la Asociación del Pueblo Gitano de Galicia, calificaron ayer de «discriminatoria» la reacción de los vecinos del lugar de Vilarchán, en Ponte Caldelas.

Santiago González, coordinador de Secretariado Gitano en Galicia, atribuyó la decisión de la comunidad de aguas a una «falta de información e de reconocimiento das necesidades das familias» procedentes de O Vao. «A súa reacción, se non estivese cargada de medo, estaría cargada de racismo», indicó.

El portavoz de la fundación indicó que la vía de la mediación con los vecinos de Vilarchán solo se intentará si la familia gitana mantiene su intención de instalarse en la casa que tenía apalabrada.

Por su parte, la Asociación del Pueblo Gitano afirmó que el acuerdo vecinal no tiene ningún fundamento al tratarse de «una familia trabajadora y honrada». Su presidente, Sinaí Jiménez, tiene previsto trasladar hoy la problemática al valedor do pobo, Benigno López. También señaló que han solicitado entrevistas con el presidente y el vicepresidente de la Xunta.

En cuanto a los dos grupos de la oposición en Ponte Caldelas, tanto PSOE como BNG cerraron filas con los vecinos y calificaron su reacción como «normal» y motivada por el «miedo» a que Vilarchán se convierta en un segundo O Vao, «coa inseguridade, delincuencia e drogas que podería acarrear», dijo el edil nacionalista Manuel Xesús Muíños.



La oposición vecinal crece, dificultando todavía más el realojo de estas familias

El Concello de Poio carece por ahora de viviendas alternativas para trasladar a los chabolistas afectados

Mónica Álvarez / PONTEVEDRA

A menos de cuatro días para que expire el plazo concedido por el juez para derribar las chabolas ilegales del poblado de O Vao, el realojo de las familias afectadas por la medida continúa siendo una incógnita. Si la pasada semana el Gobierno local de Poio afirmaba haber localizado cuatro pisos de protección oficial para reubicar a los habitantes de las casas pendientes de demolición, hoy por hoy solamente uno de los perjudicados ha encontrado un lugar al que mudarse.

El rechazo vecinal que suscita el mero rumor del traslado de personas de etnia gitana a otros núcleos poblados dificulta el realojo. Ayer mismo, los habitantes de Vilarchán celebraban una nueva reunión para continuar ultimando detalles acerca de la compra de un inmueble que pretendía adquirir una familia procedente de O Vao. Los residentes en este lugar de Ponte Caldelas no están solos en su movilización contra la llegada de perso-



Los vecinos de Vilarchán celebraron ayer una multitudinaria asamblea. / JUNIOR

nas de etnia gitana. Los habitantes de Contixe, un barrio muy próximo geográficamente, estarán dispuestos a sumarse a la causa y aportar dinero para adquirir la casa de la discordia.

Dentro del mismo municipio, también se han alarmado los vecinos de Caritel ante los comentarios generalizados en diversas zonas de que varios chabolistas del poblado de Poio están buscando asentarse en la zona.

La reacción de los ciudadanos de Vilarchán parece haber provocado una onda expansiva de preocupación que acaba complicando la situación de quienes buscan

un lugar en el que vivir para no verse en la calle cuando las máquinas vuelvan al asentamiento, lo que ocurrirá en principio el martes.

El Concello de Poio inició esta semana una ronda de negociaciones con los desahuciados para solicitarles que busquen cobijo con sus parientes de manera provisional. Según el Concello, solamente una persona ha aceptado esta propuesta: el propietario de la chabola número 18 de O Vao de Arriba, que quedó reducida a escombros el pasado viernes. Este vecino asegura, sin embargo, que no tiene a dónde ir.

DIARIO DE PONTEVEDRA | Lunes, 15 de octubre

PONTEVEDRA

Vecinos de Tourón deciden comprar una casa para evitar su venta a gitanos

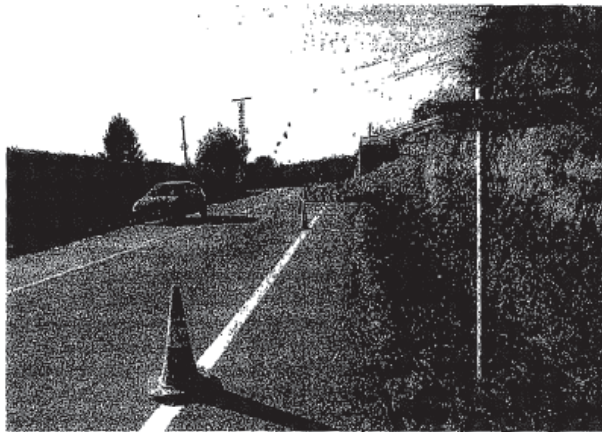
Acuerdan que la Comunidad de Aguas de Vilarchán firme una hipoteca a 35 años para adquirir el inmueble por 249.420 euros. Cada socio tendría que pagar alrededor de 16 euros al mes

Ponte Caldelas | Vecinos del lugar Vilarchán (parroquia de Tourón, en el municipio de Ponte Caldelas) han decidido comprar una casa para evitar su venta a una familia gitana.

Los lugareños se enteraron de que el propietario del inmueble y la inmobiliaria habían cerrado ya el trato. Por ese motivo, ayer por la mañana celebraron una concurrencia asamblea en la que acordaron adquirir el inmueble y evitar así que se instalen en él personas de etnia gitana. Según puntualizaron varias fuentes, el precio de venta que habían acordado para ellas ascendía a 249.420 euros (41,5 millones de pesetas). Por la tarde tuvo lugar una segunda asamblea, en la que el dueño de la vivienda aceptó venderse a los vecinos por el mismo importe.

Para pagarla, los lugareños acordaron que la Comunidad de Aguas de la parroquia (de la que forman parte unas 110 familias, casi todas las que residen en la zona, e incluso el propio colegio de A Reigosa) firme una hipoteca por 35 años, de forma que cada miembro tendrá que pagar alrededor de 16 euros mensuales para hacerle frente al pago. De hecho, este colectivo, al igual que la comunidad de montes, no cuenta con demasiados fondos económicos en reserva.

La casa en cuestión consta de un bajo amplio (hace años albergaba un bar) y una planta, está ubicada justo al lado del campo de fiestas de Vilarchán y no dispone de terreno propio, ya que está construida en una finca de alrededor de 400 metros cuadrados y la vivienda la ocupa casi toda. Precisa-



La casa que han decidido comprar los vecinos está ubicada en el lugar de Vilarchán. Justo al lado del campo de fiestas. Se trata de un inmueble amplio pero que apenas dispone de finca propia. JUNIOR

mente, una de las razones por las que los vecinos decidieron adquirirla es el temor a que la familia gitana ocupase también el espacio público con camyanas u otros elementos.

Por la noche tuvo lugar la tercera asamblea, a la que asistieron unas 80 personas y en la que decidieron iniciar los trámites de compra cuanto antes. Los vecinos deberán hacer frente además al pago del IVA y, como la familia gitana había dado ya una señal de 2.000 euros al propietario, éste les pide que pongan ellos esos 2.000 euros y otros 2.000 a mayores, que

serán los que tendrá que pagar éste en concepto de indemnización por romper el trato.

Plazo de un mes | El dueño de la casa les pone además como condición un escrito firmado. Teniendo en cuenta que cancelará el acuerdo que tenía con los gitanos (que era ya una venta segura), les da un plazo de un mes para comprar la casa o, si no, les pedirá que le busquen otro comprador en ese tiempo, que adquiera la casa por el mismo dinero o por más. La finalidad de la compra es evitar que se instale en la vivienda una

familia gitana, pero la Comunidad de Aguas no tiene interés por quedarse con el inmueble. De hecho, la idea es volver a venderlo en cuanto sea posible para quedarse libre de la amortización de la hipoteca. Ayer, los vecinos fijaron otra reunión para el próximo sábado. Aunque ni el propio Concello de Poio pudo confirmarlo, lo más probable es que la familia gitana que iba a comprar la vivienda sea una de las que deberá abandonar el poblado de O Vao antes del 31 de este mes a causa de la orden de derribo de nuevas chabolas.



Case 2. Education/the media

Case description

On 29 January 2007 the newspaper “*Ideal*” of Granada published an article entitled “*Teacher, the girls don’t come to school on Tuesdays because that’s market day*”, which included excerpts from a diary written by a teacher at a high school in the town of Iznalloz.

To set the context, the article first of all details the characteristics of the school and the student body described as “varied” in that it hosts brilliant students alongside a percentage of “students who are culturally deprived”, deprivation associated with broken families, lack of study habits, drugs or delinquency.

Following this contextual information, the article transcribes excerpts of the diary written by a teacher describing events having to do with some of the school’s most disadvantaged students. However, the diary does not simply present these events but also includes the teacher’s personal impressions and assessments which are full of generalisations and offensive comments against the Roma community as a whole.

While the newspaper does not expressly reveal the identity of the students described in the article, it does recount a series of episodes which highlight their ethnic background and furnishes important personal and family information making it easy to identify them.

Based on that, the Fundación Secretariado Gitano first of all sent a letter of complaint to the director of the newspaper who apologised and offered to publish an editorial or article focusing on the fight against discrimination or the social image of Roma.

The FSG also contacted the director of the high school in question to express its concern and insist on the need to properly train education professionals in the promotion of equal treatment and respect for cultural diversity.

In this connection, the Director agreed to organise a training conference for the school’s teachers which was held on 21 May 2007 where Roma intervention characteristics and strategies implemented in Andalusia were studied along with the school enrolment situation of Roma in the said Autonomous Community. Thirty people, including teachers and technical personnel who work with the Roma population in the municipalities of the district of Montes Orientales, took part in the conference.

The teacher who is the author of the diary did not take part in the training session.

Analysis

Reasons

Discrimination in this case, as demonstrated by the comments made by the teacher regarding the Roma community, was based on ethnic background. Over and above the events described (the veracity of which we do not challenge), discrimination takes place when, based on these serious individual cases, generalisations are drawn and applied to the entire community through statements such as: *What is 90% of the Roma population interested in? why the singer Camarón, of course*. In this connection, although we are in the realm of opinion and have no hard evidence that the students mentioned in the article have suffered discriminatory acts, they have been berated and publicly judged for the mere fact of being Roma. There is not a single positive reference towards this community but rather just the



opposite. A number of customs and cultural characteristics are described out of context and in a distorted and sensationalist manner underscoring stereotypes presenting Roma as a social group which is backward, uneducated and which tends towards violence and *machismo*. In several episodes involving especially difficult students, repeated reference is made to their ethnic background linking Roma with social exclusion and delinquency: *I am explaining an activity to a Roma student who completely ignores me. I interrupted my explanation. A few minutes later the student asked me whether I knew how to prepare hashish. I told him that I didn't and that I had no interest in learning. Despite that he began to give me a detailed description of how it was done.*

The social environment of these young people is linked to and essentially inseparable from the ethnic factor and in this case has a major influence. We are dealing with students in risk of social exclusion from families with scant economic resources and a low academic level. The article claims they these students are culturally deprived because *they come from broken families where study habits are not enforced or where there are drug problems or delinquency*. The teacher himself also stated, on more than one occasion, that the students have serious problems and that their frequent grammatical discourtesies and some truly unfortunate family episodes must never be used to justify stereotypes or generalisations. This is even more true when speaking of minors who are especially vulnerable and are in need of additional protection which makes us wonder whether age might be another factor to be analysed in this complex discrimination.

Actors

Here we have a double target of the discrimination. On the one hand, the group of high-school students who attend support classes and who are the main characters in the stories published in the newspaper article. However, the Roma community as a whole can also be considered a victim of discrimination because the teacher makes numerous blanket statements about this group as well as disparaging racist remarks.

The perpetrator of the discrimination also has a dual nature. On the one hand we have the teacher who writes in his diary and gives his permission for these writings to be made public and on the other the media that, while not the actual author of the information published which is indeed a literal transcription of the diary, should be held responsible, pursuant to its deontological code, for disseminating information which could foster hostility, stereotypes, prejudice and a negative image of minority groups.

Effects

This discrimination has a multiplier effect given that it is published in the media. The racist/discriminatory comments published in the newspaper are disseminated amongst a large number of readers doing enormous damage to the social image of Roma and contributing to the consolidation of prejudice which could give rise to new violations of the right to equal treatment thus perpetuating the chain of discrimination.

Moreover, as mentioned in the case description, personal and family information of many students was revealed making them recognisable even though their identity was not expressly revealed which could be a violation of the Data Protection Act (Organic Law) prohibiting the publication this sort of information without the permission of those affected.

And lastly, it is important to point out that if teachers are not properly trained and made aware of equal treatment and cultural diversity, if they are not given more complete infor-



mation contextualising the social reality of the Roma community today, it is very likely that their prejudices and stereotypes, some based on real experiences which are truly unfortunate, will have an impact on their treatment of Roma students which is tantamount to depriving the latter of equal education and the opportunity to overcome cultural and social barriers especially in the case of minors in risk of exclusion.

Response

This case offers different response alternatives. On the one hand, legal action in line with Article 510 of the Criminal Code which, as mentioned above, states that: *...those inciting discrimination hatred or violence against groups or associations on the grounds of race, anti-Semitism or other ideologies, religion or belief, family status, ethnicity or race, national origin, gender, sexual preference, disease or disability shall be punished with a prison term of between one and three years and a fine to be paid over a period of between six and twelve months.* This legal action could be taken against the teacher and the newspaper.

Another possible intervention strategy could include mediation, awareness-raising and training of the actors involved in the event. This was the option chosen by the FSG which adopted a two-pronged approach. First of all with regard to the newspaper which, once receiving the complaint concerning the information published, has collaborated intensely to see that this situation does not repeat itself.

And secondly, work has also been undertaken with the school administration which, while not taking any disciplinary action against the teacher in question, did show its willingness to engage in the training and awareness-raising of teachers concerning equal treatment and the fight on discrimination and requested that the FSG run training conferences to delve deeper into these issues.

This training session was conducted in May and received a very positive evaluation from the participants and even though the author of the diary did not take part in the course, the result was a comprehensive response involving the educational community of the area which had a broader, more positive and more effective impact than a court case would have had.

However, a reaction from the education administration once it learned of the events would certainly have been welcome but the FSG has received no report of any action on the part of the public authorities in this connection.



GRANADA

“Teacher, the girls don’t come to school on Tuesdays because that’s market day”

A high-school teacher from the town of Iznalloz recounts stories in his diary about students in his school with a very low socio-cultural level who need support classes.

BY ANDRÉS CÁRDENAS/GRANADA

“All students are capable of learning”. This blanket statement was made by Antonio Lucas, Director of the *Montes Orientales* High School in Iznalloz with over 700 students from the entire district with differing academic levels ranging from brilliant students to a small proportion who can barely read or write. These latter students are said to be “socially and culturally deprived”. They arrive to school in these conditions because they are from broken families where study habits are not enforced or where there are drug problems or delinquency. The school tries to provide these students with support as individualised as possible with the help of Government appointed teachers and teaching and curricular resources adapted to their needs.

One of the high-school’s support teachers, José Miguel Baena Jiménez, with a solid reputation as a dedicated teacher, wrote a diary of sorts during the past school year where he discusses these students.

October 25th: They confuse continents with seas and oceans, towns with countries, provinces with Autonomous Communities, in other words, they don’t know which end is up. I try to explain these concepts in simple terms but only one out of six pays any attention.

Moral of the story: They don’t know and don’t want to learn; their interests and desires are elsewhere.

A thousand and one excuses

November 1st: They do not want to come to the support class. They are shouting in the hallway and bothering their classmates. When I asked them why they were not in class they told me that they don’t know what class they’re supposed to be in and that’s a lie.

Moral of the story: They don’t want to come to class and will come up with any excuse.

November 8th: A Roma student asks his classmates to lend him a pen claiming that he forgot his today. None of his classmates offer him a pen. After making quite a fuss, one of his classmates lends him one. By the time the class was over, he had broken the pen by banging it on his desk and it began to leak ink. He did not even apologise to the owner of the pen. That’s why no one wants to lend him anything; not because of discrimination but because they break things and don’t return what they borrow.

Moral of the story: I have discovered that there are some Roma students who are not discriminated against or marginalised by others but who marginalise themselves by “their own deeds”.

The little girl gets married

November 15th: I’ve been told that a 14-year-old student got married by the Roma rite. She got married to a 35 year old man with two children from his former marriage who live with him. The day of the wedding the girl fell asleep in a chair and they woke her up to perform the Roma “handkerchief” ritual. The next day the husband’s children age 7 and 5 asked their father: “Dad, where’s Mum? We’re hungry. The father responded: She’s at school. Just be patient. When she comes home she’ll fix your meal.”

I asked my students how a family could possibly allow their 14 year old daughter to get married. They didn’t as much as flinch in answering: Teacher, if they don’t let her get married, they’ll take her away.

Moral of the story: When these situations are seen as normal, we have to try to make them see that it is crazy; if not, they will be next.

November 30th: A student by the name of Saúl has terrible handwriting so I sat down next to him and encouraged him to improve it. Soon he was writing much clearer. He told me that he writes poorly on purpose because he doesn’t like school; he’s bored.

Moral of the story: This is a call for attention. He just wanted someone to notice him. He is paid no attention at home and he just wants attention any way he can get it. No matter how hard we try, if the students don’t make an effort we will get nowhere with them.

December 13th: These students have serious family problems. If you “dig” just beneath the surface, you discover heart-rendering problems. One of the students has five siblings and his mother, who is separated, moved in with another man who became his stepfather. This student has had a number of run-ins with his stepfather and has gone as far as to throw stones at him and break the windows of his car. This child is a real troublemaker at school. He spends the entire day on the street only going home to sleep.

Moral of the story: Of course these students have problems at school because their home life is full of conflict.



December 20th: A student says that he doesn't want to do anything today. I told him that he would have to go and see the principal and he told me that he didn't care. When he realised that I was serious, however, he started to work. Another student told me that he was tired and this was a waste of time. I told him that if he doesn't do the work now, he'll have to do it during his recess time. He realised I was serious when I asked his head teacher for permission to keep him in class during recess and then he got to work.

Moral of the story: Sometimes, if they see you're strict and are willing to follow through on what you threaten to do, they'll work and respect you.

December 22nd: The day grades were distributed one of the support class students came to see me and left his jacket behind. I told him to come get it on innumerable occasions during the school year. At the end of the year I threw it in the garbage because he never came for it.

Voices

January 17th: I discovered that there was one day of the week when students do not come to the support class. I asked their classmates why and they told me: Well everybody should know that, teacher, Tuesday is market day.

Moral of the story: How to reconcile teachers' interests with those of the students?

January 24th: Out of the blue a student yells out. When I asked him why he did that he said that sometimes it just happens. I asked him what would happen if my hand just sprang out and hit him upside the head. He answered: "Everybody here would get together and beat you to a pulp". I answered him: Just as I control myself when I have those urges, you must do the same with your calling out. He laughed and stopped making noise.

Moral of the story: These students will only respect you if they feel you deserve it or you win them over some way.

January 31st: I was explaining an activity to a Roma student who completely ignored me. I interrupted my explanation. A few minutes later the student asked me whether I knew how to prepare hashish. I told him that I didn't and that I had no interest in learning. Despite that he began to give me a detailed description of how it was done.

February 2nd: I was explaining some basic geography which I feel is the absolute minimum they should know: the borders of Spain, rivers, mountains, bordering countries and I was using a large map of Spain hanging in the front of the classroom. I tried to make it interesting and was not rushing through my explanations. I saw that they weren't listening and I wanted their attention. I asked one of my fellow teachers to lend me one of his students for a few minutes to use as a "teaching resource". This particular student is very bright and she is also attractive and pleasant. I asked her to explain to the students the same lesson I was trying to explain. Instantly, everyone's eyes were riveted on her and the map. I found that they were mesmerised and paid strict attention. When she finished, I brought the students one by one to the blackboard and discovered that all of them had learned the lesson.

Moral of the story: If you're interested, you learn. You have to devise tactics to get their attention.

February 25th: I was teaching the perimeters and areas of geometric figures to students in the Social Guarantee Programme. All twelve of them consider themselves incapable of learning the lesson and told me: "You can fail me now because we'll never learn this; it's too difficult." I told them that anyone who was able to recite all of the area and perimeter formulae without any mistakes (more than 8 geometric figures) would receive permission to go to the computer room. They came up to the blackboard one by one and, after several tries, some got it right and left to use the computers. The others didn't want to be left out and in the end they all learned the formulae.

Moral of the story: If they want to learn, they can.

March 28th: A student was interrupting the class non-stop. He's very excitable and restless. He was virtually doing no work. I reprimanded him several times. A few days later I saw his father speaking with Lina, the head of studies. I asked him what was going on and he told me that his family was moving to Murcia. It's no wonder my student was not paying attention or making any effort; he was going to leave in a few days time.

Moral of the story: Do family problems have an effect on the academic performance of our students?

April 1st: Several students started singing Flamenco music in the middle of an exam. I thought to myself, we're all crazy in this country. In any other school these students would have been expelled from class but I just let them sing on. I felt powerless because if I expelled them they wouldn't take the exam and I wanted them to take it. In the end they did the exam amidst all of the singing and almost all of them passed.

Moral of the story: You have to adapt to the situation or die trying but that is the last time that I will let them go that far.

Camarón and vans

April 12th: Only one student showed up for the support class. I decided to take him to the computer room to show him the advantages of the Internet. I asked him to tell me what he was most interested in and we could find information in Google and he answered with two words: 'Camarón' and 'vans'.

Moral of the story: What is 90% of the Roma population interested in? I have no doubt that the answer is Camarón.

May 2nd: It was the time of final exams and I told the students that they couldn't miss class because if they didn't take the exam they would not pass the course. But they paid no heed. I had only two students show up for one of the exams and three for another. One day after I had finished my classes I was in my car driving through Iznalloz towards Granada and I came across one of my students walking along the street who had an exam the next hour that same day. I stopped to remind him that he had to get to school to take his exam and he replied: Teacher, it doesn't matter. A few days later he was complaining to the studies director asking her why he had failed the class.

Beginning of June: Over the last several days many students have missed class and the studies director told me that only one student had come. Since I knew that he had come I was waiting for him in the hallway. He arrived 20 minutes later and says: Teacher, where have you been? I reprimanded him and then told him that we could go to the computer room because I wasn't going to teach class for only one student, especially since we had already covered all of the material. I told him he could use the Internet but to not go into any questionable pages. Near the end of the class I noticed that he was printing images from the "Pasión de Gavilanes".

Moral of the story: You can't leave them alone for even a minute. They'll always get into some sort of trouble.



Case 3. Goods and services

Case description

On the afternoon of 7 March 2007 a group of 19 people (16 Roma women and 3 FSG instructors) went into pub in Madrid. Since there was not enough room for everyone to sit together, the three instructors (a Roma woman and two non-Roma) stood at the bar while the rest of the group sat down at several of the unoccupied tables. Once they had all ordered and before the waiters had a chance to finish serving everyone's drinks at the tables, the owner of the bar told everyone they had to pay immediately. However, the rest of the customers (including the instructors who were sitting at the bar) were not asked to immediately pay for their drinks.

The owner of the pub refused to give any explanation for her attitude and also refused to provide these customers with the complaint sheet they had requested. This prompted the instructors to contact the consumer affairs office where they were advised to file a complaint at the local police station. Before they were able to proceed, several national and local police officers showed up at the pub at which time the instructor requested an invoice for the amount paid for the drinks, which the owner had also refused to furnish, the latter also accusing them in front of one of the police officers of not wanting to pay, of having brought food from another establishment and of having been discourteous to her. Her assertions were refuted by the instructors who unsuccessfully tried to explain what had occurred to another of the police officers who was not at all interested in listening.

In the meantime, the owner's partner began to clear the tables while saying in a loud voice: *lousy people; you have no right to live in the same place as us; we shouldn't even give you a glass of water; we should never have even let you come in;* he then turned to the police officers saying: *Don't listen to a word they say.* When he saw that the officers were taking a passive attitude he addressed the two non-Roma instructors and said under his breath: *These gypsies are all alike. They're no-good gypsies and we shouldn't have ever let them in.*

In the end the owner did give them the complaint sheet and asked the police officers to stay until they had finished filling it out and she did her best to make the form illegible by writing on the flip side of the self-copy paper. With the complicity of the police officers who just stood idly by, both she and her partner continued to insult the group with racist comments until they left the pub.

Several members of the group filed legal complaints but the accused parties were acquitted due to lack of evidence.

Analysis

Reasons

This is a case of discrimination in gaining access to goods and services, a practice which is relatively commonplace with respect to the Roma community as has been pointed out in previous reports. In this case, a group of women is allowed to enter a business establishment but certain rules are applied to them when it comes to paying for their drinks which are not applied to the rest of the customers thus constituting a clear violation of the right to equal treatment. Not only were special conditions set exclusively based on the ethnic background of the customers but when the owner was asked to explain this differential



treatment, the discrimination turned into a clearly racist act judging from the seriousness of the attitude and expressions used by the owners of the pub.

As already mentioned, discrimination was based on ethnic background although it is important to point out that all of the Roma were women and the racist insults were all targeting Roma women: *these gypsy women are all the same, they're no-good, we shouldn't have let them come in*, which leads to the conclusion that in this case the gender factor is intimately linked to ethnicity and that the reaction of the pub owners would have been different if the group had been composed of men rather than women.

Moreover, as we will analyse below in the section on participants, the attitude of the police officers could also constitute discrimination by omission based on the fact that the main cause was, once again, ethnicity.

Participants

Here we have a two discriminating agents. On the one hand, the owners of the pub who showed a discriminatory attitude as service providers and, over and above this unequal treatment based on ethnic origin, they also made racist insults in the presence of several police officers constituting a second manifestation of discrimination.

On the other hand, we can also consider the police officers as perpetrators of discrimination. In this connection, it was surprising to see such a large contingent of police officers arrive at the pub. Although the group of women was numerous, it was still disproportionate to see several pairs of officers from different police corps and the question remains whether the same number of officers would have shown up had the group of women been non-Roma. It was also particularly significant that none of the officers made a report of the incident but merely supervised the filling out of the complaint sheet requested by the instructors and did that with a large measure of reluctance and irregularity.

Furthermore, according to the victims' testimony at the hearing, it was obvious from the beginning that the officers sided with the pub owners and only listened to their side of the story which stands in stark contrast with the version of the complainants to whom no credibility was given or due attention paid thus violating the principle of impartiality which must be respected in all actions undertaken by agents of the public authorities. Worse still was their reluctance to react to the racist insults which were hurled about and which could easily have been described at least as a misdemeanour for unjustified harassment in that it was an affront to the honour and dignity of the entire group of women present.

Hence, the victims may have simultaneously suffered two different discriminatory acts, one committed by private citizens and another by public officials who should have protected the victims and defended them from the initial discrimination.

Effects

Generally speaking, all discriminatory acts involving the provision of goods and services take place in public places and therefore have a direct and very significant impact on the victims' right to honour and dignity. Moreover, the attitude of the police officers also has important repercussions in terms of the exercise of civil rights in that it reinforces the mistrust that many Roma continue to have when it comes to certain state institutions which, on some occasions, fail to consider them as citizens with full rights.



If it were not for the police presence, we would describe but another case of discrimination in the area of goods and services but there is no doubt that the most relevant issue in this case is the revelation that some institutions, in this instance the police, do not consider discriminatory practices to be sufficiently serious, justifying them and minimising their consequences while leaving victims unable to defend their rights.

As for the legal ramifications, the acts reported were defined as merely a possible misdemeanour for harassment while the accusation of discrimination was never even considered. To add insult to injury, the owners of the pub were acquitted on the grounds that there was not enough evidence to invert the burden of proof. However, over and above the judicial decision which is debatable, it is important to stress that the victims stated that they did not feel sufficiently listened to during the hearing.

As a result, their feeling of mistrust and institutional defencelessness was heightened and in the end they decided against appealing to a higher court and simply assumed discrimination of this sort as inevitable. As pointed out in the complaint, many of the women affected refused to continue participating in any activity outside of their immediate vicinity for fear of suffering additional rejection and humiliation. Hence as a result of the discrimination suffered, they missed out on many opportunities for training, employment and social advancement.

Response

In light of the seriousness of the incident and the impractical nature of mediation in this case the victims, following the advice received from the FSG and the Legal Aid Service against Racism and Xenophobia of the Madrid Bar Association (known as SAJ Racismo), decided to file a lawsuit for a crime against the exercise of fundamental rights and public freedoms under the provisions of Article 512 or, barring that, Article 510 of the Criminal Code.

The passive nature of the police officers is described in the body of the complaint but charges were only filed against the owners of the pub. Furthermore, despite requests made, the police stations in question did not provide the court with any sort of report about what had happened at the pub and the officers did not attend the hearing even as witnesses. Therefore the judge of the case ruled that the testimony provided was insufficient to overturn the presumption of innocence and therefore, as already mentioned, the defendants were acquitted.

We would also point out that SAJ Racismo, which represented the complainants at the hearing, warned of the difficulty of filing a successful appeal to a higher court and therefore advised the victims against such action. Furthermore, the legal aid service was shut down by the local government so even if the victims had wanted to file an appeal they would have had to do it without their collaboration. This once again points to the need for a public legal aid service specialised in combating discrimination to help victims by providing counsel and accompanying them at all proceedings, including misdemeanour hearings.

It is also fair to say that the victims of discrimination do not have suitable mechanisms to take action in cases where the police fail to provide the protection they need which, in this case, turned out to be an act of discrimination by omission and, as such, could have been pursued in the courts.

Therefore, the public administration is still in need of equality programmes which establish channels whereby to denounce incidents of this sort, specific sanctions against them



and monitoring and evaluation measures. With all of this information, specific training and awareness-raising actions could be organised targeting the perpetrators of discrimination. Due to a total lack of support or public control mechanisms, in this case it was not even possible to identify the police officers involved.

On behalf of His Majesty the King, I deliver the following

JUDGEMENT NO. 18

At Madrid on the twenty-first of January 2008.

Magistrate-Judge XXX of Chamber one of the Criminal Court of this capital city, having seen the case file of the misdemeanour hearing initiated for UNJUST HARASSMENT, the claimants being xxx, xxx, xxx and xxx and the defendants are xxx and xxx.

PLEAS OF FACT

1. These proceedings were initiated by virtue of the complaint filed by xxx along with three other people at the Secretary's Office of the Madrid Court. Oral proceedings were held on the 17th of January past at 11:30 with the presence of the complainants, except for Mr. xxx, who confirmed their complaint. Their lawyer, Ms. xxx, petitioned the court for the conviction of the defendants as the authors of two misdemeanours under Article 620 of the Criminal Code and their punishment with a 20-day fine of €20.00 per day. The defendants denied the accusation and their lawyer, Ms. xxx, petitioned the court for the acquittal of her clients.

2. PROVEN FACTS. Having studied the evidence provided, the following was proven: At approximately 19:30 on the 7th of March past, xxx, working as teachers for an association dedicated to the social integration of persons belonging to the Roma ethnic group, entered the pub located at No xxx of xxx Street with 16 women of this ethnic group where they ordered drinks and some members of the group began to eat pastries which they had purchased at a nearby pastry shop. The pub employee, xxx, told them that they could not consume products which had not been purchased in the pub to which one of the customers responded that there were no signs prohibiting them from doing so. An argument then ensued between xxx, the teachers and some of the women when they were told that they had to immediately pay for their drinks. The teachers asked the employee for the complaint sheet and that was when the owner of the pub and husband of the employee who was in the storeroom on the upper floor at the time came down when he heard the loud voices. At about the same time local and national police officers entered the pub as well.

LEGAL GROUNDS

ONE. The presumption of innocence principle, enshrined in Article 24 of our Constitution, applies in Spanish criminal procedure as a fundamental right meaning



that at least a minimum amount of evidence of the so-called charges must be presented for the conviction of any person. In other words, evidence must show the authorship and guilt of the alleged perpetrator who is protected by the essential guarantees of orality, immediacy, publicity and contradiction.

In this case, charges were filed against xxx who discriminated against these customers of the Roma ethnic group by requiring that they immediately pay for their drinks in the pub where she was working and who used disparaging language against them as did her husband, the co-defendant; expressions such as lousy people and telling them that they didn't even deserve a glass of water and should have never been let past the door and to the teachers who accompanied them that they should pay no attention to them and that they couldn't understand why they worked with these people. However, in the oral proceedings Mr. xxx and his wife denied each and every one of these accusations which were not confirmed by the testimony of any of the people who attended the oral proceedings as witnesses, therefore resulting in the acquittal of the defendants. The complainants could take the case up in civil court in an attempt to receive compensation for damages suffered as a result of the events described. Since sufficient evidence was not submitted to overturn the presumption of innocence, given the discrepancies between the versions given by the two parties and the lack of evidence to confirm the thesis of the complainants who appeared at the hearing, the Court does not have the information or discretionary elements needed to give greater credibility to their statement over that given by the accused couple.

TWO. In accordance with Article 240(2) of the Code of Criminal Procedure, court costs may not be levied upon an acquitted party.

For all of the foregoing and considering the legal precepts cited and those other generally applicable,

ENACTING TERMS

It is my duty to acquit the defendants, xxx and xxx of the misdemeanour for mild slander and unjust harassment, notwithstanding the civil action which could be taken by the complainants and injured parties xxx, xxx, xxx and xxx and declaration of the court costs borne by the state. Once this Judgement is made final, insert the original in the Judgement ledger with a notarial certified copy for the court record.

An appeal may be filed against this decision within five days following its notification.

This is my Judgement of which the parties must be notified in legal form, pronounced, sent and signed.



2.2 Brief presentation of the cases of discrimination collected by the FSG in 2007

- 1. Huesca. January. Discrimination in employment.** A Roma woman got a job as a chamber maid at a local hotel. After some time on the job, the hotel owners found out she was Roma and she started to have small “run-ins” with her boss. When her contract expired they told her that it would not be renewed because there was not enough work but the very next week they engaged another person.
- 2. Almeria. January. Discrimination in employment.** After working for 14 months as a cashier at a department store a Roma woman age 25 was told that she would not be given a permanent contract. She discovered the reason why through the person in charge of the cashiers with whom she had established a friendship. The head of personnel told her that the worker would not be given a permanent contract because she was Roma.
- 3. Huesca. January. Discrimination in employment.** A Roma man, beneficiary of the ACCEDER employment programme, went to a company to see about an announced job opening. No sooner had they seen him that they told him that the post had already been covered. When the social worker was told what had happened she called the company again inquiring about the opening and was told that the job was still available.
- 4. Salamanca. January. Discrimination in housing.** A mediator at one of the offices of the ACCEDER employment programme and a few journalism students were conducting a study to see if people from the Roma ethnic group really did suffer discrimination in gaining access to housing. The idea was to conduct the study on real cases and there was an opportunity to do it with one of the programme’s beneficiaries. In one of the phone calls a woman stated the following: *“You aren’t Roma, are you?”*, to which the young man replied in the affirmative, *“then I don’t want to rent the flat to you; I want nothing to do with Roma”*. The young man tried to explain that like all others, Roma are individuals but the woman concluded: *“I have nothing against Roma but this is my house and I do not want to rent to you”*.
- 5. Salamanca. January. Discrimination in housing.** As part of the same study alluded to in the preceding case, the same mediator and the same journalism students listened in with another beneficiary during a telephone call to a real estate office. The conversation was going well until the young man asked the real estate employee if his being Roma would cause any sort of problem in renting the flat. At that point the tone of the conversation changed and the employee of the real estate agency started to list requirements arguing that he needed to see pay stubs, pay a two-month deposit, etc. Despite everything, they made an appointment to see the flat that afternoon. However, just an hour before the appointment, the agency employee called back to say that the owner of the flat did not want to rent to anyone without established employment.
- 6. Valladolid. January. Discrimination in employment.** A worker from a training enterprise informed the FSG that he was organising a fork lift operator course for the Regional Government of Valladolid and of the 10 students, 6 were Roma. After carrying out the search for companies to do internships and filing all of the necessary paperwork (submission of collaboration agreement, signatures, etc.), some of the students were rejected. The reasons claimed were that they did not fit the job profile or that they were Roma and there-



fore were not permitted to work there. Once the FSG became aware of the situation, the enterprise mediator of the Valladolid office showed the business owner data from other companies where Foundation beneficiaries had worked on previous occasions. In the end, companies were found for all of the students to do their internships.

- 7. Lugo. January. Discrimination in employment.** A Roma woman began working in a cleaning company in January 2006. During the course of the year new work centres were added and at the end of the year the woman's boss told her that there were a total of 7 centres. A week after starting in her new work centres, the president of one of the homeowner's associations where she was working came to the company office demanding that she be replaced. One of the company's workers asked why to which the president responded that they did not want a Roma person to have the keys to the building entrance because they didn't trust her. Those responsible for the company then asked whether she was doing her job properly to which the president answered in the affirmative, stating that she was much more efficient than the previous person but that they simply "did not want a Roma woman cleaning the entrance hall of their building of flats" and he even threatened to end the contract with the cleaning company if this woman continued working at his building. Despite this clear discrimination, the worker decided not file an official complaint so as not to jeopardise her job.
- 8. Pontevedra. January. Discrimination in Social Services.** A Roma woman went to the Social Services office to sign for what is known as the Social Integration Income of Galicia (Spanish acronym RISGA) with her assigned social worker. This woman subsequently learned that she could apply for aid under a programme for the "prevention and support of families in serious need for the upkeep of minors in their environment", an alternative to the RISGA aid she was currently receiving and asked her social worker for information knowing that she would have to waive her right to her current aid. The social worker told her that she could not apply for that other aid because it was for abused children, children with drug problems, etc. and that since she no longer wanted aid from the RISGA programme she would immediately be taken off the list. The Pontevedra FSG office turned to another social worker for advice concerning this aid and found that this woman met all of the objective requirements for the requested aid programme. Despite being aware that she had been discriminated against, the beneficiary decided not to report the incident because that person was her assigned social worker and she had to continue working with her and feared reprisals.
- 9. Vigo. January. Discrimination in access to goods and services.** The FSG social worker contacted another local NGO to request information on aid they were providing for pregnant women and mothers with babies. The social worker of that NGO told the FSG worker that they do not work with Roma women because they fill up their premises, are very large, take up too much room, bother the rest of the beneficiaries and smell bad. According to them, these circumstances led to the collapse of their service on previous occasions and caused another of the offices to close down. They offered the option of providing services if the FSG workers took charge of the report and acted as intermediaries but did not want Roma women going to the service premises. The social worker made comments to the effect that the FSG should generate the resources for these requests or refer the women to Caritas since they already have enough work. This case is of particular concern because in 2008 the same situation was repeated with this same organisation which recently refused to attend to Roma women.



- 10. Santiago de Compostela. January. Discrimination in access to goods and services.** A funeral home refused to allow a Roma family to have a wake in their facility because they had had a bad experience with another Roma family who damaged some of their chairs and tables. In the end the family had to go to another funeral home for the wake of their deceased family member.
- 11. Murcia. January. Discrimination in housing.** A flat was found through the Internet meeting the needs and price range of an FSG beneficiary. The territorial office called for information and arranged a meeting to see the flat with the owner who was very pleasant. We went to see the flat and the beneficiary was very happy with it and decided to rent it. However, the owner then told her that another couple had seen it first and she was waiting for their response and that she would call as soon as she knew their answer. After several days with no answer, we called back and were told that the first couple had rented it. At the office we wanted to find out whether this was a case of discrimination so a different worker called to inquire about the flat and was surprised to learn that the flat was still free thus confirming the act of discrimination against our flat seeker.
- 12. Andalusia. February. Discrimination in the media.** Several journalists recorded the police carrying out a check (random in theory) to which there was no follow-up in which a number of Roma minors were frisked. Later these images were broadcast by a regional TV station in a programme on delinquency which directly associated the image of these minors with illegal activity. The FSG office in Granada sent a letter to the TV station which had a positive effect; the station apologised and promised to blur the images of minors in the future.
- 13. Aranda de Duero. February. Discrimination in the media.** The FSG exhibit entitled "*Culturas para compartir. Roma Today*" (Sharing cultures. Roma today) was put on exhibit at the Cultural Centre on 15 February and the official inauguration for the media took place on the 19th. As from that date, a number of Internet fora, especially one linked to a local newspaper, aired discriminatory comments about the Roma community having regard to that news item.
- 14. Santiago de Compostela. February. Discrimination in access to goods and services.** Two young Roma girls went into a pet store and one of them was holding a Kleenex over her nose because she was allergic to animal hair. When the store clerk saw them come in she immediately exclaimed: "*Cut the bullshit, what the hell do you want?*" The two girls started to laugh at the store clerk's reaction, the latter automatically deciding to call the security guard while yelling: "*Get out of my store.*" However, as they were leaving the clerk pushed one of them back in and a shoving match began and the young girl ended up slapping the clerk. Two security guards arrived on the scene and the young lady told them what had happened but the guards had a very aggressive attitude asking the girls for their personal details and making comments such as: "*Let's see who you're going to call now. We know how you operate.*" The next day the young lady went to the courthouse to file a complaint but was told that she needed the personal details of the other person. Not satisfied with that response she sought the counsel of the social services lawyer who called the local police station and, based on that conversation, the young lady was informed that this was an unimportant case and would not amount to anything. The next day the young lady was called to a hearing to which she went alone while the other party showed up with counsel. The case ended with a fine being given to the young lady.



- 15. National. February. Discrimination in the media.** In relation to a hearing held at a Madrid court following the murder of a Roma couple and their baby in 2004, several news media published articles which made reiterated reference to the ethnic origin of the families and used expressions such as “*vengeance*” or “*taking justice into their own hands*”. These articles abounded with prejudice-reinforcing stereotypes and promoted discriminatory attitudes towards the Roma community as a whole, over and above the suspicions cast, in this case, on the victims of the murder.
- 16. Córdoba. March. Discrimination in access to goods and services.** A new discotheque was opened in Cordoba where a number of fights broke out and a Roma boy was involved in one of these. After that, the discotheque refused entry to all Roma and the owners gave the same order to their other dance halls and also spread the word amongst other local business people. The result is that today many pubs refuse entry to Roma.
- 17. Zaragoza. March. Discrimination in employment.** A young Roma girl was hired as a clerk in a clothes store. At the beginning everything was fine but then they found out that she was Roma and her fellow workers and the boss began to look down at her and didn't let her deal with customers or go near the cash register. In the end the girl quit her job and explained the reason why to her boss who encouraged her to stay but she stuck to her decision and left.
- 18. Segovia. March. Discrimination in the justice system.** An article in a local newspaper published the following comments made by a juvenile court prosecutor about school absenteeism: “*According to the juvenile court prosecutor, school absenteeism is mostly among marginalised groups, usually focusing on the Roma ethnic group or immigrants. In the case of (xxx) there is a cultural problem underlying the large number of missed school days; “people who put no value on education and who place no importance on what their children are learning at school and who tend to ignore that part of their lives oftentimes forgetting that school is compulsory in Spain until the age of 16 and that they could be breaking the law”.* The FSG sent a letter to the prosecutor calling for a more specific study into the causes of absenteeism and putting all of the information needed to ensure a more accurate view of the Roma population in 2007 at his disposal. No response was received in connection with that letter.
- 19. Madrid. March. Discrimination in education.** The president of the School Enrolment Committee of a district of Madrid appropriately proposed that a place be made available at the school for a Roma child whose mother is a beneficiary of the FSG's Social Action Programme. The FSG intercultural mediator went to the school to register the child. The school director told our mediator that it was impossible to enrol this child because “the child ratio is... complete”. Despite arguing that it was the Committee itself that proposed the child's enrolment, the mediator was unsuccessful in getting the director to see things that way. Thanks to inside information, the mediator knew that the classrooms were not full. After that, the local school inspector met with the mediator and the mother of the child and subsequently sent a letter to the school indicating that the child must be enrolled. In the end the child was enrolled thanks to the efforts of the mediator.
- 20. Seville. April. Discrimination at the hands of the police.** An accident occurred in front of the Seville FSG headquarters. Two FSG workers saw one of the cars take off and several pedestrians made an effort to stop it. The local police showed up and a witness gave



them the license number of the vehicle which left the scene of the accident. A man then came into the office asking for a man meeting the description of the person they saw coming out of the FSG as the person responsible for the accident. The local police then came in saying that a witness was sure that the person responsible for the accident was driving the wrong way from the direction of the FSG office. The FSG people insisted that this simply was not true. The police had a surname that they were able to find out from the license plate number and wanted to know if any FSG beneficiary had that same surname. The FSG workers even showed them the entry registry for that day. In the end they arrested the person responsible and verified that he was Roma but not an FSG beneficiary. We should point out that another FSG worker witnessed the accident and saw that the guilty party did not come from our street at all but was driving down the avenue and crashed into the other car while trying to make a U-turn. This information was also given to the police officer but was ignored and also demonstrates that the information furnished by the first witness was false.

- 21. Huesca. April. Discrimination in housing.** A couple was looking for housing. When the man (non-Roma) went to the real estate office of Huesca they showed him flats but when the woman (Roma) went they told her that there was nothing available or that the one they were looking had been rented.
- 22. León. April. Discrimination in the media.** In April a murder was committed, an event covered by both the national and local press. Repeated mention was made of the ethnic group of the alleged perpetrators in the headlines and body of the articles. Even the coverage of the subsequent confrontations between neighbours and between Roma and non-Roma highlighted the ethnic group of the alleged perpetrators. The FSG sent a "Letter to the Editor" which was published in one of the national newspapers. That letter expressed our disappointment over the way the news story was covered and spoke of the injustice of generalising this sort of criminal behaviour to the entire Roma community.
- 23. Valladolid. April. Discrimination in sports.** A local newspaper printed the lyrics of the victory chants being sung by the players of a football club celebrating its promotion to the first division: *"we're from the great city of Murcia, we're not junkies nor gypsies"*. The FSG sent a letter to the president of the football club and we also spoke about this issue with him on the phone. The president was receptive and was open to possible future collaboration.
- 24. Valladolid. April. Discrimination in the media.** Several local newspapers ran a story about a shooting which took place in a Valladolid neighbourhood. The headlines referred to the Roma ethnic group as the alleged perpetrators and even alluded to *"Gypsy clans getting even"*. The mention of an ethnic group did not add any relevant information to the news item and therefore was inappropriate.
- 25. Vigo. April. Discrimination in access to goods and services.** A Roma man who had been residing in a shanty town settlement for the past several years went to the Vigo town hall to apply for his residence registration certificate for the purpose of acquiring a health card. At the town hall they told him that they couldn't give him a residence registration certificate because his address did not officially exist. He argued that his wife and children had their residence registration at that address but still received the same response, i.e. that at this point in time no resident certificates could be issued for that address. The FSG spoke with the service head who also insisted that no certificate could



be issued for that address. Later, other reasons for refusing the certificate emerged: close to that area, several families affected by an expropriation process were going to be resettled and city officials feared that if other families found out about this case they would apply for residence certification in order to become eligible for resettlement. The FSG went to the urban planning office and confirmed that the lot in question was under study for future development yet to be defined. It was later discovered that the lot was to be used for the building of offices and shopping centres.

- 26. Madrid. April. Discrimination in the media.** In response to a news story about the rejection experienced by Roma in different sectors of the society, clearly racist comments against the Roma community were published in an electronic forum of this major national newspaper.
- 27. Madrid. April. Discrimination in the media.** A comic strip intended to be humorous was published in a nationwide free newspaper accusing Roma who claim to not feel accepted by non-Roma of lying. The irony of this case is that the following headline appeared on the front page of this same newspaper: "Incitement to xenophobia to be considered a crime in Europe".
- 28. Córdoba. May. Discrimination at the hands of the police.** A man was aiding in the parking of cars at a local hospital, his main activity to support his family. Four police officers violently addressed him causing an anxiety attack which resulted in an epileptic attack. After the police allegedly hit and threatened him the man showed them his Romanian identification and the medical report diagnosing his disease and prescribing medicine. The police reacted by reproaching him for this car-parking activity and complaining about the presence of Romanians in the city. In the end the man's niece had to intervene ensuring the officers that everything he said was true and when he finally recovered he was able to leave and was not arrested.
- 29. Andalusia. May. Discrimination in the media.** A nationwide newspaper published an article which was based on declarations made by the spokesperson of the Pro Child Rights Association. This article affirms that Romanian Roma sell and exploit babies and that this is a traditional practice for this group. It called on governments to put pressure on these groups and complained that they are able to move freely around Europe. It also denounced the Cordoba Town Hall for allowing children to beg in the streets. Once again, this is an article loaded with stereotypes and prejudice where the action of a few specific individuals is generalised to the entire Roma community. The impact of these comments is magnified given their source, i.e. the spokesperson of an association which one would presume is sensitive to situations of social inequality.
- 30. Linares. May. Discrimination in employment.** Ten young women (9 Roma and 1 non-Roma) were selected by the FSG's labour counselling service together with an enterprise specialised in personnel selection to work on an advertising campaign for a political party in Andalusia. When they arrived at the work centre the person responsible for the party said that they did not comply with the desired profile or the image they were trying to project and refused to allow them to do the job they had come for. The FSG office in Linares contacted the political party in question and explained the situation and they said that the confusion was due to "technical problems".



- 31. Linares. May. Discrimination in health-care.** A middle-age Roma women went to her family doctor because she needed some prescriptions. Her physician was not there and she was attended by the substitute. This latter physician said that she could only prescribe half of the medicines requested by the patient because she couldn't find the list which the woman referred to in the computer. The Roma woman said that half of the prescriptions was no good and that she needed all of them at which time the physician threw the prescription in the garbage. The woman asked the physician why she threw the prescription away and asked her to take them out of the garbage to which the physician responded that she (the patient) could take them from the garbage. María (the patient) left the examining room and went to the desk to file a complaint. The patient then returned to the examining room and since the physician persisted in her refusal to give her the prescriptions she spilled the contents of the wastepaper basket on the floor to pick out her prescriptions. The physician then called an orderly on the phone and said "I have a Gypsy in my examining room. Come at once" to which the patient responded that the doctor had no business referring to her ethnicity. In the end the patient filed two complaints – one for discrimination and another for poor treatment received, copies of which are on file.
- 32. Córdoba. May. Discrimination in the justice system.** A Roma man went for a forensic examination following a traffic accident. The forensic physician asked the man how many brothers he has because in the computer he found four or five people with the same surname who had had traffic accidents. The victim called his lawyer who spoke with he forensic doctor. The forensic doctor insisted on this theory that this was a fraudulent claim. He even went so far as to threaten the lawyer with looking into the facts of the case to which the lawyer responded by urging him to study the complaint, the hospital report and damage done to the automobile.
- 33. Cadiz. May. Discrimination in the media.** An article was published in a local newspaper about a feud. The sub-headline of the article pointed out that the clash was between Roma families. Mention was again made in the body of the article that Roma families were involved as if this were key information for readers when the fact is that it only perpetuates stereotypes by linking the Roma community to delinquency.
- 34. Córdoba. May. Discrimination in the media.** Articles appearing in the local press about begging by street children included the following description: *"The problem of begging on the streets of Cordoba, mostly undertaken by Romanian Roma (...)".* Assertions such as these which generalise illicit acts to the entire community do not give the reader any added information but rather seek sensationalism and help to further establish prejudices and stereotypes which end up leading to discriminatory attitudes and behaviours towards the members of this community.
- 35. Huesca. May. Discrimination in the media.** At 12 midnight on 27 March 2007 a radio programme talked about the curses cast by women who read palms on the street. In this context the radio show hosts began to ridicule these people and included the entire Roma community in their commentary. An FSG mediator sent a message to the radio station and received a reply from the Director-General apologising and assuring that no more comments of this sort would be made.



- 36. Asturias. May. Discrimination in the media.** Several local newspapers ran a story about the knifing of a young Roma man. The ethnic group of the victim is stated in the headline and in the body of the article reference is made to the ethnicity of the alleged perpetrator and family feuds between different Roma families is offered as the possible cause of the incident. Once again, this article reinforces stereotypes by attributing the behaviour of a few people to the whole of the Roma community thus contributing to discrimination.
- 37. National. May. Discrimination in the media.** Several newspapers published an article about a young girl in Barcelona facing a four-year prison sentence for having cut the hair of her friend. Most of them make specific mention in their headlines that this is a “Gypsy punishment” thus generating prejudice and perpetuating stereotypes.
- 38. Vigo. May. Discrimination in housing.** A Roma woman age 55 with a 12 year old child under her care applied for housing and was well positioned because she was one of the first applicants and met all of the requirements. After doing all of the paperwork the woman chose a house which met her needs and she was scheduled to move in on the first of the following month. The day before the move the FSG called the housing office to make sure that everything was in order but was informed that the owner refused to rent the flat to Roma and was prepared to go to the Ombudsman to remove her flat from the housing programme. The FSG tried to mediate but was unsuccessful; the owner continued offering ethnic background as the only reason for her refusal. She made statements such as: *“I don’t want a Roma family living in my house and you can’t make me”; “I don’t want people of that race and neither do the neighbours. Some have said they would move out and that would bring down the value of my flat”; “It would be a big mistake to let those people into my house; my son lives in a flat on the floor below and said that if they move in he will move out.”*
- 39. National. May. Discrimination in education.** A national newspaper covered a complaint filed by the Spanish Confederation of Student-Parent Associations (Spanish acronym CEAPA) regarding the subjective enrolment criteria applied by some semi-private schools which “veto” immigrant and Roma children. According to this article, CEAPA denounced the fact that, in addition to the objective criteria laid down by the law (number of siblings enrolled in the school, family income, etc.), these schools are applying other criteria typically established by local school boards and which are normally quite subjective and prevent the enrolment of immigrants, Roma children or those with a low socio-economic level. CEAPA called on the Regional Governments to eliminate this prerogative of schools in the interest of equal opportunity.
- 40. Valladolid. May. Discrimination by a public figure.** In response to a press conference question the mayor of a town answered: *“I already said that comparing (x)’s talent with (y)’s is like comparing God to a gypsy”*. This press conference was recorded by several different media, was broadcast on several news programmes and was printed in the local newspaper; in other words, the mayor’s comparison was widely disseminated. The FSG sent a letter to the mayor about his statement and requested an apology. The mayor wrote back saying that he understood our unease and apologised. Despite the wide public dissemination of his discriminatory remarks, the apology was never made public.
- 41. National. May. Discrimination in the media.** The term “Roma clans” was used in the headline of a news story published in a local newspaper. It is slanderous to use this term to



refer to families of Roma ethnic origin because it is closely linked to criminal activity, especially drugs trafficking. Once again the media have mistreated the Roma community by using expressions which do not provide information but rather serve exclusively to perpetuate stereotypes and prejudices which lead to discriminatory practices.

- 42. Almeria. June. Discrimination in the media.** A local newspaper published an article about the death of a person. The main hypothesis of the crime was a vengeance murder committed by the family members of a young Roma man who had been killed in a traffic accident by a car driven by the young man who was the focus of this news story. The FSG sent a letter to the editor and in response a radio station offered broadcast time to the Foundation to express its point of view.
- 43. Granada. June. Discrimination in access to goods and service / Police / Justice.** A woman who works at the *Asociación Anaquerando* and a collaborator with the *Granada Acoge* programme took a taxi to go to her place of work in the Almanjáyar neighbourhood. The taxi driver refused to take her to that address and asked her in a mocking tone if she wouldn't rather go to the "Mohamed the sixth Square" and then made comments such as "you should all go back to where you came from and we would all be better off". In response to her insistence (she refused to get out of the taxi) the driver threatened her by saying "I might just have to give the doctor a little work". The woman went to the police station to file a complaint for discrimination and one of the officers told her that the taxi drivers insults did not constitute a crime and justified his refusal in light of the possible danger posed by the neighbourhood where she wanted to go. In the end the judge ruled in favour of the taxi driver on the grounds that the latter refused to take her to the address requested due to danger and not discrimination.
- 44. Córdoba. June. Discrimination in access to goods and services.** The FSG in Cordoba organised a work conference around the subject "European Roma" and chose a local hotel for the event. Ten hotel rooms were reserved but when the hotel clerk saw that the FSG was making the reservation he said "if the rooms are for Roma we'll have to think about it". The FSG found a different hotel.
- 45. Córdoba. June. Discrimination in access to goods and services.** Several pubs in a certain part of the city refused entry to Roma youth alleging that they arrive in large groups that take up a lot of room in the establishment and make other groups feel uncomfortable. Complaint forms were filled out and in one of the cases the police were called, the latter verifying that they were refused entry and recommending that they file a complaint.
- 46. Asturias. June. Discrimination in employment.** A Roma job seeker found a job offer as a delivery person through the ACCEDER employment programme. He went to the interview and was given the job. The company asked him to submit a series of documents to formalise the contract which he did. However, the day before he was due to start work he received a phone call from the person who had hired him to tell him that his job post has been filled by another person. The ACCEDER beneficiary believed that the potential employer learned that he was Roma by his surname or through comments made by other people. The labour counsellor of the ACCEDER programme of Aviles called the company to inform them of what had happened. The company representative told the counsellor that they had to hire a family member but this explanation had never been given to the potential employee.



- 47. Madrid. June. Discrimination in access to goods and services.** A Roma woman who works for the FSG went to her local supermarket. As she was going in one of the cashiers stopped her and accused her, in front of all of the other customers, many of whom were her neighbours, of having stolen some articles in the store just a few minutes earlier. When the women asked why she was being accused several other cashiers told her that some customers told them that a Roma woman dressed in black had been stealing food. Despite the arguments presented by the woman and other customers, one of the cashiers kept insisting that they could talk until they were blue in the face; as far as she was concerned all Roma were the same. Well aware of the situation of discrimination she was suffering, the woman decided to call the police who came and informed her of her right to file a complaint. As the result of that complaint and the ensuing criminal proceeding, the supermarket cashier was convicted of a misdemeanour for unjust harassment. While the favourable judgement handed down in this case is a positive event, we were disappointed to see that racism was left out of the judgement and therefore the aggravating circumstance for racism was not applied nor did the events constitute the crime described under Article 512 of the Criminal Code which fits this situation perfectly.
- 48. Navarre. July. Discrimination at the hands of the police.** This case was taken from the press. A young Roma girl and her family got involved in an incident in July at a local bar and the police were called. The girl was fatally wounded and died a few days later. Even though the Court at that date did not yet know the results of the autopsy and did not have the information needed to make an accurate assessment, the organisation which denounced the case to the press pointed out that this was not an isolated incident; the criminal court of Iruñea delivered a judgement indicating that the police "exceeded their authority" and that "the officers' statements cannot be presumed accurate".
- 49. Cordoba. August. Discrimination at the hands of the police.** A part-time police officer was driving in his car accompanied by his grandson when he was stopped by the police for a routine check. The driver showed the police officer his documentation and mentioned that they were work mates and the officer answered "*work mate no, ex-work mate*" and told him to get on his way. The driver reproached his attitude and the officer added: "*you're no police officer, you're a gypsy, a mobile trader*". Marcos Santiago, an FSG labour counsellor and lawyer wrote a column in the Cordoba newspaper and the next day the police chief called him to apologise and asked him to identify the police officer for discipline purposes. The family of the victim was sent invitations to the formal dinner in celebration of the city's patron saint.
- 50. Jaén. August. Discrimination in the justice system.** As a result of a fight which broke out on the 3rd of August 2007 at a discotheque in Cambil where two Roma brothers were injured, a Judge in Jaen prohibited the brothers from entering, residing, being, staying or walking in the town and the brothers did not even cause the altercation; the event was provoked by someone else. The two boys and their family stated that the judge had discriminated against them in his excessively harsh ruling in light of the fact that the person who caused the fight and did the most damage was another person. The family of the two young men also pointed out that since the day of the fight they had been receiving threats from the aggressor's family with clear racist overtones.



- 51. Jaen. August. Discrimination in access to goods and services.** The financial institution of a car dealer refused to finance the purchase made by an FSG worker pointing out that the “FSG was on the black list because they had been guilty of fraud on several other occasions”. The worker had to request a bank report establishing the authenticity of his monthly pay check but that was not enough so he showed them his wife’s pay stubs but that was not accepted either. The sales representatives (who were not strangers) said that they could not approve the loan because the word “gitano” (Roma) was on the pay stub. They put their application in writing indicating that their family was trustworthy and in the end were granted the loan.
- 52. Barcelona. August. Discrimination at the hands of the police.** A Roma woman doing her food shopping was leaving the store when another woman ran out behind her accusing her of stealing her wallet. The police came, identified the accused woman and held her there on the street for more than three hours before they finally took her to the police station. Upon arrival she was allegedly treated unfairly and was accused of drugs trafficking. The case went to court where the woman proved her innocence and was cleared of all charges.
- 53. Valladolid. August. Discrimination in the media.** Several articles were published in the local papers about the tension in the town of Peñafiel in the aftermath of a confrontation between members of a Roma family and those of a non-Roma family, both from the same town. One of the papers made incessant mention of the ethnic group of one of the families as if this were important information. In contrast, the other newspaper simply related the facts without making any mention of ethnicity.
- 54. Asturias. September. Discrimination in housing.** Thanks to the help of the San Martín de Avilés Foundation, a Roma family was resettled in a flat owned by the said Foundation in the town of Castrillón. No sooner had the family arrived to the flat, one of the neighbours openly told them that Roma were not welcome in that building. Another Roma family, also resettled by the San Martín Foundation, had lived in that same flat for five years but had finally left after constant complaints and accusations from their neighbours. The FSG worker who owned the flat informed the San Martín Foundation of the situation. The director of the Foundation said that the neighbours complained that a Roma family had moved in instead of an immigrant family which they claimed to have been told. The director then made it clear to the neighbours that the flat would always be occupied by a Roma family. The neighbours have not lodged any further complaints with the San Martín Foundation but do complain to the resettled Roma family.
- 55. Asturias. September. Discrimination in the media.** A local newspaper covered the stabbing of a young Roma man. The first column of the article featured the following sentence: “According to the National Police Corps, the alleged aggressor is a member of another Roma family and investigations indicate that the two knew one another and there had been previous conflicts”. The journalist claimed that the two young Roma men knew one another because they were both Roma (as if all Roma know one another) and also asserted that the stabbing was caused by rivalries having to do with their Roma ethnic background.



- 56. Santiago de Compostela. September. Discrimination at the hands of the police.** The father of a Roma family was seated waiting in his car which was stopped in a no parking zone while his son was delivering his résumé to a company. A police officer approached him and told him that he couldn't park there and the father told him that he would be leaving presently but the officer asked to see his documentation and then proceeded to give him a ticket for parking in a no-parking zone. The father decided to move his car a few metres further down the street and stopped behind a whole line of cars, all parked in a no-parking zone. The same officer approached him and with an authoritarian attitude and loud voice told him that he was going to give him another ticket. When the man indicated that all of the other cars ahead of him were in the same situation as he, the officer said that all of the other vehicles were properly parked and filled out another ticket claiming that the man refused to show him his identification (which he had shown the officer just a few minutes earlier). The man filed a complaint against the officer for direct discrimination but as of the date of publication of this report no positive results are known.
- 57. Murcia. September. Discrimination in social services.** An FSG worker in Murcia went to the Town Hall to file an application for municipal housing aid for one of the Foundation's beneficiaries. When he sat down to speak with the administrative clerk he identified himself as a social educator working at the FSG and explained the reason he was there. The clerk confirmed the information on the form and finished by saying: *"It's better if you hold onto the stub and make the application yourself without them; that way we avoid having all of those gypsies in here."*
- 58. La Rioja. September. Discrimination in housing.** A Roma family approached a construction company with the intention of purchasing a flat. When they had made their choice and were negotiating the economic part, the worker said that his boss wouldn't allow him to sell the flat to them arguing that these flats were intended for a more select clientele. The Roma Advancement Association of La Rioja filed a complaint claiming that the facts of the case constitute a crime under Article 512 of the Criminal Code.
- 59. Asturias. September. Discrimination in housing.** A Romanian Roma family with residence and work permits for over two years was living in a rented flat, paid their rent on time and no complaints had been made against them in their building. Despite this, the owner of the flat regularly entered with her key when she knew that the tenants were out in order to make sure that her things were in order. When the family told her that she shouldn't be doing that she responded by saying "that's just the way it is; if you don't like it, go try your luck looking for another flat; as Romanians, that won't be so easy." The family requested that no action be taken because they were afraid that if they did something they might lose the flat once their lease was up.
- 60. Valladolid. October. Discrimination in the media.** A sports commentator made the following comment during the broadcast of a radio sports programme in Valladolid: "it's like comparing God to a gypsy". Alarmed by the discriminatory nature of the expression, an offended listener called the radio station to complain and then informed the FSG. The FSG contacted the radio commentator, reminded him of the incident and then informed him of the repercussions of the media broadcasting expressions such as these. The commentator apologised and offered his help in disseminating the FSG anti-discrimination campaign as a way to atone for his mistake. Despite having been given campaign materials and having been invited to the seminar entitled "The



image of the Roma community in the media”, no response has been received as of the date of writing this report.

- 61. Valladolid. October. Discrimination in employment.** A young Roma man made a considerable effort to get a job at a painting company after attending a training course run by the FSG. Two months later the company hired a person who did not get on particularly well with the Roma worker. This new worker admitted to his Roma colleague that he had had bad experiences with other Roma and that he did not trust anyone from that ethnic group. The tension reached the point of having to take a decision: the Roma worker either had to confront his work-mate or inform his employer of this delicate situation. He opted for the second choice and, after having a conversation with the two workers the employer confirmed his trust in the young Roma worker. Despite the discrimination suffered from a co-worker, the case ended on a positive note because the company valued the Roma worker for his ability and skill and was not misled by prejudice or stereotype.
- 62. National. October. Discrimination in the media.** A scene from a national television programme aired at prime time (specifically 2,774,000 viewers, 15.4% share) made a disparaging reference to “gypsies”, reinforcing the Roma-delinquent stereotype. In those few seconds of air time, beliefs about the danger of dealing with Roma were strengthened, identifying the entire community with questionable business tactics and stealing.
- 63. Cordoba. November. Discrimination in services.** Seven small and medium size businesses carried out a defamatory campaign against Romanian Roma informing the citizens of Cordoba that they use children to beg for money and that they all form part of a mafia network and that they do not engage in these activities for survival purposes. They assume that the essential values of these citizens to not include respect for children and that they use them to beg in the streets and this engenders a global rejection of the Roma community which is tantamount to support for racism and xenophobia.
- 64. National. December. Discrimination in the media.** A situation loaded with prejudice and stereotype was represented in a television series aired at prime time on a private local TV station. The scene depicted two Roma men stealing a refrigerator. Once again, in just a few short seconds prejudicial ideas were strengthened linking the whole of the Roma community to crime.
- 65. Cordoba. December. Discrimination.** Other. An area of Cordoba known as *carrera del caballo*, a residential neighbourhood on the outskirts of the city, is literally plagued with signs and graffiti against the Romanian Roma population featuring threats such as: “*death and persecution to Romanians*”. “*We’re going to kill you. Leave now*”.



2.3 Conclusions

Following are the main conclusions reached from the analysis of the cases collected during 2007.

Negative social valuation.

Despite the fact that nearly half of the Spaniards interviewed by the CIS² say that they would prefer to live in a society with people of different origins, over 50% of those interviewed also said they felt little or no positive feelings towards Roma. It is therefore safe to say that the Roma community is one of the most poorly considered by the Spanish society as a whole, a circumstance favouring the proliferation of situations of discrimination in all essential areas of life such as education, employment, housing, health-care services or justice. These data should not be taken lightly because they give rise to impediments blocking the real and effective exercise of the most essential rights of individuals belonging to one of the most disadvantaged ethnic groups down through the centuries.

Discriminatory agents.

The media continue to be the most active discriminatory agent accounting for 32% of the cases registered. The stereotyped treatment of persons of the Roma ethnic group in the news (naming of their ethnic group for no reason having to do with a better understanding of the news item), contributes to perpetuating prejudice and stereotypes which have very negative repercussions in light of the influence these messages have on the society in general. Moreover, some media show very little interest in applying measures to prevent or correct these behaviours and one could arrive at the conclusion that the news story has greater appeal if this ethnic group is named and “judged” instead of simply reporting the news.

The measures adopted by the FSG in the cases of discrimination detected in the media usually entail the sending of a letter to the director of the media in question informing him/her of the facts and requesting some measure to rectify the situation while also asking that greater care be taken in the future when disseminating information. A number of media have sent apologies but, with the exception of a few letters that were published, the apology tends to remain in the private sphere, the public remaining unaware.

Scant knowledge of anti-discrimination law.

There continues to be a lack of knowledge as concerns anti-discrimination law both on the part of the victims themselves (who do not always recognise situations of discrimination) and on the part of the key agents in the fight for equality which sometimes fail to enforce the specific applicable regulation. In the case of the victims it often happens that they do not report having suffered discrimination because they are unaware that it is illegal and this lack of awareness gives discriminators a sense of impunity and they are encouraged by a lack of negative consequences. The lack of punitive consequences in these situations paves the way for continued discriminatory behaviour.

² Centro de Investigaciones Sociológicas (Sociological Research Centre). Study No 2745.



Interiorisation of discriminatory situations.

The number of registered cases has fallen but this is not a faithful reflection of reality. We can only conclude that the degree of assimilation of situations of discrimination is very high among members of the Roma community and that, due to the low likelihood of a positive response when complaints are filed and the scant means available to deal with these situations both on an individual and group basis (NGOs or institutional means; remember that the Council for the Advancement of Equal Treatment should be in operation), oftentimes complaints are not even filed which is typical of a situation of learned defencelessness when it comes to situations such as these.

Special difficulty encountered in denouncing discrimination at the workplace.

There is an added difficulty when it comes to discrimination at the workplace where there is greater fear of reporting it due to possible consequences, i.e. the loss of one's job and also possible repercussions in other companies. Discrimination in this area ranges from selection of personnel to working conditions, promotion and even situations of dismissal. In fact, employment is the only area where victims are usually fully aware of their situation of discrimination but expressly refuse to report it.

The spread of discrimination during the process.

In many cases discrimination spreads during the course of the entire process: from the first action of the discriminating agent at the starting point, to the police response when they intervene and on to judicial decisions which fail to take discrimination provisions into consideration. Victims, therefore, suffer cumulative damage as their possibilities to respond and defend themselves decrease in light of the refusal of the different institutions to interpret these situations as violations of anti-discrimination law.

Insufficiency of compensation measures.

There is a considerable gap between the damage caused by discrimination and the compensation received by victims. For example, apologies made for public offences do not transcend the private sphere meaning that damage is not compensated to the same degree because this apology never reaches the society or public opinion. There are very few judicial decisions which compensate for the moral damage suffered by a person who is subjected to the humiliation of being treated differently because of his/her ethnic origin.



For all of the foregoing, we believe that it is essential to carry out measures to:

- Raise victims' awareness of their rights and provide them with all available information on the mechanisms to defend those rights.
- Educate key agents when it comes to anti-discrimination law (the media, police, jurists and those working directly with victims).
- Make progress in the analysis of situations of multiple discrimination which many people suffer and in the drafting of laws which make provisions for much more complex situations of this sort.
- Demand political measures to go hand-in-hand with the law because despite a robust legal framework, situations of discrimination are far from being eliminated thus proving that legislative measures are not enough to combat discrimination.
- Raise the awareness of the entire society so that equal opportunity is perceived as a key element in the evolution of the democratic system and the fight against discrimination is valued as a civic duty of all citizens.