



## Cases of discrimination in access to goods and services

1. **January. Cordoba. Discrimination in access to goods and services.** A Roma woman went to hire the services of a building company to carry out a home improvement project and had enough money to make payment in advance. Despite the general economic crisis and the difficult situation facing this particular business man, the latter decided not to take the job because “the demand for his services was very high and his workers did not have time to carry out the home improvement project.” A few days later a neighbour and friend of the woman overheard a conversation between the business man and his wife: “I feel bad for that woman but, as a general rule, I do not work for gypsies”<sup>1</sup>.
2. **February. Granada. Discrimination in access to goods and services.** A participant in the Acceder employment programme had just dropped her son off at the doctor and took a taxi. When the taxi driver saw her (she was wearing a tracksuit, her hair was wrapped high and she was wearing large earrings) he immediately asked where he would have to take her and she answered that she was going to Pinos Puente<sup>2</sup>. The taxi driver responded that he could not take her because he would be running the risk of returning to Granada with no wheels. As already noted in a previous case, this is the result of systematically blaming the Roma population for any negative event occurring in that area. This is a case of direct discrimination in access to goods and services where once again prejudices and stereotypes against the Roma community triggered this discriminatory attitude of denying this person the right to a service.
3. **March. Linares (Jaen). Discrimination in access to goods and services.** In Linares, a town in Jaen, four young Roma men went to a gym to sign up but were told that there were no openings. A person who was already a gym member told them that there were indeed openings but the problem was that the administrator’s brother had had a run-in with a Roma person and had given instructions to not let any Roma person sign up. In light of this situation, an FSG worker called the gym to sign up an alleged group of friends. She was not told that there were no openings and she was even informed that she might be eligible for a discount when she came in that afternoon to sign up. That same afternoon the worker went to the gym with the four young men who had tried to join and had to wait a few minutes because three people were being signed up ahead of them. When it was their turn they were again told that there were no openings, that there must have been some sort of misunderstanding on the phone and they made up some other lame excuses to try to explain why they could not sign up. On two further occasions, other FSG workers were able to verify that the gym did indeed have openings. A complaint was then lodged at the consumer protection office. In the end, the young men were able to sign up at another gym but it was no easy task as they had been turned down for alleged lack of openings at several others. We were not informed as to what action was taken by the administration against the gym in this case of direct discrimination in access to goods and services prohibited by Directive 2000/43/EC and the law transposing it into the Spanish legal system.
4. **March. Albacete. Discrimination in access to goods and services.** At approximately 1:00 am on March 1st, a group of friends between the ages of 18 and 24, all Roma, decided to have a few drinks at bars around the city of Albacete. They were refused entrance to several bars in the city. In one they were told that they had to pay 10 euros each as an admission fee which was not charged to anyone else, only to them because they were Roma. The doorman blocked their entry into another pub and after repeatedly asking why they were told that it was because they were wearing tennis shoes. However, a group of at least five non-Roma wearing tennis shoes were then let in. The Roma

<sup>1</sup> This is a case of covert direct discrimination by reason of ethnic origin in gaining access to goods and services.

<sup>2</sup> Neighbourhood with a large Roma population.

youth complained to the doorman but he did not respond. At that stage the young men called the local but was told that they (the police) are not authorised to get involved in arguments of that nature.

**5. March. Jaen. Discrimination in access to goods and services.** A group of under-age Roma girls went to a clothing shop in Jaen called "Blanco" to look at the new clothes for the upcoming season. The girls noted that they were being watched closely from the moment they entered the shop and when they left, the salesperson went to the section where the girls were looking and found one item of clothing stuffed into the pocket of a jacket. She immediately went to find the girls and asked them to show her their handbags and the bags they were carrying (which clearly showed the names of the other shops where the girls had been shopping). The girls felt embarrassed when the salesperson called to them in front of everyone. They had already left the store and no alarm had sounded and the salesperson had no reason whatsoever to subject them to this embarrassment in front of everyone in the store. Despite that, they allowed their bags to be searched and proved that they had not taken anything. When the girls arrived home, they told their families what had happened because they were very annoyed, especially considering that they were regular customers at that shop and nothing like this had ever happened before. They went back to the shop and filled out a complaint form for the way they had been treated by the salesperson. This is a typical example of discrimination in access to goods and services based on one's ethnic group and especially affects women who are often subjected to disproportionate surveillance at shops simply because of their race.

**6. April. Cuenca. Access to goods and services / education.** A young Roma man registered to get his class C driving license (to drive lorries). The course is free of charge except for an 80 euro payment at the beginning. However, the number of practical driving sessions and opportunities to sit the exam are limited (once a threshold is passed, payment is required). The young man had to take the driving part of the examination by a certain date but the person at the driving school responsible for informing him failed to give him the information. The driving school unilaterally signed him up to take the exam without every telling him anything. Since he did not show up for the exam it was considered a fail and he had thus used up one of the two tries. Now if he failed (second attempt) he would have to pay to continue. At the time of his second try, the victim heard the owner of the driving school say "*I'm sick of the gypsies because they don't pay*". This despite the fact that the exam is free and the victim had paid the required amounts. In contrast to how things normally work with other examination candidates, at the time of the exam the teacher left the victim alone with the examiner. This difference in treatment affected the victim who failed the exam and consequently had to pay for the right to sit the exam again. The comment that he overheard and the difference in treatment vis-à-vis non-Roma students are the two characteristics determining that this was a case of discrimination.

**7. June. Adra (Almeria). Discrimination in access to goods and services.** On 27 May a group of young Roma approached a local beach-side bar but were having problems getting in. They were told that they had to pay a 20-euro admission fee (entrance was actually free) so they decided to report this to a neighbourhood association. Some people from the association went to the establishment in question to check and were able to verify that the young Roma men were again



The screenshot shows a news article from the website 'elplural.com', which is described as a 'PERIÓDICO DIGITAL PROGRESISTA'. The article is dated 29/07/2009 and is categorized under 'NOTIC. ANDALUCÍA'. The main headline reads: 'La Junta de Andalucía lo ha clausurado cautelarmente Un chiringuito de Almería cobraba por entrar a personas gitanas'. The sub-headline is 'ELPLURAL/ANDALUCIA'. The article text discusses the closure of a beach bar named 'Garfield' in Almería, stating that it was closed by the Junta de Andalucía due to a racial discrimination complaint. The article mentions that the bar had a 20-euro entrance fee for Roma people, while others entered for free. It also notes that the bar was closed on June 4th and would remain closed until the circumstances were resolved. The article includes a small photograph of the beach bar and a section titled '9 reclamaciones' which mentions the 'Asociación Cultural "El Calli Abderitano"' and its efforts to file administrative and penal complaints against the bar's owner.



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## EL PAÍS ANDALUCÍA

# Clausurado un chiringuito de Almería acusado de discriminación

LUIS MEYER  
Sevilla

El chiringuito Garfield, situado en la playa del municipio almeriense de Adra, tuvo que cerrar ayer sus puertas por orden de la Junta de Andalucía, a raíz de una denuncia por discriminación racial que arrastraba desde el pasado 4 de junio.

El 27 de mayo un grupo de personas de etnia gitana expresó a la asociación cultural El Callí Abde-

ritano que se le había impedido el paso al local, y que en otras ocasiones les obligaban a pagar 20 euros, cuando el resto entraba gratis. Dos portavoces de la asociación (también de etnia gitana) comprobaron, según sus declaraciones, esta circunstancia *in situ* e interpusieron nueve reclamaciones administrativas y una penal.

El presidente de la Federación Andaluza de Gitanos de Almería, Juan Torres, denunció

ayer que “este caso se repite en otros pueblos de la provincia”. Un vecino de Adra, de etnia gitana, que prefiere permanecer en el anonimato, aseguró que él y su familia entran en el Garfield “sin problemas” y tienen buena relación con el dueño, quien rechazó en su día que en su local se discriminase.

El local permanecerá cerrado cautelarmente hasta que subsane las deficiencias por las que fue denunciado.

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denied entry and the problem was not lack of room because the bar was half empty. They also observed that no one else but them was asked to show their ID card or to pay 20 euros. They decided to fill out a complaint form at the bar and to file a formal complaint at the police station. As a result of that complaint, the Andalusian Regional Government closed the bar as a precautionary measure.

- 8. July. Valladolid. Discrimination in access to goods and services.** A young woman working at the local FSG office went to the municipal pool of a neighbouring town along with her nephew and a friend. At the ticket window she was asked whether she was registered at the local town hall and when she said that she was not they told her that she could not enter. Right then, two people were leaving the pool and the young woman asked them if they had been asked whether they were registered at the town hall and they said that they had not. At that point, the young woman asked for the complaint sheet but was told that they did not have any and received the same answer when she asked to see pool rules. She then asked to see the person in charge. The person in charge offered the same answer, i.e. there are no complaint sheets and added: “I have nothing against letting you in but if I do this will fill up with them.” The young women then asked: “Fill up with what, gypsies” and the person in charge said yes. The young woman then rang the Civil Guard but they told her that they did not have any officers free at that moment and instructed her to lodge an official complaint at the Valladolid police station. Two days later, the young woman went to the municipal Consumer Information Office and filled out the complaint sheet and then proceeded to the police station to lodge an official complaint. A misdemeanour hearing was held in October and the defendant was acquitted because the facts were not established since no objective evidence had been gathered to determine what had actually happened. This is a clear example of direct discrimination in access to goods and services that the Roma community is constantly subject to and illustrates how difficult it is to prove these situations in a courtroom. The result is that victims feel defenceless and this also discourages other victims from reporting discrimination they have suffered.

- 9. August. Valladolid. Discrimination in access to goods and services.** A young Roma woman working at the FSG went with a friend to a local public pool. They were admitted with no problem but once they get settled on the lawn they notice that the lifeguard hardly takes his eye off them. The friend went to the pool bar to buy a soft drink. While she was on her way the pool manager approached her to say that he had instructed one of his employees to keep an eye on the two of them. He then warned: "if anything goes missing from people's knapsacks, you're in trouble...". The FSG employee came over and the pool manager repeated himself: "if anything goes missing from people's knapsacks, you're in trouble...". The FSG employee asked the manager whether he had observed anything suspicious or strange that prompted him to issue that warning. The manager replied that he hadn't but then repeated the same thing again but this time in a loud voice and pointing his finger. The FSG employee said that she was going to call the police and then did just that right in front of the manager who remained silent. The police arrived in five minutes. The police took statements from both parties and then apologised to the two girls and told them that they were free to stay at the pool. The officer also encouraged them to lodge a formal complaint. The two young women were upset but stayed a while longer so as not to draw attention to themselves and so they do not have to endure the comments which would have been made had they left immediately after the police came. A short time later they did leave and went to the police station to lodge their complaint. As of the date this report went to press, the complainant had not received any information regarding the case.
- 10. October. Malaga. Discrimination in access to goods and services.** A Roma programme participant and two family members were trying to get into a discotheque located in the Puerto Marina area. Before they reached the entrance to the establishment, one of the doormen looked at them and whispered something to his co-worker. When they tried to get in, the doormen blocked their way claiming that the establishment had the right to refuse admission. One of the young Roma men politely asked to see some document granting that right because there was no sign near the entrance of the establishment so indicating. The young men then asked to speak with the manager. After explaining what had happened, the manager apologised on behalf of the doormen for their excessive zeal and offered them a free pass acknowledging that the establishment did not have the right to refuse admission. However, the young men had lost interest in the place and left.
- 11. November. Murcia. Access to goods and services.** A Roma man was denied entry into a discotheque in the town of San Javier. According to the doorman, an alleged "protocol" prevents him from letting "certain people" in the discotheque. The doorman refused to provide any further explanation and also refused to give the victim access to the complaint form. The victim then tried to lodge a formal complaint at the Santomera Police Station but was told to file the complaint the next day in his home municipality. In other words, the local police did not defend the victim's rights. In the end, the victim lodged his complaint in the municipality of San Javier but we have no word as to whether the establishment in question was sanctioned.
- 12. November. Algeciras. Discrimination in access to goods and services.** This case came to our attention through an e-mail sent to the FSG containing an article about this incident. According to the article, on November 21st between 3:30 and 3:56 am, a Roma man and a few of his friends (others had already entered) were refused entry into a discotheque despite complying with the dress code. Apparently, the doorman "received orders through his earphone from someone inside who had seen the Roma man on the camera and prohibited his entry." The group filled out and signed the complaint form and gave it to the doorman who rolled it up without signing it. They insisted that he sign it which he did after they threatened to call the police. This is a clear example of direct discrimination in access to goods and services. We have no information about subsequent action taken by the administration against the discotheque.



- 13. November. Zaragoza. Discrimination in access to goods and services.** A series of home improvement and construction projects were carried out within the framework of a housing programme implemented by the FSG in the Valdejalón District. When trying to acquire construction material, the sales manager of an undertaking devoted to the supply of construction material refused to sell to them. When the potential buyers insisted on the importance of acquiring these materials, the company finally agreed but required a series of documents guaranteeing payment (which were not required of any other buyer). They looked into the FSG's bank records seeking guarantees and in the end the only option they offered was cash payment for goods totalling 6 000 euros. The sales manager clearly distrusted the FSG due to the community which it represented. In the end, the FSG had to buy the materials from another company which did sell to them after receiving good references regarding the Foundation's payment record from another supply company.
- 14. December. Jaen. Discrimination in access to goods and services.** A young Roma man tried to enter a local discotheque on a Saturday night. When he approached the ticket window the doorman told him in no uncertain terms that he could not go into the discotheque because no gypsies were allowed. He also said these were the "boss' orders". This is a clear example of instructions to discriminate frequently affecting young Roma when attempting to gain access to goods and services.
- 15. December. Huelva. Discrimination in access to goods and services.** A pregnant woman went into labour and called the taxi service to take her to hospital. The switchboard operator told her that taxis did not enter that neighbourhood at night and instructed her to go to an adjacent neighbourhood to be picked up.

### *Classification of the cases*

These **15 cases** account for **11.45% of the total 131 cases of discrimination** collected by the FSG in 2009.

The main characteristic of these cases is that the vast majority have to do with access to entertainment activities and it is young Roma who are most affected by discrimination in this area.

Analysis shows that there were 21 victims in these 15 cases, in addition to two groups of young people whose number could not be determined. Of the 21 victims, there were 9 women, 11 men and the FSG itself was a victim in one case. As for age groups, 17 of the 21 victims were between 16 and 30, two were between 31 and 45 and one victim was between 46 and 60 years of age. If we cross-reference the two variables we find that in all of the discrimination cases where the victims are men, their age is between 16 and 30 and all had to do with entering some sort of entertainment establishment (discotheques, pubs and gyms); where victims are women, most are between 16 and 30 (although some are older) and the cases cover a wider range of activities, i.e. entertainment, shops and transport services.

### *Methodology*

When faced with these situations, victims usually just move on to another service provider and express their indignation about the discrimination suffered but rarely take action against the discriminator. A complaint sheet (which all public establishments are required to have) was requested and filled out in only four cases. All of the cases were brought to the attention of the consumer protection authorities but only in one did the regional body temporarily close down the establishment<sup>3</sup>. Formal complaints were lodged with the police in two other cases: we have no information about one of these whereas the second ended up in court but, despite specifically pointing out that the pool manager refused the victims entry to keep the area from "filling up with gypsies", a perfect fit for the crime described in Article 511<sup>4</sup> of the Criminal Code, was classified

<sup>3</sup> See case 7 as an example.

<sup>4</sup> Article 511 of the Criminal Code: "1. Any individual responsible for providing a public service who denies such service to a person entitled to it by reason of their ideology (...) ethnic, racial or national origin, sex (...), shall be given a prison sentence of between six months and two years and a fine of between twelve and twenty-four months and special disqualification from public employment or office for a period of between one and three years."

as a misdemeanour for harassment and no satisfactory judgement was handed down. In that case the Judge stated that “the accused (...) denied the allegations claiming that the complainants were refused entry because the pool area was full. Therefore, in light of contradictory versions and the fact that no objective evidence has been collected to determine what happened, the accused is acquitted.” While we recognise that reversal of the burden of proof envisaged in Directive 2000/43/EC does not apply since this is a criminal proceeding, we do believe that judges, prosecutors and lawyers must be made more acutely aware of the law protecting people from discrimination and of the importance of com-

bating it correctly. We frequently observe how actions such as the ones described here, even when the cause for different treatment is ethnic origin, are nearly all classified as misdemeanours for harassment thus leaving Article 511 of the Criminal Code without practical enforcement.

In short, in 2009 no compensatory measures were taken in cases of discrimination in accessing goods and services. One case resulted in a private apology which the victims considered insufficient because there was nothing to indicate that in the future people would not be denied the right to access based on their ethnic origin.