



Progress in the Fight Against Discrimination in 2008 and 2009



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1. European Union.

1.1. EU-MIDIS Study. FRA.

The European Fundamental Rights Agency (FRA)⁴ is aware that the population of the EU member states is becoming more and more diverse and for that reason, via their data and studies, they try to demonstrate the absence of real data on minorities in many of these states. For the FRA, the collection and study of data are absolutely necessary in order to discover the actual level of social inclusion of ethnic minorities and immigrant groups, as well as the true scope of discrimination and victimisation, including the crimes suffered by the minorities due to racial motives. As a consequence of this, the FRA has decided to carry out a series of studies known as EU-MIDIS⁵ that collect these data, gathered via direct interviews, and in which experiences involving discrimination, racist crimes, victimisation, creating awareness about rights, etc. are shown. The project has directly interviewed 23,500 immigrants or ethnic minorities in the 27 EU member states during 2008.

The first of these reports –EU-MIDIS⁶– published in April 2009, examines the discrimination and victimisation experienced by Roma. It was decided to study the situation of Roma men and women due to an awareness that they are the largest minority in Europe (the study itself estimates that there are some 12 million people of Roma ethnicity in Europe) and as they have been seen to be the community most vulnerable to suffering situations of discrimination. It is important to point out, however, that none of the surveys carried out for this study were done in Spain.

The key data in this report show that, on average, one of every two Roma people interviewed suffered situations of discrimination at least once in the 12 months prior to the interview. In addition, the Roma men and women experiencing situations of discrimination suffered an average of eleven discriminatory incidents in the 12-month period prior to the interview.

With regard to complaints filed about these situations, the data in the report coincide with those in FSG's *Discrimination and the Roma Community 2008*⁷, and this report from 2009 which includes in its conclusions –among other things– the idea that the majority of the people who are victims of discrimination do not file complaints about these situations. Specifically the EU-MIDIS study states that from sixty-six to ninety-two percent of male and female Roma (depending on the country investigated) do not file complaints about situations of discrimination occurring in the 12 months prior to the study. The main reason given is that nothing is going to happen or change merely because complaints are filed about these situations. Moreover, 23% of people interviewed avoid certain places due to the risk of suffering discrimination, and this suggests that the levels of discrimination suffered would increase if these “preventive measures” aimed at avoiding this kind of place are not taken. The main areas where they have said they have suffered situations of discrimination are in access to employment, while on

⁴ <http://fra.europa.eu>

⁵ Known as “UE-MIDIS” due to its initials in English (European Union Minorities and Discrimination Survey)

⁶ Available at: <http://fra.europa.eu/eu-midis/>

⁷ Available at: http://www.gitanos.org/areas/igualdad_de_trato_y_no_discriminacion/index.html



the job, when looking for a house, by health care personnel, by social services personnel, by school personnel, in bars and restaurants, in access to shops and, lastly, when they've tried to open a bank account or to obtain a loan.

With regard to their level of knowledge about their rights, when asking those being interviewed for the name of any organisation where they could go if they suffered discrimination, an average of eighty-six percent didn't know the name of any.

To the question about the level of perception of discrimination, an average of sixty-nine percent believed that ethnic or immigrant-targeted discrimination is very widespread in their respective countries. With regard to crimes ethnicity, one of four interviewed said they had been the victim of crimes such as assaults, threats and situations involving harassment during some time in the last 12 months. Furthermore, one in five said they had been victims of these crimes as a consequence of their ethnicity. Each of the victims had suffered an average of four incidents in the 12 months prior to the study. With regard to filing complaints about these crimes, we find the same response as those to situations of discrimination: from sixty-five to one hundred percent of Roma men and women –depending on the country where the study was done– did not file a complaint with the police. The main reason given by these people for not filing a complaint was that they didn't think that the police would do anything about it.

Lastly, the study provides a series of tools for the people responsible for developing the policies that must necessarily take into account the situation of the Roma/Gypsy community in each of the countries. For example, they show that –despite the existence of legal instruments– it is necessary to increase knowledge about concrete measures aimed at combating discrimination and the exclusion of people in the Roma/Gypsy community. Another recommendation is the increase awareness among private service providers, as well as creating a system to sanction those preventing Roma from having an equal opportunity to access these services.

1.2. Coalition in Favour of A European Roma Strategy

The European Roma Policy Committee (ERPC) was created in 2008. This is a coalition of European NGOs whose objective is to pressure the EU in order to get it to act decisively against the discrimination and inequality suffered by the Roma community all throughout Europe, understanding that the *Roma issue* is an issue of European scope and that, because of this, it requires joint responses created between the member states and the EU institutions. To attain this objective, the Coalition has encouraged the EU to adopt a *Framework Strategy for Roma Inclusion* that addresses three key issues: the responsibility of national authorities in their duty to protect the Roma community from discrimination; the phenomenon of equal access to education, health care and housing for the Roma community; and support and training for Roma men and women via their participation in the country's civil and economic life. The adoption of this European Framework Strategy would have a comprehensive approach to the persistent discrimination suffered by most widespread ethnic minority in Europe, as well as to the human rights violations suffered by this community.

The FSG is participating in this Coalition along with other European organisation whose work in defending human rights and in the fight against discrimination in general –and with the Roma community in particular– is well-known, including (among others): Amnesty International (AI); European Network Against Racism (ENAR); European Roma Grassroots Organisation (ERGO); European Roma Information Office (ERIO) and European Roma Rights Centre (ERRC).



1.3. First European Roma summit. Platform and Principles

In Europe, 2008 was marked by several outbreaks of xenophobia and racism against the Roma community, for example in Italy, the Czech Republic and Hungary. These acts of discrimination and violence against members of the Roma community –which have been a repeated violation of human rights, have cause a lot of concern among different European organisations. This concern led to the organisation of the First European Summit on the Gypsy Community in Brussels⁸ on 16 September 2008. This summit brought together more than 400 high-level representatives– among others, the President of the European Commission Durao Barroso, several European commissioners, representatives of the World Bank, of the Council of Europe and high officials from several member states –to discuss the inclusion of the Roma population in Europe.

The main conclusion coming out of the summit was the commitment to launching a “European Platform for the Inclusion of the Roma Community”, whose aim is to encourage policies for the social inclusion of the Roma community in the different EU member states. This platform was officially launched in Prague on 24 April 2009 during a meeting organised between the European Commission and the EU Czech Presidency, and brought together some 50 experts on the issue. A series of principles that should be adopted by all those participating in the platform were agreed upon in this meeting; these begin with the common recognition of the situation of the Roma community which is disproportionately affected by social exclusion, discrimination and stigmatisation. This principles include ideas such as the need for the policies aimed at the social inclusion of the Roma community to be constructive, pragmatic and non-discriminatory; not aimed at punishing or “disciplining” those of Roma ethnicity, but rather provide them with equal access to society in the member states. In addition, member states are free to establish their priorities, but based on what are identified as key areas in these policies: education, employment, housing, health care and social services. Another principle worthy of mention is the one that states the need to create awareness of gender within the Roma issue. In this sense, the initiatives for including the Roma community must take into account the needs and circumstances of Roma women, who are faced with situations of multiple discrimination, the care of and attention to children, without leaving out domestic violence and the trafficking of women.

⁸ See: <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=105&furtherEvents=yes>



1.4. Framework Decision 2008/913/JHA from the Council relating to the fight against certain forms and expressions of racism and xenophobia by means of Criminal Law.

Considering that racism and xenophobia are direct violations of the principles of freedom, democracy, respect of human rights and fundamental freedoms, as well as of the state ruled by law –principles upon which the European Union is based and that are common to member states– the Council of the European Union believes it necessary to define a criminal approach to racism and xenophobia common to the European Union with the aim of the same behaviour being a crime in all of member states, and that effective, proportionate and dissuasive sanctions be against established against individuals and entities that commit these crimes or that are responsible for them.

This Framework Decision⁹ is adopted with this objective and though it does limit the fight against some particularly serious forms of racism and xenophobia, it does establish the key concepts of the criminal focus on racism and xenophobia in a way that is common to all EU member states. This way, the same behaviour will be a crime in all of the member states and effective, proportionate and dissuasive sanctions against individuals and entities that commit these crimes or that are responsible for them must be established.

According to the Framework Decision, member states must adopt the measures necessary to ensure that the public incitement to violence or hate aimed against persons or groups based on colour, religion, ethnicity, etc.; public apology, denial or flagrant trivialisation of the crimes of genocide, crimes against humanity and war crimes. In addition, for other crimes, member states must ensure that the racist motivation or xenophobia be considered an aggravating circumstance.

The member states must adopt the measures necessary to comply with the provisions of this Framework Decision no later than November 2010.

⁹ DO L 328 de 6.12.2008, p. 55.