



**Annual report**  
**Discrimination and the**  
**Roma Community**



## Introduction

As was pointed out previously, of all of the complaints received in 2005 the FSG documented 137 cases in which it has confirmed the real existence of a discriminatory practice based on objective facts, albeit sometimes difficult to prove, and not on the victims oftentimes valuable subjective perception.

Despite the increase in the number of complaints published vis-à-vis the 2005 *Discrimination and the Roma Community Report*, we would not say that there has been a rise in discrimination which, in our opinion, is a phenomenon which has remained more or less constant without significant annual variations as concerns the Roma community.

Moreover, it is important to point out that the Discrimination and the Roma Community report is qualitative rather than quantitative meaning that it is not our intention, nor do we dispose of sufficient data, to make comparisons between the different Spanish provinces or Autonomous Communities. The number of cases per location or the lack thereof is in no way indicative of the existing level of discrimination in a particular location but is more of a reflection of the degree of facility, capacity or means available to FSG teams in detecting discriminatory practices.

The typology of the cases identified in 2005 in the areas of employment, education, housing, justice, law enforcement, health services, goods and services and the media is very similar to 2004 which was thoroughly analysed in the first annual report on *Discrimination and the Roma Community*. The following is a summary of its main characteristics:

### Discrimination in Employment

It is still common to find employers who refuse to hire Roma and on some occasions the discriminating party is quite outspoken about his or her behaviour. In other cases, despite complying with job requirements and even initiating the labour activity satisfactorily, when employers became aware of the ethnic origin of the workers they decide against hiring the person or rescind the contract if the person has already begun, claiming that the post was to be covered by another person or that the need no longer existed.

Once barriers to labour market access have been overcome, another issue to be dealt with is on-the-job harassment which, according to Directive 2000/43, is an undesirable conduct related to racial or ethnic origin (of the workers in this case)



with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment (ongoing racist comments levelled against Roma, disparaging treatment, assignment of tasks below the worker's professional qualifications, etc.).

Victims tend to resign themselves to this reality as something natural and inevitable arguing that if, in addition to the ethnic factor, they are tagged as being troublemakers, this could lead to a situation of chronic unemployment; a fact making it extremely difficult to get them to lodge complaints before the competent authorities. This situation is exacerbated by mistrust of the legal system and defence of workers' rights and by the difficulty encountered in collecting evidence in cases of indirect discrimination and especially in the event of those irregular practices taking place before the worker is engaged.

## Discrimination in Housing

Roma are faced with enormous difficulties when it comes to renting flats/ premises either directly or through real estate agencies. In most of the cases, barriers to housing stem from the prejudices of the owners and pressure from neighbours. As concerns the former, discrimination normally occurs when owners, failing to acknowledge their racist motivations, claim that the flat is already rented or that they have changed their mind and are no longer interested in renting it.

Moreover, many especially serious cases arise in which groups of neighbours band together to demand the expulsion of Roma residents or to prevent them from moving in or being relocated there and are sometimes even supported by local public authorities. Many of these incidents have taken place in a climate of hostility, inciting harassment and racial violence against the Roma community. Public authorities do not tend to take measures to address problems between neighbours and the tendency is usually to relocate families in run down environments characterised by overcrowding and segregation.

Just as was the case in the ambit of employment, victims are reluctant to press charges or file claims for fear of reprisals and also owing to their mistrust of the judicial system. Moreover, those cases which could eventually end up in court would be faced with the added difficulty of proving the discriminatory practices despite the fact that, as a result of Directive 2000/43, the burden of proof is on the alleged perpetrator of the discriminatory act except in criminal proceedings.

## Discrimination in Education

We should firstly point out that there is no guarantee of equal access for Roma students to private and semi-private schools. The segregation and concentration of these students in certain public schools or special education classes is a discriminatory practice giving rise to lower quality education with less resources thus increasing the risk of marginalisation and the creation of ethnic minority ghettos.



Furthermore, some educational system rules, apparently neutral at the outset, may lead to implicit indirect discrimination, especially when they are implemented only bearing in mind the social characteristics of the majority population. Furthermore, references to Roma people and their culture are non-existent in teaching materials, school curricula and textbooks or, when they do exist, transmit a negative image of this community.

Failure to pay attention to cultural diversity is also apparent in many schools at all levels resulting in a tendency towards unification in the transmission of information and knowledge presenting a single model for family relations and complementary services such as the cafeteria, transport, etc. Furthermore, many teachers harbour prejudice and foster stereotypes resulting in the unfair treatment of Roma students.

### **Discrimination in Health-care Services**

While bearing in mind the dynamics of poverty and social exclusion endured by a segment of the Roma community, it is undeniable that discrimination also plays a fundamental role in their health-care situation. First of all, public health care services fail to adapt to the particularities of the Roma community, especially when it comes to their cultural habits regarding health, disease and death leading, on many occasions, to a disproportionate reaction when incidents arise which could have been avoided.

Second of all, there are a number of barriers to the access and use of public health-care services in the form of unequal and unjustified treatment in the provision of some services and likewise inadequate transmission of information and dissemination of the rights of Roma users.

And lastly, prejudice and stereotype-based behaviour of health-care professionals leads to unequal treatment when it comes to Roma patients who may receive lower quality attention and even humiliating treatment. We would point out that prejudice (in many instances mutual) causes a reaction of self-defence and mistrust which seriously distorts the personal relationship between health service provider and patient.

### **Discrimination in Goods and Services**

Many establishments, restaurants or discotheques still remain closed to Roma and on occasion this rejection implicitly entails a violation of the victims' right to honour and dignity. Occasionally the racist motive is justified by an apparently objective and reasonable argument such as "they were not dressed properly; they had had too much to drink; they were causing a raucous".

Once access barriers have been overcome, discrimination often comes in the form of unequal and humiliating treatment from shop owners, managers and employees. This treatment borders on harassment when, for example, Roma



shoppers are subjected to continuous surveillance from the moment they enter a store, are not permitted to enter fitting rooms or are required to enter one by one.

Having regard to victims, it is important to point out that there is a much more active attitude when it comes to defence of rights and we would draw attention to the frequency with which claims are being filed before the police and consumer protection offices.

## **Discrimination in Justice**

A number of discriminatory dynamics of a structural nature are likewise apparent in the area of justice and the guarantee of rights giving rise to, inter alia, a scant number of convictions and the almost null enforcement of racism as an aggravating circumstance provided for in the Spanish Criminal Code. Additionally, there is widespread evidence of social prejudice giving rise to violation of the right to equal treatment in the administration of justice. It is hard to explain, for example, the disproportionate number of Roma inmates in Spanish prisons who are more readily convicted vis-à-vis non-Roma under comparable circumstances and the duration of their prison sentences also tends to be higher.

Furthermore, victims are typically not fully aware that they have suffered discrimination given that they do not know their rights nor are they familiar with how to properly use the legal system.

## **Discrimination in Law Enforcement Services**

As for law enforcement services, Roma are more frequently stopped on the street, called on to identify themselves, searched and their vehicles are more often checked in comparison with other social groups, in many cases constituting a discriminatory practice. Complaints have also been filed for undue use of force, physical and verbal abuse at the time of arrest and/or at the police station, sometimes even occurring when the police officers in question are off duty.

In cases in which a claim is filed, we would draw attention to the frequency with which law enforcement officers, in turn, lodge a claim against the complainants for aggression or for resisting authority. All of this, together with the scant collaboration of some police services in the identification of the alleged perpetrators, makes it enormously difficult to prove the facts, the result being very little guarantee that charges will be admitted at the preliminary or judicial stages of proceedings.

A lack of adaptation to, familiarity and contact with the Roma community was also observed thus resulting in a barrier to the latter's access to law enforcement services when they are victims of discriminatory practices. Some officers fail to take charges seriously because they themselves are unfamiliar with the legal



framework of discrimination and lack the means and sufficient interest to effectively combat it.

### **Discrimination in the Media**

The media continue to stigmatise the Roma population as a whole, giving excessive priority and relevance to isolated or dramatic cases which are not representative of the majority of the Roma people (shanty town conflicts, drugs trafficking, robbery, violence, etc.). We have also observed a vast lack of knowledge regarding the Roma reality and an abundance of positive stereotypes (the Roma's enthusiasm for life, the world of flamenco, etc.) which, together with the aforementioned negative ones, give a distorted view of the community as a whole.

Having regard to the mention of one's ethnic origin, despite the fact that the person in question may not actually be Roma, a fact that only he or she can confirm given that this information is not included in the census or in police records, mention of this in the media has an extremely negative effect on the social image of the Spanish Roma community. By identifying Roma persons with criminal acts time and again in the media, the social perception of the entire community is badly tarnished and this can be the direct cause of discriminatory practices in the exercise of their rights as citizens in all of the different areas covered by the report: employment, housing, education, justice, law enforcement, health-care services and general goods and services.



## Summary of 137 cases of discrimination

- 1. Cortegana (Huelva). January. Racist attacks.** In the aftermath of the arrest of four men of Roma ethnicity as suspects in a murder case, the Mayor of the town called for a supposedly pacific demonstration which turned violent when a number of the 2000 demonstrators approached the neighbourhood where 250 Roma live causing considerable damage to their material assets and terrorising the families who had to take refuge in their homes to avoid physical aggression. Charges were filed by several different organisations and the case is still pending at the investigative stage; 14 people have been charged including the Mayor. Several of the civil guard members who were witnesses informed the judge that the demeanour of some of the neighbours was clearly racist.
- 2. Huesca. January. Discrimination in Employment.** The FSG's labour counselling service set up an interview between a service user and the person running a laundromat. After the interview, the boss of another company where the interviewee had worked previously went to the laundromat to give her ex-employee good references but was told that they decided not to engage her because they did not want to engage Roma workers.
- 3. Madrid. January. Discrimination in Law Enforcement.** A Roma woman had an argument with the cashier at a supermarket after which she and her baby were injured. After receiving treatment at the local medical centre, the victim returned to the supermarket to lodge a complaint but was met by several police officers who took her and a Roma man to the police station accusing the two of them of having robbed the supermarket in the confusion of the altercation. On the way to the station the police officers spoke to the woman in a disparaging tone and made fun of her injuries. When the Roma woman tried to file charges against the cashier for aggression, she was told that that was impossible because the cashier had filed charges first and the victim was then obliged to go to the local criminal court to exercise her rights.
- 4. Huesca. January. Discrimination in Education.** A nine-year-old student persuaded his friends not to play with a Roma classmate because his parents told him he was not allowed to. The young student then hit the Roma boy in the company of his mates. Thanks to negotiation and mediation efforts undertaken by the FSG, the school director met with the families in question who promised to put an end to the conflict. There were no further instances of this sort of racist behaviour.



5. **Leon. January. Discrimination in Employment.** A Roma woman responded to a job offer in the cleaning sector. The employer chose her immediately after which she contacted the TEA (temporary employment agency) in charge of the selection process to give the worker good references and request her engagement. However, when the young women went to sign her contract the TEA director told her she didn't want to see her anywhere near her agency stating that "Roma are only good for cleaning staircases". Once the employer learned of the women's ethnic origin from the TEA she also refused to engage her despite the fact that she had already given her a set of keys to the house and had explained everything related to the job post.
6. **Pravia (Asturias). January. Discrimination in Housing.** At the plenary session held at the Town Hall to address the issue of the relocation of three Roma families, two councillors made the following remarks: "Roma are always claiming that they are mistreated and suffer discrimination. They really don't want to live in flats like everyone else because they don't know how to adapt, they don't know how to get along with other people"... "They complain that they don't have any money but we see their cars and I don't think they won those at a raffle."
7. **Leon. January. Discrimination in Employment.** A high school teacher complained of insults received from her students alluding to her alleged ethnic background. Graffiti also appeared at her school which said "gitanos fuera" (Roma go home). The teacher, who actually was not Roma at all, asked for a transfer to another school because she felt harassed.
8. **Huesca. January. Discrimination in Housing.** Social workers at an NGO pointed to the difficulties they faced in launching a housing rental project for disadvantaged groups in order to compensate for the lack of available housing. These difficulties arose despite a guaranteed payment scheme. There were indications that the project's managing entity was not doing everything in its power to attract renters and disseminate the programme because its beneficiaries were mostly Roma.
9. **Valencia. January. Discrimination in Education.** A public school in Valencia refused to offer lunch services claiming a lack of demand. The fact is, however, that the majority of the children have to use an external service which is overwhelmed. Despite reiterated requests from the AMPA (parents' association), the school administration refused to react to the petitions of the families who then took the issue to the media claiming that the attitude taken by the school is an indirect way to slow down enrolment of Roma children who are the ones most typically requesting services of this nature.





10. **Zaragoza. January. Discrimination in Justice.** A Roma woman lodged charges against a local police officer for threats and coercion related to a prior charge for aggression that the women had lodged against that officer and one of his fellow officers. Just as in the first court proceeding, the police officer was absolved due to lack of evidence despite a number of indications presented by the victim's lawyer in collaboration with the FSG, the latter also lodging different appeals during the judicial phase which were dismissed.
11. **Huesca. January. Discrimination in Education.** A Roma child hit one of his classmates thus prompting the children's teacher to tell the rest of the children to stop playing with Roma boys and girls. One of the girls in the class felt offended by this and complained saying that she also was also Roma, to which the teacher answered "yes but you are different". The girl's mother reported this to the intercultural mediator at the school who, together with the FSG, took the situation to the director who reprimanded the teacher for her attitude.
12. **Gozon (Asturias). January. Discrimination in Housing.** The FSG signed a collaboration agreement with the Town Hall for the advancement and social insertion of the local Roma community. This was an integrated project entailing the implementation of measures to eradicate shanty towns which would then be included in a municipal plan but it was not approved due to lack of political interest despite pressure exerted by the FSG calling for compliance with agreed commitments.
13. **Santiago de Compostela (La Coruña). January. Discrimination in Health-care Services.** A Roma child was hospitalised for 16 days on the paediatrics ward and when she was released her family was given a medical report where the annotation "Roma ethnic group" was written in the section for "previous family diseases". The FSG wrote a letter to the Patient Services Desk expressing its concern and this was then forwarded to the head of Paediatrics who was instructed to take the necessary measures.
14. **Huesca. January. Discrimination in Housing.** Social workers from one of the city's Roma organisations lodged a complaint concerning the situation faced by the said community when it comes to housing. These workers were first-hand witnesses to discrimination against Roma in the purchase and rental of housing by both owners and real estate agencies. They also denounced the lack of effective measures by which to combat the problem.



- 15. Alcantarilla (Murcia). February. Discrimination in Employment.** After contacting a company about an opening, the FSG sent a young Roma man who met the professional requirements of the post to apply. As soon as the company became aware of his ethnic origin, however, they sacked him and addressed the FSG with the same job offer but this time specifying in the section marked "other characteristics" that "the candidate must not be Roma". Thanks to the mediation of the FSG, the worker was rehired by the company.
- 16. Burgos. February. Discrimination in employment.** The FSG contacted an employer to send him the résumé of a Roma service user who met the requirements of a recent job opening. The employer refused to consider this candidate because the job entailed contact with the public and, in his view, customers do not appreciate being helped by a Roma person. FSG personnel tried to get him to change his point of view but were unsuccessful. However, he did say that he would have no problem in the future engaging Roma provided that the post did not entail direct contact with the public.
- 17. Valencia. February. Discrimination in Housing.** The Town Hall undertook to resettle a shanty town situated in an area which, three years ago, was designated for urban development. Only a few of the families were officially informed that they had to abandon the place and most received this information indirectly. Municipal officials commenced the demolition process without first having resettled the families and this meant that many minors remained unenrolled in school and in the end, only two of the 40 individuals involved were resettled.
- 18. Madrid. February. Discrimination in Goods and Services.** A group of Roma women ordered food and drinks in a café but the waitress forgot to bring them one of the items. When one of the women brought this to her attention, she denied having forgotten anything and spoke to the Roma customers in a disparaging way. This prompted them to lodge a complaint against the café before the consumer protection office which dismissed the claim for lack of proof.
- 19. Seville. February. Discrimination in Goods and Services.** Three young people were repeatedly denied access to a discotheque without being told the reason why. They therefore filed a complaint before the consumer protection office of Seville and a sanction proceeding was initiated against the discotheque for administrative irregularities.
- 20. Almeria. February. Discrimination in employment.** Two sisters went to a company to drop off their résumés in the event of a future job opening but the person in charge refused accept them stating that he did not want Roma working there. Neither of the two applicants were able to change his mind.



21. **Jaen. March. Discrimination in Employment.** The FSG filed an application for the transfer of two Roma students and new enrolment for another two. In the beginning, the school allowed only one but in the end accommodated all four students which led to a number of complaints from parents' associations. Thanks to FSG mediation, the school did not go back on its decision.
  
22. **Puertollano. March. Racist incidents.** Graffiti appeared in several places throughout the city with the slogan "GITANOS PARÁSITOS" and "GITANOS NO" ("Roma parasites" and "no Roma"). The FSG brought this to the attention of the Town Hall and through the media called for the removal of this graffiti. Although the Town Hall did remove it, this sort of graffiti reappears periodically.
  
23. **Caceres. March. Discrimination in Law Enforcement and Justice.** A Roma woman illegally selling her wares on the street was gathering them up after being told to do so by a police officer. When the officer discovered that she did not have her ID card, he forced her to get into the patrol car causing her a number of injuries while he insulted her by saying things such as "you're a whore, a son of a bitch, all gypsies are drug dealers, you can all go to hell". The women filed charges against the officer but charges were also lodged against her for selling without a license and for resisting authority. At the hearing the police officer was absolved for lack of evidence despite the medical report showing bodily injury while the woman was sentenced to pay a fine for both infractions.
  
24. **Huesca. March. Discrimination in Employment.** The FSG job hunter spoke to the person in charge of a furniture store to gather information about an opening for an assembler. This person specifically requested that he not be sent any Roma because his customers are put off by them. When the FSG worker insisted, the store manager reiterated, in a very aggressive tone, that his decision to not engage Roma workers was final.
  
25. **Castilla y Leon. March. Discrimination in Education.** A Roma student in his first year of compulsory secondary education received a number of warning slips for deficient behaviour resulting in disciplinary action being taken by the Administrative Board. The person in charge of the case drew up a very positive report regarding the student based on the impressions received by the majority of his teachers, classmates and other entities including the FSG. The president of the Administrative Board (and also the school director) was also against taking drastic measures against the student but during the course of the meeting one member of the Board argued in favour of definitive expulsion from school affirming that he knew how this boy behaved in his neighbourhood, adding that "Roma are troublemakers in any case". Despite the Director's reprimand for these comments, the Board approved the transfer of the student as a disciplinary measure.



- 26. Almeria. March. Racist incidents.** An argument erupted between the owner of a hair salon and several members of the family of a Roma customer who had gone to have her hair cut and ended up with the hairdresser filing charges for bodily injury. The complainant subsequently hung a note on the door of her premises alluding to the ethnic origin of the aggressors despite the fact that the latter were not identified giving rise to serious repercussions among the local Roma community.
- 27. Madrid. April. Discrimination in Law Enforcement.** The head of the integral police unit of the Usera district stated in a local newspaper that “many Roma are creating safety problems by engaging in activities such as automobile races during the day, selling drugs and stealing handbags from the elderly;... people who have purchased their homes by working hard and are trying to maintain those homes are living in the same neighbourhoods with Roma who are making life unbearable for them.” The FSG filed a number of complaints before municipal police officials in Madrid and before the Councillor for Security and Services of the Autonomous Community of Madrid who apologised claiming that their words had been misconstrued.
- 28. Sabadell (Barcelona). April. Discrimination in Employment.** The FSG’s employment programme was negotiating an apprenticeship agreement with the owner of a mechanic’s garage to train young Roma. When the owner of the garage became aware of the ethnic origin of his future apprentices, he told the FSG that he did not want Roma because his customers were very prejudiced and his business would probably suffer.
- 29. Vigo (Pontevedra). April. Discrimination in the Media.** A local newspaper published a report featuring the headline “Human misery on the other side of the line I and II” which spoke of the involvement of several Roma individuals in illegal activities making expressed mention of their ethnic origin. **The FSG wrote a letter to the director of the publication criticizing the content of the news article.**
- 30. Jaen. April. Racists incidents.** A number of graffiti appeared on the façade of the local FSG centre which attempted to eliminate the word “Roma” from the organisation’s logo and underneath wrote “gypsies = delinquents”.
- 31. Madrid. April. On-the-job harassment.** A user of the FSG’s employment programme and a work mate of his received hostile and degrading treatment from the supervisor of the company which engaged him in the form of disparaging remarks about their ethnic origin both when they were alone and in front of their co-workers. This worker lodged a number of complaints with his superiors and spoke with the company director requesting that steps be taken and that this behaviour be considered a serious offence. The director affirmed that this person had been verbally admonished and if the injured party kept pushing the issue he “would have to face the consequences”.



- 32. Oviedo. April. Discrimination in Goods and Services.** As part of the implementation of an Action Programme for the reconciliation of work and family duties targeting Roma women with family responsibilities, the FSG contacted a recreation centre to gather information regarding timetables and fees. The director of the centre insisted that the morning group was nearly full and that he was against the mixing of children from different "social classes". When the FSG pushed the issue a little further, the owner finally admitted that he had not been in this business very long and was afraid that the rest of the children would drop out. In the end he suggested an afternoon schedule where he had fewer customers.
- 33. Jaen. April. Discrimination in the Media / the Internet.** An anonymous message was sent to an FSG Internet forum claiming that a Roma woman had been arrested by the Jaen police for possession of a stash of cocaine and then made very serious comments with regard to her personal and social background. The FSG removed the message from the Forum and informed the affected party who filed a complaint.
- 34. Hellin (Albacete). May. Discrimination in Goods and Services.** Two Roma women, users of FSG services, complained of having repeatedly been subjected to discriminatory treatment in gaining access to and receiving services at a particular cafeteria where, for no reason, they were asked to show their Social Security cards. FSG personnel spoke with the owner of the cafeteria who said that he reserved right of entrance to his premises and went on to explain that "if I'm not careful with who I let in, I'll lose my non-Roma customers". The FSG wrote him a letter informing him of anti-discrimination laws and this prompted him to stop such practices.
- 35. Seville. May. Discrimination in Employment.** A worker at a cleaning company was subjected to constant racist comments by co-workers against Roma accusing them of being lazy, dishonest and troublemakers. The worker reported this situation to his superiors as an example of work-related harassment but they paid no heed to the claim. In the end, the worker voluntarily left his job because he could not support working in such a hostile environment.
- 36. Almeria. May. Discrimination in Employment.** A company contacted the FSG because of an urgent need to engage two labourers for one month to transfer part of the Almeria Town Hall archive. The FSG set up an interview with two candidates who fit the job description but when the employer saw them he claimed that he was no longer in such a hurry to engage the workers and following a brief interview he informed the candidates that he would contact them if they were selected. In the end he decided against engaging them because the documents to be transported formed part of the Town Hall's historic archive thus calling for "workers you can trust".



- 37. Aviles (Asturias). May. Discrimination in Education.** A public end-of-the-school-year festivity was organised at a school in Aviles where the class picture was distributed featuring all of the students except the one Roma student in the class because his parents were unable to pay the corresponding fee. The father of one of the student's classmates tried to convince the teacher and the rest of the families to pay the student's fee out of the left over school supply fund but his request was ignored despite the fact that on other occasions assistance had been granted under similar circumstances to non-Roma students.
- 38. Valladolid. May. Discrimination in Employment.** A Roma student concluded his Social Guarantee course training in plumbing and welding with a very positive evaluation from the organisation. However, despite fulfilling the requirements laid down by two companies to take on apprentices, he was not chosen given that these companies admitted that they did not want to deal with Roma. The FSG tried to mediate in the situation but was unable to solve the problem but the course administrators decided to award the student the corresponding certificate despite not having completed the compulsory apprenticeship.
- 39. Talavera. May. Discrimination in Justice.** An FSG worker lodged a complaint at the consumer affairs office when he was denied entry to a discotheque for being Roma. The complaint was forwarded to the consumer affairs service of the provincial delegation of Toledo and when a year had elapsed without the victim receiving any notification, he wrote a letter to the public administration councillor explaining the situation and requesting information as to what stage the proceeding was at. When another year had elapsed without any answer, he wrote another letter requesting information but to date has not received any news.
- 40. Cordoba. May. Discrimination in Goods and Services.** At the annual Cordoba Fair a waiter ordered a group of Roma women to leave one of the stands claiming that his boss "had ordered him to kick them out because they were Roma". Following the advice of the FSG, the women lodged a complaint before the National Police. Proceedings commenced but the Provincial Court of Cordoba ruled against the women and closed the investigation for lack of sufficient evidence to back up the claim.
- 41. Granada. May. Discrimination in Housing.** A Roma family frequently held religious meetings at their home and invited other Roma families. A neighbour who had always expressed his dislike of these meetings by insulting and making racist comments against the participants, lodged a complaint for slander and threats following an argument with several of them. The other parties also filed a complaint before the Civil Guard but in the end the confrontation was resolved out of court through a judicial conciliation process.





42. **Jaen. June. Discrimination in Education.** A young girl, completely integrated in her school, began to suffer harassment at the hands of her classmates (insults, fighting, etc.) when she openly said that she was Roma. Although the school did implement a number of different measures to solve the problem, the family ended up changing schools at the young girl's request because she was very affected and her grades were suffering very much due to the incidents.
  
43. **Huesca. June. Discrimination in Housing.** A young Roma couple called a real estate agency on the telephone to see a flat for rent. When the person they had spoken to on the phone discovered that they were Roma she told them that the flat was not available and that the price was three times the price she had quoted on the phone. Following a brief argument she ended up acknowledging that many of her clients did not want to rent their home to Roma persons.
  
44. **Orense. June. Discrimination in the Media.** A newspaper article was published in reference to local police action in a fight involving more than 15 individuals. Both the headline and the description of the event highlighting the violent nature of the incident, specified that "all of those involved were Roma".
  
45. **Hellin (Albacete). June. Discrimination in Goods and Services.** Three Roma women went to a cafeteria to have breakfast and the waitress asked to see their social security card before serving them. Since they did not have this card, they decided to leave the premises but before doing so tried to purchase a bag of potato crisps. The waitress said they were all out but behind the counter there were shelves full of potato crisp bags in full view. The FSG wrote a letter to the establishment informing them that these practices are discriminatory and illegal and no further incidents of this nature have taken place.
  
46. **Seville. June. Discrimination in Goods and Services.** At the NGO forum in preparation for the international conference of the OSCE in Cordoba, an analysis and debate forum on discrimination and Roma community was arranged. In his closing remarks the President of the Andalusian Regional Government made mention of different forms of discrimination and the main social groups subjected to it but the only group he failed to mention was Roma. When he concluded, representatives of the FSG and other Roma associations expressed their disconformity for which the President apologised.



- 47. Madrid. June. Discrimination in Health-care Services.** Family members lodged a formal complaint against hospital physicians for alleged medical negligence in the death of a Roma woman. During the course of the proceedings one of the accused physicians made a series of statements in reference to the stance taken by the family of the deceased who, in his opinion, threatened to kill him, insulted him and tried to physically hurt hospital personnel. The family members in question, one of whom worked for the FSG, categorically denied these accusations prompting the organisation to write a letter to the director of the hospital requesting more information in this regard but no response was ever received.
- 48. Sabadell (Barcelona). June. Discrimination in Employment.** The FSG signed an apprenticeship agreement with a supermarket to train seven girls as cashiers. Before the end of the training period, two of them were offered jobs. Shortly thereafter the supermarket managers received an anonymous telephone call accusing these two girls of letting customers through without paying and stealing money from the cash register. Based on this information they decided not to engage them even though it was proven that the accusations were false and the girls had the support of the head cashier and the FSG.
- 49. Talavera de la Reina (Toledo). June. Discrimination in the media.** A newspaper published a letter to the editor which included a series of prejudice based comments against the Roma community and a number of criticisms of the FSG regarding its social purpose. The Foundation contacted the author of the letter as well as those responsible for the newspaper to remind them that it is illegal to disseminate racist or discriminatory information.
- 50. Huesca. June. Discrimination in Employment.** The FSG received information about a job offer for a cleaning woman to fill in for someone on holiday. The résumés of three service users who fit the job description were submitted along with the offer of providing references from other companies where they had worked previously. Despite this, the requesting company refused to engage Roma persons alluding to some previous negative experience. In the end, thanks to the mediation of the FSG and a business woman they typically work with, one of the employment service users proposed was engaged.
- 51. Madrid. June. Discrimination in the Media.** A newspaper published an article warning of juvenile gangs of “Romanian Roma” who rob tourists. The article stressed the fact that the children and women involved “are all Romanian nationals and of the Roma ethnic group” and included a series of comments charged with prejudice and stereotypes against this community.





- 52. Zaragoza. June. Discrimination in Housing.** An FSG service user made an urgent request for help in finding housing. Foundation workers made contacts, tried to set up appointments and mediated both with individuals and real estate agencies. The responses received from the latter were contradictory. When appointments were requested over the phone, the flats were available for rent but when service users were sent in person for the interview they were always told that the flat had already been rented or the agencies openly acknowledged that “the owners do not want Roma”. Despite FSG efforts, in the end the service user was only able to rent a flat when she changed the way she dressed and her way of speaking so as to appear non-Roma.
- 53. Baracaldo (Vizcaya). June. Discrimination in Education.** The Basque Government announced that it was going to close a school with an exclusively Roma student body claiming that the academic level was very low and that there was an inordinately high concentration of marginalised persons thus generating a conflictive situation which was difficult to deal with. Some Roma associations, despite their support for the measure given that this was a “ghetto school” running counter-current to integration, criticised the statements made by the Basque Government as well as the proceeding established to undertake the closure which failed to provide sufficient guarantees for the students affected.
- 54. Valencia. June. Discrimination in Housing.** A Roma couple went to a real estate agency to put down a deposit on a rental property as had previously been arranged by telephone. At the real estate office they were told that the owner was very anxious to rent the flat and that they would be asked to sign the contract as soon as possible but a few days later they were informed of the owner’s decision not to rent them the flat after all. The FSG met with the director of the real estate agency who acknowledged that this was a case of discrimination and promised to strike that property off of his list to prevent a similar situation from occurring in the future.
- 55. Ciudad Real. June. Discrimination in Employment.** The FSG set up a job interview for one of its service users with the manager of a local hamburger restaurant. The interview proceeded normally until the manager asked the interviewee for his personal data and address. When the young man told the manager where he lived (a neighbourhood with a high percentage of Roma), the manager told him that he was sorry but that the post had already been filled.



- 56. Vigo (Pontevedra). June. Discrimination in Housing.** A Roma woman, signed on to a housing rental support programme, was called for an interview with one of the property owners. The owner was informed verbally that the future renter was Roma and this made him reluctant stating that he was afraid "that a lot of people would move in thus causing problems in the neighbourhood" but in the end he agreed to rent her the property. However, when it came time to make the appointment, the owner once again refused saying that he "did not want to have problems with his flat and therefore decided not to rent it to Roma". FSG workers tried to get him to change his mind but the owner continued to refuse.
- 57. Zaragoza. June. Discrimination in Education.** On a number of occasions the mother of a Roma child informed teachers that her son's behaviour was unusual for his age but school administrators paid no heed to this. The mother's persistence and the help of FSG workers resulted in reports drawn up by the school and the clinical neurophysiologic service. The case was referred to the Aragon Social Services Institute which determined that the child did indeed have a handicap. Early intervention could have palliated the condition of the child who may have received better care had he not been Roma.
- 58. Vera (Almeria). June. Discrimination in Goods and Services.** The Vera Town Hall sold land to a developer for the construction of homes and parks. The construction work included a "retaining" wall partially isolating families living in a neighbourhood with a high percentage of Roma from the new urban development. Several families using FSG services lodged complaints leading the Foundation to contact the Mayor's office on several occasions to ask for an explanation but no favourable response was received.
- 59. Ciudad Real. June. Discrimination in Goods and Services.** A group of Roma youth filed a complaint against one of the city's discotheques for denying them entry on several occasions claiming that "there's trouble every time the gypsies come around". The following weekend the local FSG manager went with them to the establishment in question and when she observed that once again they were denied entry she spoke with the doorman and asked to meet with the manager. A meeting was scheduled but the manager did not show up. The FSG has observed, however, that these discriminatory practices have been occurring less frequently.
- 60. Alcantarilla (Murcia). July. Discrimination in Housing.** A Roma youngster was informed by a friend working at a real estate agency that a government protected flat was for sale and that the former could apply given that he met all of the requirements. Once all of the paperwork had been completed for the purchase of the home the friend was informed that the application had been rejected "because the applicant was Roma".



- 61. Aranda de Duero (Burgos). July. Discrimination in the Media / Internet.** A fight broke out allegedly because the owner of a bar refused to serve several Roma customers. A Roma man was seriously injured in the scuffle and the owner of the premises was arrested as the alleged perpetrator. This led to a dangerous anti-Roma reaction in the town and the call for a demonstration at the outdoor market and boycott of Roma vendors. Although the demonstration failed to attract much attention, a number of Internet pages featured clearly racist messages inciting hate and violence against the Roma community. The FSG informed the Castilla y Leon public prosecutor's office of the content of these messages but, after having initiated a judicial investigation, the case was provisionally closed given that it was impossible to identify those responsible.
- 62. Valencia. July. Discrimination in the Media.** A local paper published a news item related to the arrest of 16 people suspected of pederasty. The news story made several references to the ethnic origin of the alleged perpetrators.
- 63. Valladolid. July. Discrimination in the Media.** A local paper published a news story about the arrest of four individuals suspected of drug trafficking. In the description of the facts, it was specifically mentioned that one of the detainees had ties with a Roma family.
- 64. Pontevedra. July. Discrimination in the Media.** Under the headline "Four Roma women identified in the robbery of supermarket lunchmeat", a newspaper published a story making numerous references to the ethnic origin of the individuals allegedly involved in the robbery.
- 65. Seville. July. Discrimination in the Media.** A newspaper article was published featuring the headline "Well-known Roma individual and the courts, an explosive combination". The news story looked into the legal problems that a famous Roma person was undergoing and compared this case with three other cases of well-known Roma individuals who had legal problems. The article tried to show that this is relatively common.
- 66. Valencia. July. Discrimination in Housing.** An FSG service user signed a rental contract through a real estate agency. She paid the required guarantee but was not given the keys at that moment because the owner still had to sign. Two days later she received a call from the agency informing her that the owner had taken ill and had decided not to rent the flat. The FSG, having discovered that the flat had been rented to a non-Roma person, contacted the director of the real estate agency who promised not to do any future business with that owner so as to avoid this sort of discriminatory treatment.



- 67. Madrid. July. Discrimination in the Media.** Under the headline “Delinquents prey on unknowing citizens” a national newspaper published an article describing the increase in street crime in the nation’s capital and specified that these delinquents “are comprised of three groups: Romanians, Moroccans and Roma”. The article went on to add that relations between Roma and Romanians are anything but good given that the latter “have encroached upon the area, business and techniques of the former”.
- 68. Lugo. July. Discrimination in the Media.** A local newspaper published a news item concerning a shooting at a “Roma settlement”. The article connected the Roma community with the prevailing violence, crime and marginalization and this prompted the FSG to write a letter to the director of the newspaper expressing its disagreement with the way the incident was portrayed.
- 69. Malaga. July. Discrimination in Law Enforcement.** A judicial police official made a series of statements in a nation-wide newspaper regarding an operation against international crime mafias stating that “in a considerable number of the cases it was the Roma clans who told us where the immigrants were living; they asked us to get those people out of here as soon as possible”. The FSG addressed a letter to the Malaga Government delegate and deputy-delegate expressing its disagreement and concern with the terms used which could create a climate of tension between the Roma and immigrant communities.
- 70. Valladolid. July. Discrimination in Employment.** Following the publication of a job vacancy for an unskilled construction worker in a local newspaper, the FSG job hunter arranged an appointment with the building foreman to bring him three résumés. When the foreman saw the photographs of the candidates he asked “are they Spanish?, because I don’t hire Moroccans”. The job hunter explained that they were indeed Spanish and that the FSG employment programme works mostly with the Roma population. Having learned this, the foreman was no longer interested in seeing the résumés claiming that he had had very negative experiences with Roma and that he still has one on his crew and frequently finds work tools missing. When the job hunter insisted the foreman told him to propose “other types of candidates”.
- 71. Gijon (Asturias). July. Discrimination in Goods and Services.** An FSG service user approached the Motor Vehicles Administration to request documents proving change of ownership of several vehicles which were sold years ago. He was informed that he would need to submit documentation showing that he owned these vehicles. Another person (FSG employee) called the Administration on the telephone expressing an identical request and, in contrast to the information given to the Roma person, was told that he simply had to fill out a request form. The FSG wrote a letter and met with the Director of Motor Vehicles who apologised for the incident.



- 72. Zaragoza. July. Discrimination in Employment.** A young Roma woman who was working at a supermarket was sacked for her allegedly racist attitude against an immigrant co-worker. The worker denied this accusation and explained that she was the victim of a number of discriminatory acts due to her Roma ethnic background and that these acts were duly communicated to her superiors and were the cause of medical treatment she was receiving for depression. The FSG, along with the worker's court appointed lawyer, challenged the dismissal and in the end the dispute was settled out of court with the victim's right to compensation for wrongful dismissal being acknowledged.
- 73. Albacete. July. Discrimination in Employment.** An FSG service user applied for a job opening for a bricklayer's assistant offered through the INEM (national employment institute). When he contacted the employer the latter asked him if he was Roma and in response to an affirmative answer said that "he did not want any Roma workers". A friend of this candidate with the same professional background but who was not Roma was offered an interview during this same telephone conversation and at that point the FSG informed the INEM of the ethnic discrimination taking place in the worker selection process.
- 74. Lugo. July. Discrimination in Health-care Services.** A Roma man who was an innocent bystander was hit during a shooting in Lugo and died after a month and a half in the intensive care unit. While the patient received proper medical attention at all times, a series of discriminatory practices were evident in the way family members were treated. Medical updates were always given through private security personnel and there was enormous and unnecessary police control during the patient's entire hospital stay.
- 75. Leon. July. Discrimination in Law Enforcement.** A perfectly peaceful resettlement operation of 5 homes in a large Roma population was under way when 14 national police vans showed up causing tension and indignation among the Roma families in light of the excessive control and security measures. The final result was two arrests and four injured and thanks to the mediation efforts of the FSG with the mayor, the dispute was settled peacefully and the demolition was postponed until further notice.
- 76. Madrid. August. Discrimination in the Media / the Internet.** Messages such as "Can anyone tell me why gypsies smell so bad?" "The best thing would be to kill all the gypsies and then burn down their shanty towns and although I would go to jail for it, I would be doing a service to all of mankind", among other clearly racist and violent messages can be found in one of the FSG's Internet forums. These messages were deleted and a warning was issued as to the legal consequences of inciting racism and discrimination.



77. **Lugo. August. Discrimination in the Media.** A news story in a local newspaper quoted a trade union which criticised a “Roma camp” using disparaging and discriminatory language applied to the entire community.
78. **Malaga (Marbella). August. Discrimination in Housing.** Following an administrative change in the housing department of the Marbella Town Hall, irregularities in the process and follow-up of a housing proceeding were detected involving a Roma family which was being ejected from the municipal housing they had been awarded. FSG workers discovered that the said actions could be based on the ethnic background of the family because careful observation showed that the word GITANOS (Roma) had been pencilled in and then erased in the observations section of the municipal housing application form.
79. **Lugo. August. Discrimination in the Media.** As a result of the death of a Roma person who was mortally wounded in a shooting in one of the city’s neighbourhoods, a newspaper article was published making reiterated mention of the number of police and civil guard officers who were called to the hospital to “prevent possible incidents” due to the possibility of “revenge” on the part of the affected family.
80. **Vigo (Pontevedra). August. Discrimination in Housing.** Following an interview with the owner, an FSG service user signed the preliminary papers for the rental of a flat. Several days later the owner contacted the Foundation to cancel the reservation claiming that the president of the building’s homeowner’s association suggested that problems could arise given the ethnic background of the future renter. When the owner refused to reconsider, the FSG sent a letter advising her that this sort of discriminatory behaviour is prohibited by law and of the latter’s legal consequences even if the affected party decided not to lodge a formal complaint.
81. **Vigo (Pontevedra). August. Discrimination in the Media.** A local newspaper ran a story about the arrest of three individuals for alleged fraud. The headline of the story already made reference to the ethnic background of the suspects even though this had nothing to do with the news item.
82. **Caceres. August. Discrimination in Law Enforcement.** While making his ordinary rounds through the towns collecting scrap metal, a Roma man was stopped for no reason by Civil Guard officers who then proceeded to search his van. In the search the guards found two animal traps in a very poor state of repair and although the man told them that they were simply part of the scrap metal he was collecting and that he did not use them for hunting purposes, they still filed charges against him. The accused filed allegations against the charges but no decision has yet been delivered in these proceedings.





- 83. Aviles (Asturias). September. Discrimination in Employment.** The FSG arranged for 250 hours of apprenticeship training with the manager of an automobile body shop for 7 Roma beneficiaries. On the first day of class when he met the students, the manager was clearly sceptical and made no effort to hide the fact that they could cause social and personal problems with the rest of the workers. In the end, despite efforts made by the FSG, he decided not to go through with the training course.
- 84. Almeria.. September. Discrimination in employment.** A company contacted the FSG to request candidates to cover a job opening for a window cleaner. An FSG service user who met the job requirements was interviewed by the company manager who then asked the FSG to “send him another candidate who is not Roma” because the company did not want to work with them. When the manager was informed that the candidate sent was the best person for the job, the company reconsidered and in the end offered the job to the original candidate. However, this person turned down the offer because he felt he was being judged without having had the chance to demonstrate his work and he did not want to be the victim of further racist attitudes within the company.
- 85. Madrid. September. Discrimination in the Media.** An editorial entitled “La España negra y obtusa” (the dark and obtuse Spain) by the journalist Karmele Marchante was published on the web page and claimed that “it would be preferable for Roma to find a country which considers them as specimens apart from the rest and which puts them in a ghetto” and went on to write “when they refer to their traditions and laws, it must be made crystal clear that no such things exist”.
- 86. Huesca. September. Discrimination in Employment.** An FSG employment programme user wanted to apply for a job post of soft drink stock person and was called for an interview by the store manager. When the manager found out that the job candidate was Roma, he told him that he wanted to hire girls for the job. The next day two FSG workers called for information about the opening and specifically asked whether the sex of the candidate was a requirement but the manager insisted that gender made no difference whatsoever.
- 87. Madrid. September. Discrimination in the Media.** A newspaper article was published under the headline “Two persons seriously injured by knife wounds in a fight between Roma and non-Roma in the Carabanchel district”. In addition to the mention of ethnic group, the news story commented that when the police learned of the case they went to the hospital where one of the injured Roma was admitted and took his family members to the police station but this same procedure was not followed with the family members of the non-Roma participants.



- 88. Hellin (Albacete). September. Discrimination in Goods and Services.** When two Roma women came into a cafeteria the manager told them that he could not serve them because they were going to close and this was despite the fact that the place full given that it was a holiday and that these establishments typically stayed open into the wee hours of the morning.
- 89. Huesca. September. Discrimination in Law Enforcement.** In 2005 the National Police in Huesca stopped two brothers on the street on three different occasions for no apparent reason to ask to see their ID cards and to search through their belongings. On one of these occasions the brothers asked the police officers to identify themselves and when they refused the boys' father went to the police station to lodge a complaint and was told that these officers were carrying out their routine duties within the limits of the law.
- 90. Seville. September. Discrimination in the Media.** A national newspaper published a news story in the local Seville section which specified the ethnic group of two families involved in a criminal act under the headline: "Three persons injured in a fight between two Roma families in a hospital". This newspaper frequently prints new items of this nature.
- 91. Ciudad Real. September. Discrimination in Employment.** A young Roma man who had been working as a chef's assistant was dismissed before finishing the trial period when his boss discovered his ethnic origin through a mutual friend. When the worker approached his boss to collect the money owed him and to ask why he was being dismissed, he was told that he should have stated from the outset that he was Roma. The worker decided against taking any legal action.
- 92. Madrid. September. Discrimination in the Media.** Under the headline "Farruquito's backward wedding", an independent journalist published an article in his WebLog which included discriminatory comments against the Roma community such as "his Roma wedding is the product of a culture, like that of the Muslims, which is backward, stupid and degrading to women..." and "this Roma culture, with the exception of typical dress, dance and maybe some traditional foods, is an insult to mankind, rational behaviour and human rights...".
- 93. Granada. September. Racist Incidents.** On a public thoroughfare with a lot of traffic in a neighbourhood where the majority of the families are Roma, graffiti was found which said "Welcome to Zaidín-Watch out for the Gypsies". An FSG mediator met with the deputy government delegate and the graffiti was cleaned up.





- 94. Vigo (Pontevedra). September. Discrimination in the Media.** A news story was published in a local newspaper about the arrest of the alleged perpetrators of a robbery. The article's headline made reference to "a clan dedicated to petty thievery" and listed the names, age and place of residence of the three individuals involved and affirmed that "all of them were Roma".
- 95. Badajoz. August. Discrimination in the Media.** An article was published in a local newspaper under the headline "Large-scale police deployment in response to a feud between two Roma families" which, aside from reference to the ethnic origin of those involved, the only other information provided was the large number of state police and security forces who had to remain on alert all night.
- 96. Huesca. October. Discrimination in Employment.** A user of the FSG's employment programme "Acceder" was sent to personally submit his résumé in response to the publication of a job opening for a delivery person. When the company told the job seeker that the post had already been filled, a worker from the FSG called on the telephone and was asked to come by the office because the post was still vacant.
- 97. Vigo (Pontevedra). October. Discrimination in Housing.** The Galician Housing Institute organised a housing lottery for 12 flats for rental or purchase; the only requirements were to be under the age of 40 and to be the head of a household. The FSG helped a number of families to submit their application but despite passing the initial pre-selection process, the Institute rejected two of them because they had no salary by which to validate monthly income, a requirement which was not stipulated in the call for applications.
- 98. Hellín (Albacete). October. Discrimination in Goods and Services.** A group of Roma friends ordered food and drinks in a cafeteria. The waiter warned them that the place was crowded and their order might take a while but they decided to stay given that they were in no particular hurry. However, when they observed that everyone else had been served and the waiter had still not served them, they decided to leave.
- 99. Granada. October. Discrimination in Law Enforcement.** A Roma boy was accused of stealing something at an outdoor market stand. The arrest was made by six local police officers who beat him brutally causing serious injury and leaving the boy unconscious according to the medical report. There was quite a bit of evidence showing that the ethnic origin of the accused was responsible for the police officers' illegal action and their use of undue force in making the arrest.



- 100. Alicante. October. Discrimination in Employment.** Taking advantage of the fact that one of his Roma workers was illiterate, the manager of a cleaning company had her sign a voluntary resignation leading her to believe that the document was the final payment associated with the conclusion of the contract. The FSG contacted the company and managed to settle the dispute through a mediation process.
- 101. Seville. October. Discrimination in Employment.** A young Roma man from Hungary went to an information and support centre for migrant workers. When he requested information on obtaining a work permit, the person at the centre told him in a very aggressive tone that he “should have already taken care of that situation just like a lot of other foreign nationals who want to work” and concluded by saying: “if you are already receiving assistance from a Roma community service, then go back to those of your own kind or go back home”.
- 102. Huesca. October. Discrimination in Employment.** The FSG job hunter accompanied an Acceder programme user when he submitted his résumé to a company which announced a job opening for a glass cutter through the INAEM (national employment institute). The company manager told them that they needed someone urgently and were looking for a serious person planning to stay with the company over the long-term. The FSG recommended this service user but a few days later the company began to make excuses and establish requirements that were not previously published in the INAEM job offer.
- 103. Hellin (Albacete). October. Discrimination in Goods and Services.** Two FSG Roma workers went to have breakfast at a cafeteria where they met up with other non-Roma Foundation workers. They were treated in an apparently appropriate manner but upon leaving the premises the Roma workers found out that they had been charged much more than their non-Roma co-workers despite having ordered quite a bit less.
- 104. Alcantarilla (Murcia). November. Discrimination in Employment.** A company’s human resources director called the FSG job hunter regarding an opening for a “warehouse helper” and told him that the post did not require prior experience or a driving license and that the only essential requirement was that the candidate “not be Gypsy or Moroccan”.



- 105. Granada. November. Discrimination in Education.** A Roma woman wanted to enrol two of her children at the same private school where another one of her children was studying, but she forgot to pre-register them in June. When she tried to register the children in September she was told that only one of her two children would be admitted and the other would have to attend the local public school. Two FSG workers met with the school director to try to find a solution to the problem and during the discussion the director complained that “they always send us the same type of children and we already have enough and anyway, I don’t think the mother has the capacity to decide what school she wants her children enrolled in”. The FSG then met with the local School Inspector who, having verified that the school did indeed have openings, allowed all of the family’s children to enrol in the same school.
- 106. Spain. November. Discrimination in Housing.** The Sociological Research Centre’s (CIS) barometer survey done in November 2005 pointed to a clear rejection of the Roma community in the Spanish society; 40% of those surveyed stated that “they would be very or somewhat unhappy to have Roma neighbours”.
- 107. Malaga. November. Discrimination in Employment.** An FSG service user who was working at a shopping centre was accused of stealing a milkshake which he had purchased while on duty. One of the cashiers vouched for the worker assuring that he had paid for the article in question. Although the manager did give the worker his job back, he made no apology for the accusation. This act of discrimination made the worker feel very uncomfortable and he decided to quit his job.
- 108. Santiago de Compostela (La Coruña). November. Discrimination in Housing.** An FSG service user went to a real estate office to inquire about an advertised flat for rent. The agency told the person that the flat was not yet available but that she would be called when it was. This person found out that she had not been told the truth and inquired about the flat on a number of further occasions. In the end she was informed that the owner did not want to rent to her.
- 109. Santiago de Compostela (La Coruña). November. Discrimination in Housing.** An FSG service user and her husband set up an appointment with the owner of a rental flat. On the day of the appointment the owner asked them if they were Roma and when they said that they were he said “well then we might as well stop right here because the other neighbours do not want any Roma in the building”. The couple asked the owner to reconsider but he insisted that although he personally did not object, it was the neighbours who did not want any Roma.



- 110. Alicante. November. Discrimination in Education.** The director of a secondary school temporarily suspended a Roma student from his school for the allegedly serious offences he had committed. The FSG noted that this suspension was not processed correctly because the school council, which has the authority to sanction these types of offences, was not called to discuss the issue nor was the boy's family expediently notified of the director's decision. In light of the clear indication of unequal treatment for reasons of the young man's ethnic origin, the FSG wrote a letter to the director of the school asking him to reconsider the case but was unable to get him to change his mind.
- 111. Spain. November. Discrimination in Education.** The CIS barometer also verified that in the field of education, the Roma community continues to be the group facing the greatest degree of social rejection: "one out of every four Spaniards would not like their children to be taught in the same classroom alongside children from Roma families".
- 112. Vigo (Pontevedra). November. Discrimination in the Media.** A local newspaper published a story about a woman being sent to prison for using her mentally retarded cousin to sell cocaine. The news story concluded by saying "both belonged to the same Roma family".
- 113. Murcia. November. Discrimination in Goods and Services.** The FSG held a meeting for Roma youth at the conference room of the Murcia employment centre. While the participants were listening to a presentation, a person who had reserved that same room for a meeting the next day approached the FSG workers to request that they leave the room tidy because "since they're Roma, they will surely leave everything a mess". The FSG workers pointed out the inappropriateness of that comment but no complaint was lodged at the centre.
- 114. Barcelona. November. Discrimination in the Media.** A national newspaper published a story in its Catalonia section under the headline "Prosecutor calls for a prison sentence of 20 years for the woman accused of murdering a Roma man". Specific mention was made throughout the article of the ethnic origin of the two families who "were brawling in the middle of the street". It was also mentioned that "the accused was not Roma".



- 115. Alicante. November. Discrimination in Housing.** The FSG purchased a property to set up its regional headquarters in Alicante but came up against protests from the building's homeowner's association which opposed the opening of the centre and interfered with remodelling work. Different neighbourhood associations and local merchants also took part by asking people to sign a petition against the opening of the centre given the increase in security problems and delinquency which supposedly would result. The FSG, with the support of the municipal authorities, held a series of informative meetings with flat owners and neighbours but resistance persists in part of the neighbourhood which continues to collect signatures.
- 116. Palma de Mallorca. November. Discrimination in the Media.** A local newspaper ran a story which made reference to the ethnic origin of the family of a minor who injured four police officers when they attempted to arrest him. The article also described in detail all of the crimes in which this Roma boy had been involved.
- 117. Burgos. November. Discrimination in employment.** The FSG organised a guided visit to a company for a group of 11 women. One of the women came with her son and when they told her that she could not take the tour with him, and despite the fact that the woman did not object in any way, the guide told his co-worker: "this only happens with the Roma and if you say anything to them they'll think you're being discriminatory..." During the course of the visit the FSG workers overheard other comments such as "in the summer this factory employs more workers but you can be sure that these people aren't interested..." In the end a complaint was lodged before their superiors.
- 118. El Ejido (Almeria). December. Discrimination in Housing.** In 1998 the Town Hall of El Ejido built a wall which was supposedly a provisional security measure in a neighbourhood where many Roma families resided. These families were practically isolated given that their neighbourhood was left without public transportation or other commercial services. They only had two exit points leading onto a secondary highway which the children had to cross every day on their way to school. Seven years later the situation persists, prompting the FSG to write a letter to the Mayor's Office and to the Andalusian Regional Government but to date no response has been received.
- 119. Llanes (Asturias). December. Discrimination in Housing.** In response to a rental flat advertisement, a Roma man contacted the owner who, when she found out his ethnic origin, told him that she was not going to rent him the flat because she did not want any Roma tenants and it was up to her to decide. The victim went to the Town Hall and asked to speak with the mayor but the meeting never took place.



- 120.** This case has not been included in this report as the information gathered did not follow the regular procedure that the Equal Treatment Area of the FSG implements for data collection and follow up of cases.
- 121. Valladolid. December. Discrimination in the Media.** Under the headline “Roma victimisation and political demagoguery”, a local newspaper published an article in its opinion section which portrayed a negative, erroneous and disparaging image of the Roma community. According to the article’s author, the very reference to the Roma culture in textbooks is “captious” and “very much in line with the current trend to present Roma as an oppressed ethnic group”. The FSG wrote a response which the newspaper published.
- 122. Seville. December. Discrimination in the Media.** A local newspaper published an article under the headline “Violent Roma gang responsible for the assassination of a Portuguese police officer”. The story referred time and again to the ethnic origin of the alleged perpetrators and stressed the “certainty” of the Portuguese police that the crime group was composed of “people of Roma ethnic origin” based in Seville.
- 123. Aviles (Asturias). December. Discrimination in Education.** In the presence of a classmate, a young student used expressions such as “she’s a gypsy, look at how dirty she is, she’s as bad as it gets, etc.” to insult another classmate. The FSG called a meeting with the head teacher and the head of studies and the decision was taken to discipline that student.
- 124. Seville. December. Discrimination in Housing.** In the Special Report on Shanty Towns the Ombudsman of Andalusia, in reference to the Integral Plan to Eradicate Shanty Towns in Andalusia approved in 1997, criticised the fact that in some cases the decision had been taken to resettle too many families in the same location thus leading to the formation of ghettos and that sums of money were being doled out to families to get them to leave despite the commitment to earmark the said funds for the acquisition of housing..
- 125. Madrid. December. Discrimination in the Media.** A national newspaper published a story about the funeral and burial of two Roma brothers who were run over by a train in Murcia. The article provided detailed information about aspects which were irrelevant to the news story, highlighting the fact that the father and the uncle “attended the funeral handcuffed because they were inmates at the Zaragoza prison”. The photograph accompanying the article is particularly disparaging.



- 126. Valladolid. December. Discrimination in the Media.** Under the headline “Two Monchinas, both minors, arrested for stealing from a downtown store”, a local newspaper ran an article with a number of references to “the Monchinas clan”. Although no direct mention is made of the ethnic origin of those involved in the incident, the way the media handled the story could be considered indirect discrimination because everyone in Valladolid knows that this family is Roma.
- 127. Malaga. December. Discrimination in the Media.** A local newspaper ran a story about the kidnapping of a woman and her son. The article made several references to the ethnic origin of the alleged kidnappers who were subsequently arrested by the police.
- 128. Aranda de Duero (Burgos). December. Racist Incidents.** A local Roma citizen was the victim of a number of aggressions for removing a racist sign posted at a bar referring to an incident which occurred in the town a few months prior. The sign read as follows: “Help needed to fight beatings, intimidation, threats and abuses suffered at the hands of the gypsies. Court hearings pending, TEL: 687 522 047. If you have suffered this sort of aggression, call this number. The victim lodged charges against the aggression suffered and the case is still pending resolution.
- 129. El Ferrol (La Coruña). December. Discrimination in Goods and Services.** A Roma man was forcibly thrown out of a bar he had just entered together with his workmates who were celebrating the company’s Christmas dinner. The group decided to leave that bar but when they tried to enter another club in the area, the doorman also prohibited their entry claiming that he was enforcing “house rules”. The victim lodged a complaint and the case was declared admissible. Although the judicial decision is still pending, the case has had enormous repercussions and was even analysed by the Galician Parliament which is looking into measures to prevent similar situations from arising.
- 130. Cordoba. December. Discrimination in Housing.** A federation of Roma organisations known as FACCA came up against serious neighbourhood resistance against the construction of multi-use social centre at the Guadalquivir Commercial Park. Despite having a construction permit from the Town Hall and the backing of the local authorities, some neighbours banded together to call for the transfer of the centre to another location because they feared that the social centre would lead to large concentrations of Roma population. The FSG added its name to a statement issued by different Roma and human rights organisations of Andalusia supporting the construction of the centre in the agreed location but in the end it was moved to an industrial park in light of strong neighbourhood pressure





- 131. Ciudad Real. December. Discrimination in the Media.** In the section entitled "Letters to the editor", a local newspaper published an article claiming that "the immense majority of the people comprising this racial group are nomads with no fixed roots and are rejected by a society in which they have not been able to integrate". "The causes of this situation lie mostly with the Roma themselves". "They are rejected by the majority because they are feared due to their slyness and trickery". The newspaper published the letter of response drafted by the FSG after which the author apologised.
- 132. Madrid. December. Racist Incidents.** On the anniversary of the death of two neighbourhood residents who were killed in a fight with several persons of Roma origin who are now in prison for their deeds, posters were put up in a Madrid neighbourhood calling all residents to participate in a clearly anti-Roma demonstration. Despite FSG efforts in the form of a letter addressed to the Government Delegate of the Community of Madrid informing him of what was taking place, the unauthorised demonstration took place and several participants went to the home of the family of those involved to intimidate relatives and neighbours.
- 133. Valladolid. December. Discrimination in the Media.** In the wake of a drugs-related shooting in a Valladolid neighbourhood, a local newspaper published a story under the headline "Problematic Roma family fails to respond to the law or to social assistance". The news story makes direct reference to the Roma ethnic group when referring to problems of marginalisation, lack of adaptation and getting caught up in the world of drugs.
- 134. La Coruña. December. Discrimination in the Media.** A local newspaper ran a story under the headline "A Roma couple stands trial for threatening their neighbours to the point of making them leave their homes". Aside from referring to ethnic origin, the article underscores the alleged "death threats", "insults" and "psychological torture" to which the building's residents were supposedly subjected. The accused family held that these were false claims.
- 135. Murcia. December. Discrimination in Goods and Services.** A Roma family called for a taxi and when the driver realised that they were Roma he asked them if they had enough money to pay for the taxi ride before letting them get into the car. Although the family assured him that they had sufficient funds, he made them pay in advance claiming that he "was tired of picking up Roma because they always run off without paying". An argument ensued and the family called on the assistance of a local police officer but, despite their efforts, they were forced to pay in advance and when they requested the complaint book the driver refused to oblige.





- 136. Seville. December. Discrimination in the Media.** A local news story focused on a shooting which took place in a shanty town resulting in five injuries due to “an ongoing family feud”. The story makes a number of references to the ethnic origin of those involved and to the special police measures undertaken to prevent further altercations.
- 137. Valladolid. December. Discrimination in Employment.** An FSG employment programme beneficiary signed a one-year contract with a home improvement company. During the trial period his superiors expressed their satisfaction with his work on a number of occasions and the worker was destined to pass this trial period with flying colours. However, when a co-worker informed them that the worker in question was Roma, the latter received a letter of dismissal from the company claiming that he had failed to pass the trial period. The FSG beneficiary filed a motion for wrongful dismissal before the Mediation, Arbitration and Conciliation Unit of the Castilla y Leon Regional Government and a hearing was held but to no avail. A court hearing is now pending in this case.



## 7 Case studies

With a view to conducting an in-depth analysis of the mechanisms of discrimination and their various consequences, the FSG has selected 7 case studies from among the complaints lodged in 2005 based on their seriousness or relevance and in which the Foundation has taken some sort of action in support of the victims or their lawyers through the lodging of a complaint, mediation or legal action.

The discriminatory practices described took place in the fields of employment, housing, health-care services, education, the media, justice and law enforcement. The cases, chosen from both the public and private sectors, have had a serious impact on their victims and in most cases the outcome was not favourable thus indicating that there is still a long road ahead in combating discrimination in a real and effective manner.

### **CASE 71: Discrimination in Employment**

On 27 July 2005 a young Roma woman who had been working in a supermarket in Zaragoza for two years received a letter of dismissal for a serious offence in the aftermath of an altercation between her and an immigrant co-worker. In the letter of dismissal, the company's management claimed that the worker's attitude towards her foreign co-workers was racist and this is prohibited in the section of the Company Agreement referring to xenophobic behaviour and physical and verbal aggression towards co-workers.

Supermarket managers accused her of mistreating her co-worker on previous occasions for which she was reprimanded but this time she attempted to physically attack her co-worker while publicly making racist comments. This aggression was prevented by the department head and other workers.

Following the altercation, the worker announced that she would be quitting her job and left her post two hours before her shift was over and did not return until the following afternoon. At that point the company informed the worker that that day would be subtracted from her holiday time and a few days later told her that she was going to be dismissed.

The worker got in touch with the Fundación Secretariado Gitano to help her to defend her rights given that, according to her version, the facts described by the company were not true. The young woman claimed to be the victim of frequent harassment at the hands of her Spanish and immigrant co-workers due to her ethnic origin on a number of different occasions throughout her time at the supermarket.

She likewise claimed that company management was informed of this situation many times but failed to take any disciplinary action despite the fact that the



worker had to take medical leave to receive psychological treatment for a depression caused by the treatment she received at her place of employment.

Furthermore, although the young woman admitted to having had a confrontation with her immigrant co-worker with whom she has never got on well, she felt that the company's reaction was clearly discriminatory: firstly because no disciplinary measures were ever taken when she lodged complaints for having been the victim of racist behaviour and secondly because no disciplinary action whatsoever was taken against her co-worker despite the fact that, in contrast to the version described in the letter of dismissal, the two workers were equally responsible for the dispute.

Following the FSG's initial analysis, the worker decided to lodge an appeal against the dismissal. The Foundation met with the defence attorney assigned to the case to provide support in filing the suit and to make sure that specific mention was made of the ethnic discrimination suffered by the victim and to call for the nullification of the dismissal for violation of the constitutional right to equal treatment.

Application for an out-of-court settlement before taking further legal action in labour court was formulated in these terms before the Aragon mediation and arbitration board on 29 July 2005.

The preliminary conciliatory hearing was held in Zaragoza on 8 August 2005 in the presence of the claimant and a representative of the supermarket chain.

At that hearing, the mediation body tried to help bridge the gap between the two parties and an agreement was finally reached because the company ended up acknowledging that the dismissal was inadmissible and that the worker had the right to receive compensation.



### INTENTADO

Por el Órgano de Mediación el acercamiento de las posturas de cada una de las partes, **se consigue acuerdo** entre las mismas en los siguientes términos:

**Reconocer la improcedencia del despido y el derecho de la trabajadora al percibo de la cantidad de 1.300 euros netos en concepto de indemnización, salarios adeudados, liquidación al cese y salarios de tramitación hasta el día de la fecha, que será abonado a la trabajadora mediante entrega de talón nominativo, el próximo día 16 de Agosto de 20005, en las oficinas del centro de trabajo sitas en Zaragoza calle Mig[REDACTED] dando con su percibo saldada y finiquitada la relación laboral habida entre las partes, sin que nada tengan derecho a reclamarse por concepto alguno.**

Siendo las 12:45 horas, se da por finalizado el acto de Conciliación-Mediación, con el resultado de **CON AVENENCIA**.

De todo ello extiende el Secretario la presente ACTA, en el lugar y fecha arriba indicados, siendo firmada por los comparecientes y los miembros del Órgano de Mediación.

Firmado:

EL SOLICITANTE

EL SOLICITADO

EL ÓRGANO MEDIADOR



A EL SAMA

DOÑA [REDACTED], mayor de edad, soltera, vecina de Zaragoza, domiciliada en [REDACTED], afiliada a la Seguridad Social, en el régimen general, con el número [REDACTED] y provista de Documento Nacional de Identidad número [REDACTED], teléfono número [REDACTED], asistida del Letrado del Real e Ilustre Colegio de Abogados de Zaragoza DON [REDACTED], Colegiado número [REDACTED], con Despacho en Zaragoza, [REDACTED] número [REDACTED], tlfo. [REDACTED], fax [REDACTED] y móvil [REDACTED], ante el SAMA de Zaragoza comparezco y, como mejor proceda en Derecho, **D I G O**:

Que mediante el presente escrito formulo demanda de conciliación, previa al ejercicio de acciones laborales por **despido nulo y, subsidiariamente improcedente**, contra la mercantil **SUPERMERCADOS [REDACTED]**, con domicilio social en [REDACTED] número [REDACTED] (Zaragoza-), tlfo. [REDACTED] a fin de que, compareciendo debidamente representada, se avenga a:

**PRIMERO.-** Reconocer que la actora ha venido prestando sus servicios en la entidad demandada desde el día 9 de Febrero de 2004, con la categoría profesional de Ayudante Profesional Grupo Primero, con una remuneración mensual de SETECIENTOS CUARENTA Y CINCO EUROS CON CINCUENTA Y CINCO CENTIMOS DE EURO (745,55€).

**SEGUNDO.-** Reconocer que la actora no ha ostentado nunca cargo sindical alguno.

**TERCERO.-** Reconocer que la actora, desde el inicio de la relación laboral, ha venido realizando, bien y fielmente, cuantas funciones le corresponden por el desarrollo de su actividad laboral.

**CUARTO.-** Reconocer que el pasado día veintisiete del presente mes le fue entregada carta de despido que, copiada literalmente, dice como sigue:

**QUINTO.-** Reconocer que los hechos relatados no son ciertos; que en todo momento la conducta de la actora ha sido ejemplar, habiendo soportado numerosas vejaciones de forma estoica que han sido puestas en conocimiento de la Dirección de la Empresa por medio de sus encargados, sin que hayan adoptado medida alguna, pese a constarles la situación de baja por empeoramiento de su salud psicológica bajo intervención facultativa, con incremento del tratamiento facultativo.

**SEXTO.-** Avenirse a reconocer la  **nulidad del despido** practicado por representar, conforme consta a la demanda, una clara discriminación por motivos de origen racial o étnico, prohibida por la Directiva 2000/43 de la Comisión Europea relativa a la aplicación del principio de igualdad de trato y no discriminación de las personas independientemente de su origen racial o étnico y por la ley 62/2003 de medidas Fiscales, Administrativas y de Orden Social; subsidiariamente, avenirse a reconocer la  **improcedencia del despido** por no ser ciertos los hechos imputados ni –aun admitiendo a efectos puramente dialécticos que hayan acaecido, lo que se niega de forma rotunda- no son constitutivos de la sanción de despido impuesta, máxime cuando ha sido la actora la que ha venido soportando situaciones de vejación, consentidas por la Empresa, con la infracción de los preceptos expresados en el precedente hecho y con las consecuencias clínicas expresadas.

**SÉPTIMO.-** Avenirse a reconocer la nulidad o, subsidiariamente, improcedencia del despido practicado, procediendo a la inmediata readmisión de la actora en su puesto de trabajo en idénticas condiciones a las anteriores al despido, con abono de los salarios de tramitación dejados de percibir.

En virtud de lo expuesto,

**SOLICITO AL SAMA** tenga por presentado este escrito con sus copias; se sirva admitirlo; acuerde la incoación del correspondiente procedimiento; señale día y hora para la celebración del correspondiente juicio de conciliación, a fin de que la Empresa se avenga a la totalidad de los hechos expresados en el cuerpo de este escrito, convocando a las partes en forma legal y, en su día, tras su celebración, me expida testimonio acreditativo de su resultado.

Es justo.

**OTROSI DIGO** que, conforme se ha expresado en el encabezamiento del presente escrito, esta parte se valdrá el día del acto de conciliación de Abogado con ejercicio libre de la Profesión, quedando designado [REDACTED] cuyas circunstancias personales y profesionales se han reflejado y con quien deberán entenderse las ulteriores diligencias.

**SUPLICO AL SAMA** tenga por hecha la anterior manifestación y designación a los efectos legales oportunos.

Es también justo.

**OTROSI DIGO** que el Letrado Mediador será el que por turno corresponda, al constar a esta parte la objetividad y profesionalidad de la totalidad de los que integran el servicio.

**SUPLICO AL SAMA** tenga por hecha la anterior manifestación a los efectos oportunos.

Es igualmente justo.

Zaragoza, a veintinueve de Julio de dos mil cinco



### **CASE 113. Discrimination in Housing**

The Fundación Secretariado Gitano purchased a premises to set up its regional headquarters in Alicante. The FSG applied for the license needed to remodel the office and the Town Hall's Urban Planning Council, in line with legal procedure, informed the president of the homeowner's association that the FSG, the new owner of the premises, had plans to install an air conditioning system.

After receiving this information the other owners contacted the Foundation in the middle of December to say that the neighbours had been very concerned ever since they found out who the new owners were and that a number of false rumours were circulating around the neighbourhood with respect to the "alleged activity" to be conducted at the premises (the opening of an evangelical church, a methadone centre, a social reinsertion office targeting ex-inmates and drug addicts, etc.).

With a view to clarifying the situation and relieving tension among the neighbours, the FSG contacted the president of the homeowners' association and organised an informative meeting also attended by a woman who claimed to be the spokesperson of a future Neighbour's Association being formed in the neighbourhood. At that meeting the Foundation described the work that it does, talked in detail about the activities to be undertaken at the premises and invited the neighbours to visit other FSG offices in Alicante where they have been working for years without any type of problems with the neighbours.

Despite the information furnished, those attending the meeting invited the FSG to open their office elsewhere and warned that the entire neighbourhood would be up in arms given the increase in security problems and delinquency which supposedly would result. The FSG refuted these arguments, expressed its intention of moving forward with the remodelling work and agreed to hold an informative meeting with all of the homeowners affected on the 26th of December to explain the situation.

Before that date, the neighbourhood began to mobilise against the opening of the regional headquarters and signs were put up in the street and on the doors of local businesses inviting all neighbourhood residents to attend the meeting that the FSG was planning to hold with the homeowners association. The signs claimed that following the unsuccessful attempt to set up a methadone centre in the vicinity of the General Hospital, the Alicante Town Hall was planning to grant a license to the Fundación Secretariado Gitano to open a labour and social reinsertion centre which could add to the neighbourhood's already pressing problems. Local residents were also asked to support a petition to have the centre moved to a more suitable location where users could benefit from services without having to travel so far.

The neighbourhood association also began to pass around a petition against the opening of the centre and used different media (including the written press) to





claim that the neighbourhood already had training services for the unemployed, that there was insufficient parking and that the centre could have a dangerous social impact. They also claimed that they were not being racist but that they simply did not want people with social and labour adaptation problems in the neighbourhood.

The information meeting planned for the homeowners association was set back to 31 January after the FSG made it clear that for the time being it was not going to meet with other neighbourhood representatives. However, despite having invited all of the building's neighbours and business owners, the only people who came to the meeting were Foundation members.

The president of the Altozano Business Association wrote a letter to the Town Hall saying that she met with the president of the homeowner's association where the FSG centre was to be set up to speak about security and the social impact that the centre could have on local business. She subsequently requested a meeting with the Town Hall officials responsible for the project in light of the prevailing situation of social alarm.

The local business and social action councillors publicly expressed their support of the FSG which was the legitimate owner of the premises and with whom they had been planning to sign an agreement to run training courses. Despite this support, over the ensuing weeks the Foundation ran into serious difficulties in installing the air conditioning system mostly due to the lack of cooperation from the homeowner's association.

The latter's president scheduled another meeting with different neighbourhood representatives for the 16th of February and more than 200 people showed up. The director of the FSG presented the organisation in great detail, spoke of the activities to be undertaken at the centre and explained that it posed not social or economic threat to the neighbourhood. Representatives of the homeowner's association of the other neighbourhood where the FSG has a comparable centre corroborated all of this information thus making the meeting a success and the homeowners' Association appeared to soften its stance although many owners still reject the presence of the FSG and continue to collect signatures in an effort to keep the centre from opening.

**Estimados convecinos:**

Os informamos que el Ayuntamiento de Alicante, tras el fracasado intento de instalación de un centro de metadona en las inmediaciones del Hospital General, nos ha notificado que pretende concederle la licencia de apertura a un centro de la "Fundación Secretariado Gitano" destinado a la reinserción laboral y social de este colectivo.

La apertura de este centro se realizaría en los bajos del Edificio Pintor Otilio, concretamente en el local que hasta hace poco pertenecía a los propietarios de Muebles Orbe (chaflán ubicado en la C/Monseñor Romero con Pintor Otilio, a espaldas de la Av/ Pintor Baeza).

Como vecinos y residentes en la zona consideramos necesario contar con vuestra opinión para valorar adecuadamente esta previsible decisión municipal que podría añadir nuevos problemas a los que ya padecemos.

A tal fin os invitamos a asistir a la reunión informativa que tendrá lugar el próximo día **26 de diciembre a las 20.30 hrs. en el garaje de Monseñor Romero 3** (junto a la oficina de MAFRE), y en la que les solicitaremos a los responsables de la Fundación que la instalación de ese centro sea paralizada y se reubique en un lugar más adecuado, en el que dicho colectivo pueda beneficiarse de esos servicios sin necesidad de desplazamiento.



O.J.D.: 31352  
E.G.M.: 260000

**INFORMACIÓN**

Fecha: 04/02/2006  
Sección: ALICANTE  
Páginas: 8

MINORÍAS ÉTNICAS

## Recogen firmas en Altozano contra la apertura de un centro de empleo gitano

La Fundación Secretariado Gitano, que ha comprado el local, lamenta el rechazo tras llevar años en el barrio sin crear ningún conflicto

CLARA R. FERNÁNDEZ

La compra de un local en la calle Pintor Otilio por parte de la Fundación Secretariado Gitano (FSG) para trasladar allí su sede y utilizarla como centro de inserción laboral ha derivado en una recogida de firmas por parte de la comunidad de vecinos del inmueble donde va a instalarse. Según asegura el presidente de la comunidad, Fernando Latorre, ya llevan recolectadas cerca de un millar de firmas.

La presidenta de la Asociación de Comerciantes de Altozano, Los Angeles, Cinde Latorre, Pintor Baeza y Adyacentes «Cepibad», M<sup>rs</sup> Angeles Cinos, y el presidente de la comunidad han presentado un escrito en el Ayuntamiento oponiéndose a la apertura de este centro, alegando que en el barrio ya existen centros de formación para desempleados, además de falta de aparcamiento. También expresan el previsible impacto social que la apertura de un centro de este tipo, dedicado exclusi-



**Los firmantes temen que acudan personas con problemas de integración social**

variente a la integración del colectivo gitano, podría causar en un barrio en el que la presencia de personas pertenecientes a este grupo es inapreciable y en el que la integración de otras minorías es un hecho.

«Nos han dicho que vendría

gente sin problemas y plenamente integrada pero nos hemos enterado por otras vías de que si acudiría gente con dificultades para adaptarse social y laboralmente», manifiesta Latorre, quien asegura que hay «muchos recelos».

Alejandro Novella, coordinador de FSG en Alicante, si piensa que la recogida de firmas «responde a un claro caso de discriminación». Novella explica que allí piden instalar la sede de la fundación, que trabaja con fondos de la Unión Europea para ayudar a los parados a buscar empleo. «Hacemos entrevistas, estamos en contacto con empresas y solo puntualmente llevamos a cabo actividades formativas». Por tanto, señala, «es cierto que sea un centro de inserción social ya que no toda la población gitana, ni mucho menos, tiene ese problema».

Si el coordinador atribuye las firmas de rechazo a una minoría que está actuando de esta forma por desconocimiento y que ha llegado a pegar carteles invitando a marcharnos». Asegura que se les ha injuriado y se han difundido falsedades: «Han llegado a decir que trabajamos con población que recibe tratamiento de metadona o con reclusos». Novella destaca que la Funda-

**AYUNTAMIENTO**  
**El edil de Comercio asegura que no es problemático**

Los concejales de Comercio y Acción Social, Juan Zaragoza y Asunción Sánchez Zaplana, se reunieron el próximo lunes para abordar el problema, tras recibir el escrito de vecinos y comerciantes. En todo caso, Zaragoza reprocha a los vecinos que se les cierra a una reunión para explicarles la labor que se va a desarrollar en ese local «y no acudiría nadie». El concejal recuerda, además, que se trata de una propiedad privada, adquirida por FSG «y no veo que sea nada problemática». Su área se plantea, incluso, firmar un convenio con la fundación para realizar cursos de formación en comercio y hacer prácticas.

ción lleva ya cinco años trabajando en el barrio. Antes en la Gran Vía, arriba de Mercadería, y actualmente en la calle Canónigo Genestar: «y no hemos tenido problemas con el vecindario». De hecho, apunta, algunas personas de los alrededores ni siquiera saben que estamos aquí.

Asegura que el local será una especie de oficina de empleo, orientada principalmente a los gitanos, aunque atenderá a personas de otras etnias. Asimismo, recuerda que desde que empezaron a funcionar han trabajado con más de 1.000 personas, y contratado más de 800 contrataciones.





## CASE 73: Discrimination in Health-care Services

A shooting took place in Lugo in July 2005 as the result of a clash between two families in which Salvador C., a Roma man who had nothing to do with the dispute, was accidentally seriously wounded and ended up in the intensive care unit of the local hospital for a month and a half before he died on the 6th of August.

Although the hospital's medical team provided adequate attention to Salvador during his entire stay, a series of discriminatory practices were observed in the way family members were treated and how the latter were kept abreast of the medical status of the patient. These practices were the product of deeply rooted prejudices concerning the Roma community and their behaviour in health centres; prejudices and stereotypes made even worse (if possible) by the way the media reported the July altercation, going so far as to claim that the injured man's family may try to seek revenge.

During the patient's first five days in the hospital there was no communication whatsoever between the hospital staff and the family. All of the information concerning the patient's condition, visiting hours and medical updates was furnished by the security guards resulting in what could be termed "police" control of the medical information which was totally unwarranted.

The actual medical updates were only communicated to two persons designated by the family to speak with the hospital staff and subsequently to pass the information on to the rest of the family. The surgeon who operated on Salvador was the only physician who communicated directly with the family in a normal way to provide them with all the necessary explanations.

The patient's condition worsened on August 6th and a physician informed Salvador's wife that her husband's health had taken an irreversible turn for the worse. At half past four in the afternoon, one of the representatives designated by the family attended a meeting with the medical team to receive the latest information given that they had not received any updates since the physician had spoken to Salvador's wife. At that point, several national police units came to the hospital, four officers guarding the hospital entrance and the rest forming a ring around the group of family members.

This led to a number of verbal exchanges in which family members rebuked the officers for this excessive show of force while realising that this may have meant that Salvador had died, information which should have been communicated to them by the hospital staff.

When the family representative received confirmation of the death, he first spoke to Salvador's wife and son and then to the rest of the relatives who were not given any further information over the following four hours. Hence, one of the family members approached a nurse to inquire about what needed to be done to move the body because no one had given them any instructions in this re-



gard. The nurse reported that an autopsy would have to be performed but gave no indication as to when. Following the nurse's instructions, the family waited for further information in a room adjacent to where the body was being held.

However, at 11 p.m., a security guard told them that they would have to leave that room because he had to lock the hospital. The family asked permission to conduct a wake in the hospital chapel but this request was also denied under the pretence that it too had been closed for the night. In the end, thanks to the mediation of the security guard, the hospital administration allowed a reduced group of family members to stay in a small room adjacent to the emergency room. The other family members and friends, believing that the body would be released to them during the course of the night, had to wait outside the hospital which was under strict police surveillance.

That night the hospital failed to provide any information on the formalities to be undertaken or the time of the autopsy even though they were well aware of these because they had been determined by the court the day before. The family members had to wait until noon to receive the remains of the victim amidst strict security measures.

The Fundación Secretariado Gitano contacted the hospital to communicate all of these facts and called on them to adopt appropriate measures to put an end to discrimination, to improve sensitivity to cultural diversity and to make things easier for Roma families, hospital staff and the rest of the hospital patients.

The FSG also offered their services to the hospital in the lending of technical social-healthcare assistance with a view to providing the Roma community with better access to health resources but received no response at all from the hospital which prompted the lodging of a complaint before the patient affair service. In the end, the administration responded in March 2006 offering a meeting to address the subject of the Roma community's access to healthcare resources on an equal footing with everyone else.

At that meeting held with different hospital officials, they apologised for what had happened affirming that it was due to a lack of familiarity with the Roma community and they expressed their interest in undertaking training initiatives for hospital staff.



FUNDACIÓN SECRETARIADO GITANO  
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CIF: G-83117374

Santiago de Compostela, a 24 de agosto del 2005

Estimado Sr. Director,

Nos dirigimos a usted en nombre de la Fundación Secretariado Gitano (FSG), una entidad social sin ánimo de lucro que trabaja para la promoción de la comunidad gitana y presta asistencia jurídica a las víctimas de discriminación étnica.

Como sabe, a raíz de los sucesos ocurridos entre dos familias pertenecientes a la comunidad gitana de Lugo, Salvador C, uno de los heridos que permaneció ingresado en la U.C.I. del Centro hospitalario Xeral Calde durante un mes y medio, falleció el pasado día 6 del corriente.

En primer lugar, queríamos destacar el comportamiento ejemplar y las medidas extraordinarias que han sido tomadas por el personal de su centro para salvar la vida de Salvador C. Pero, a pesar de ese gran esfuerzo médico, desde la FSG, nos gustaría expresar nuestra preocupación por ciertos comportamientos y actitudes de carácter prejuicioso que han tenido lugar hacia la familia del fallecido por parte de algunos miembros del personal hospitalario, lo que podría constituir un supuesto de discriminación directa recogido en la Directiva 2000/43 y la ley 62/2003.

En este sentido, nos gustaría informarle de que durante el tiempo que Salvador permaneció en la U.C.I., sus familiares aseguran que, en los primeros días de hospitalización, la comunicación con los facultativos que trataban al paciente no fue la más adecuada, ya que la información fundamental sobre su estado de salud, los horarios de visita y los horarios de los partes médicos eran comunicados por los vigilantes de seguridad y no por el personal médico correspondiente, produciéndose un control "policia" de la información médica sin justificación aparente.

Esta anómala situación se repitió también en la manera de comunicar a la familia el fallecimiento de Salvador C a las 16.30 horas del pasado 6 de agosto. Según la familia, ésta es la única información que, en medio de fuertes medidas de seguridad, se les proporcionó hasta el domingo a las 11.30h, cuando les fueron entregados los restos mortales, sin haber recibido ninguna notificación sobre los trámites de la autopsia y la hora en la que ésta se iba a realizar, a pesar de que había sido fijada por el juzgado el día anterior.

Asimismo, y como consecuencia de la desinformación sobre la autopsia, los familiares del fallecido sostienen que cuando solicitaron un lugar para velar el cadáver, se les negó el acceso a la capilla del centro, alegando que estaba cerrada, por lo que, la mayor parte de la familia tuvo que permanecer en las puertas del centro a la espera de los restos mortales, siempre custodiados por la policía.

Por todo ello, desde la FSG nos dirigimos a usted con el fin de rogarle que tome las medidas oportunas para evitar las actitudes prejuiciosas y potencialmente discriminatorias en los profesionales sanitarios de su Centro, así como para prevenir nuevos conflictos en el futuro y garantizar una atención adaptada a la diversidad de clientes del sistema hospitalario (garantizar el derecho a una información comprensible sobre la situación de los familiares ingresados; capacitar y apoyar a profesionales sanitarios en el conocimiento y la relación con los pacientes gitanos y sus familias; incorporar en los equipos de atención al paciente perfiles expertos en el trato con minorías y la mediación intercultural, etc.)

En este sentido, nos gustaría informarle de que la FSG presta labores de asistencia técnica en el ámbito socio-sanitario para promover el acceso de la población gitana a los recursos de salud, por lo que nos ponemos a su entera disposición para tratar con mayor profundidad este asunto, y colaborar en todo lo relacionado con la promoción de la igualdad de trato y la atención a la diversidad cultural.

Atentamente,

Director Territorial – Galicia  
Fundación Secretariado Gitano



DIRECCION MEDICA

Lugo: 20- Marzo- 2006.

FUNDACION SECRETARIADO GITANO.  
Ronda del Carmen, 50 entpl.C.  
27004. Lugo.

Estimados Señores:

Con fecha de 13 de Marzo del año en curso, se me hace llegar desde el Servicio de Atención al Usuario, el escrito que ante él, han presentado, con el fin de manifestar su descontento en relación con el ingreso hospitalario de Don Salvador C. y ante la ausencia de respuesta por parte de la Dirección de este centro.

En Octubre de 2005, el equipo directivo de nuestro centro se ha renovado, y entiendo que este pudo haber sido el motivo de la falta de respuesta. Siendo de relevante importancia el tema que plantean, considero que se merece que podamos tratarlo personalmente, y para ello les emplazo a realizar una reunión entre dos o tres representantes de su Fundación, y yo misma, como responsable del centro hospitalario.

A la espera de su decisión, quedo a su disposición.

Atentamente,

Margarita López Rouco.  
DIRECCION MEDICA.

000083



O.J.D.: 141547  
E.G.M.: 652000

La Voz de Galicia

Fecha: 07/08/2006  
Sección: GALICIA  
Página: 11

La víctima permaneció más de un mes en la unidad de vigilancia intensiva del Hospital Xeral

## Fallece el hombre tiroteado en una pelea en el barrio gitano de Lugo

Una decena de agentes tuvieron que controlar el acceso al centro médico

LA VOZ | LUGO  
Pasadas las cuatro de la tarde de ayer falleció en el servicio de vigilancia intensiva del Hospital Xeral de Lugo Salvador Cortiñas Montoya, de 47 años, vecino de Lugo. Se trata del hombre que resultó gravemente herido por un disparo en el abdomen en el transcurso de una pelea que tuvo lugar el pasado 26 de junio en el poblado gitano de O Carqueixa.

Durante más de un mes, la víctima estuvo luchando contra la muerte. Fue operado en un par de ocasiones debido a la gravedad de las lesiones ocasionadas por el disparo. El fallecimiento hizo que se concentrasen en la tarde de ayer, ante las dependencias del hospital, un gran número de miembros de la comunidad gitana lucense. Se registraron numerosas escenas de dolor. Hasta el hospital fueron desplazadas unidades de la Guardia Civil y de las policías

autonómica, nacional y local. En total, más de una decena de agentes controlaron el acceso a diversas dependencias hospitalarias para evitar incidentes. A últimas horas de la tarde de ayer todavía no se conocía cuándo sería enterrada la víctima.

### Pelea entre dos familias

Salvador recibió el disparo en el transcurso de una pelea a la que él era totalmente ajeno. Era entre dos familias que se enfrentaron a tiros en la tarde del 26 de junio. En la refriega resultaron heridas tres personas, entre ellas un niño de 11 años que recibió un balazo de rebote. Más graves fueron las lesiones que sufrieron dos adultos, aunque acabaron siendo dados de alta tras permanecer ingresados algún tiempo en el Hospital Xeral. Salvador Cortiñas, en cambio, no pudo abandonar en ningún momento la unidad de reanimación.



Las fuerzas de seguridad vigilaron ayer los accesos al hospital

Tras el tiroteo, los autores de los disparos escaparon por temor a posibles represalias. Sus casas aparecieron completamente destruidas días después. Del poblado llegaron a escapar hasta cincuenta personas, según algunas referencias.

De acuerdo con algunas versiones, las fuerzas de seguridad se encuentran en estado de máxima alerta porque el fallecimiento de Salvador podría

llegar a desatar enfrentamientos en el seno de la comunidad gitana, cuyos miembros están casi todos emparentados entre sí. Es posible que, en algún momento, haya venganza por parte de los afectados.

El fallecido era hermano del patriarca de la comunidad gitana de Lugo. Éste expulsó en las últimas semanas, al parecer, a los más conflictivos del poblado de O Carqueixa.



## CASE 24. Discrimination in Education

A Roma student in his first year of compulsory secondary education had accumulated 12 incident reports for disruptive behaviour in a school in Castilla y Leon. These were minor offences such as spitting in the hallway or leaving his mobile phone turned on while in class, but after the third conduct offence a disciplinary file was opened and his case was taken to the School Council. One of the school's teachers was put in charge of this file and she drew up a report on the student's conduct based on input from the boy's teachers, classmates and organisations such as the Fundación Secretariado Gitano which had conducted a survey at that school on Roma students undertaking secondary studies. The information gathered by the teacher showed that the student was widely accepted and well liked by his classmates and teachers and that they respected and valued him despite the fact that he was academically below grade level, overactive, mischievous and very impulsive. Specifically concerning the boy's possible expulsion from school as a disciplinary measure, the FSG made the following observations:

- School is an important place of reference for the boy where he has relatives and friends and a suitable relationship based on trust with the teaching staff.
- School is a key element in the student's socialisation process: The research conducted at the school by the FSG (ranking and sociometry tests) showed the important role played by school in the boy's life and his positive relationship and interaction with the rest of his Roma and non-Roma classmates.
- Of the school's eight Roma students, this particular boy is the one with the lowest rate of absenteeism, especially when compared with the previous year when his attendance was very irregular. Thus, very positive progress is taking place and this should be borne in mind.
- The majority of the teaching staff is against permanent expulsion of the student and consider that his remaining in school is fundamental in terms of his motivation and educational development.
- The FSG was also against permanent expulsion for reasons of proximity to the family home. Transfer to a school further away would lead to absenteeism and school dropout.
- The boy, his family and the local Roma community in general are very familiar with the school's facilities, the teachers and the way it operates thus providing a degree of trust far superior to that which could be expected with any other secondary school.
- By remaining in the school the boy could continue to develop a series of group actions forming part of a tutoring programme specially designed to





foster motivation, permanence and the mainstream integration of Roma students at the school and in compulsory education.

- Bearing socio-family characteristics in mind, the boy's community would not understand a change of schools and would not support this measure for the reasons outlined above.
- As for the reaction of the Roma community as a group in the neighbourhood, expulsion would be viewed negatively and this perception would be generally extrapolated to the entire educational system as it relates to Roma thus having repercussions on the attendance rate of the rest of the students already enrolled and the incorporation of new students in future years.
- The students conduct, while reproachable and meriting some sort of corrective measure, cannot be considered overly serious, it does not put co-existence with the rest of the students and teachers at risk nor does it jeopardise the level of instruction received by the boy's classmates.
- For all of these reasons, the FSG feels that transfer to another school would not be in the student's best interests and would therefore constitute an infringement of Art. 35 of Chapter V, Title II of the school's governing regulation.

Bearing this and other opinions in mind, the teacher assigned to this case submitted a very upbeat report to the School Council (composed of six teachers, three parents of students, three students and non-teaching personnel) which clearly opposed the permanent expulsion of the student. The Council chairman, also the director of the school, likewise opposed taking drastic measures against the student, although he did support temporary expulsion for having accumulated so many conduct slips. During the course of the meeting, however, one of the mothers on the Council argued in favour of permanently expelling the student, claiming that she knew him well from the neighbourhood and that everyone knew "Roma are troublemakers". She then went on to make a series of clearly discriminatory comments about the Roma community as a whole which had nothing to do with the case at hand. This observation was noted by the school director who declared this council member's comments to be struck from the record. Despite that, the Director's proposal to only temporarily expel the student was voted down by an eight to three margin with one abstention meaning that the student would have to change schools.

The director, the studies director and the teacher responsible for drawing up the report expressed their disagreement with the measure taken which they felt had been influenced by the boy's ethnic origin. However, the Provincial Education Directorate recommended that the FSG not file any sort of appeal given that this tactic would surely fail and could have negative effects on the way other students at the school were treated and hinder the work that the Foundation was doing there.



In the end, the Education Department of the Castilla y Leon Regional Government issued official notification of the change of school and informed the family that on 29 April their son must report to the new secondary school to which he had been assigned.

Today that student is formally enrolled in his new school but his absenteeism and failure rates are alarmingly high showing that the measure adopted by the school council was the least appropriate. Moreover, the teacher in charge of the case had to go on medical leave for depression resulting from the harassment she suffered at the hands of a small group of fellow teachers for the report she submitted. In the end, this teacher filed for a change of schools and today is teaching at a school in a different Autonomous Community.

**Art. 35.** En el caso de la medida correctora de cambio de centro, sólo podrá adoptarse cuando se considere que puede ser beneficioso para el alumno o alumna, por mejorar sus oportunidades de continuar con aprovechamiento su proceso formativo, siendo la permanencia en su propio grupo de carácter muy perjudicial para el aprovechamiento del proceso formativo del resto de sus compañeros y compañeras.  
El Consejo Escolar debe especificar de manera detallada la necesidad de esta medida.





RECEIVED  
6/5/2005  
13:15:00  
2005/05/06  
2005/05/06

ASUNTO: Cambio de Centro por Expediente disciplinario

Ante la solicitud de *cambio de centro* para el alumno [REDACTED] de 1º de la E.S.O., por resolución de un Expediente Disciplinario en el I.E.S. [REDACTED] de [REDACTED] que fue aprobado en el Consejo Escolar el día 14 de Abril de 2005, esta Inspección Educativa a través de la Comisión de Escolarización de la ciudad de [REDACTED] comunica, de acuerdo con los criterios establecidos a tal efecto, que tiene que escolarizarse en el I.E.S. [REDACTED] a partir del 29 de Abril de 2005, para seguir estudiando 1º curso de la E.S.O.

Por lo tanto, se deberá:

- Comunicar a los padres o tutores del alumno que tiene que acudir al I.E.S. asignado para continuar los estudios que estaba realizando.
- Informar a la Dirección del I.E.S. [REDACTED] de Salamanca sobre los aspectos que sean necesarios para corregir la conducta del alumno y para que su escolarización sea la más correcta y adecuada.
- Proceder al traslado de matrícula y expediente a solicitud del IES [REDACTED] una vez matriculado el alumno en dicho centro educativo.

[REDACTED] 28 de Abril de 2005

El Director Provincial



Fdo: [REDACTED]

SR. DIRECTOR DEL I.E.S. [REDACTED]



## CASE 59. Discrimination in the Media / Internet

In the wee hours of the morning of 10 July, a fight broke out in a bar located in the El Barriles Park in the town of Aranda de Duero, allegedly the result of the manager's refusal to serve several Roma customers. In addition to material damage, a Roma man suffered serious injury from a stab wound and the owner of the bar was arrested as the suspected perpetrator amidst strong security measures for fear of a lynch mob taking justice into its own hands.

A few days later a fire broke out at that same bar which, according to police sources, was unrelated to the 10 July altercation, the motive possibly being robbery. The criminal investigation concluded with the identification and arrest of the author of this latter crime who had no family ties whatsoever with victim. Despite this fact, a certain sector of the Aranda de Duero population, supported by certain local media, considered the fire an act of revenge for the stabbing and this caused a very tense climate in the town and a dangerous collective reaction against the entire Roma community, prompting a rehashing of a series of earlier incidents involving Roma minors but which were totally unrelated with the fight.

It was within this context that different Internet forums and SMS messages were employed to call for a protest against the Roma community at the town's outdoor market and a boycott of the Roma mobile traders. In light of the situation, the mayor called a meeting of different Roma and non-Roma neighbourhood representatives with a view to relieving some of the pressure and a large number of police officers were deployed on the date set for the protest. There were no incidents at the market that day, the only consequence being fewer patrons.

Despite the unsuccessful protest, numerous racist messages continued to be disseminated via Internet forums inciting hatred and, in some cases, violence against the Roma community, calling time and again for their expulsion from Aranda de Duero for supposedly being responsible for all of the town's security problems.

The Fundación Secretariado Gitano reported the content of the messages emerging in a number of different Internet forums to the Castilla y Leon public prosecutor's office and requested an investigation for possible infringement, inter alia, of Art. 510 of the Spanish Criminal Code.

The local criminal court of Aranda de Duero initiated investigative proceedings in relation to the case but in the end the FSG's request was provisionally shelved given the difficulty in determining who was responsible for the hate messages. This harassment against Aranda's Roma community continued in these same forums over the next several months, fanning the fires of tension initiated in July. Specifically in the month of August an anonymous letter addressed to the Aranda Roma Association was disseminated, calling on that organisation to work within the Roma culture to eradicate Roma racism, accusing them of robbery, assault and aggression.



While the violence of the messages appearing on some of the forums declined thanks to an internal control system, rejection of the Roma community continues to be the norm and in December posters were put up around Aranda with the following text:

"Help needed to fight beatings, intimidation, threats and abuses suffered at the hands of the gypsies. Court hearings pending, TEL: 687 522 047. If you have suffered this sort of aggression, call this number.

On 8 December 2005 an Aranda citizen of Roma origin suffered physical aggression for removing one of those posters. A group of people beat this man and hit him with a baseball bat causing injury to an eye and head area and he had to be sent to the emergency room

The victim filed charges in relation to the beating and the case is pending resolution in the courts..

## El alcalde reúne a gitanos y vecinos para rebajar el clima de tensión

De cara a la posible manifestación convocada vía internet y sms para hoy afirma que los cuerpos policiales están alerta ante posibles incidentes y el orden público estará asegurado

«El herido por arma blanca continúa ingresado en la UVI del Hospital General Yagüe de Burgos pero evoluciona de forma favorable y ha experimentado una mejoría».

J.C.O./V. ROMERO / ARANDA  
El alcalde de Aranda de Duero, Ángel Guerra, reunió la noche del pasado jueves a representantes de algunas asociaciones de vecinos de la ciudad, de la Asociación Gitana Arandina (AGA) y a familiares del ciudadano de etnia gitana herido por arma blanca en la rejería del Parque de El Bartillo para tratar de rebajar el clima de tensión que se vive en la capital ribera a raíz de este lamentable incidente y del posterior incendio del bar municipal.

Una reunión en la que el primer edil asegura que amarcó el compromiso de «buscar entre todos una solución adecuada y dialogada» y en la que los representantes gitanos prometen mediar ante los miembros de su comunidad «para que estos temas no vuelvan a suceder».

Guerra, que comprendió hasta cierto punto que los ánimos están soliviantados, hizo un llamamiento a la calma a la población, abogando por dejar actuar a la justicia. «Pido tranquilidad, que no quiere decir debilidad, sino fortaleza ante situaciones complicadas. Las fuerzas de seguridad del Estado han cumplido con su función, han detenido a la persona que quemó el Barrión, el juego sigue su curso y es el que tendrá que decidir todo lo que corresponde en cuanto a las consecuencias penales», manifestó.

Respecto a la manifestación convocada para hoy a las 10,30 frente al Ayuntamiento a través de internet y mensajes sms, pidió que se calmen



Un importante número de los puestos del mercadillo están regentados por ciudadanos de etnia gitana. (VÍDEO SANTAMARÍA)

los ánimos. En cualquier caso subrayó que la convocatoria carece de permiso e hizo hincapié en que los cuerpos policiales están coordinados y preparados para actuar ante

cualquier incidente. «El orden público está asegurado», afirmó.

Por otra parte, ayer en la sede de AGA, varios de sus miembros, acompañados por representantes del Se-

cretariado General Gitano y de la Asociación de Mujeres Gitanas y Payas (MAGP), expresaron su preocupación por la situación y la necesidad de dar el tema por zanjado para acabar con el clima de negativismo y tensión que se ha vivido en los últimos días.

Los portavoces de la comunidad gitana insistieron en que no se debe permitir que un reducido grupo de fanáticos o delincuentes empujen la convivencia de Aranda y que no se debe juzgar al colectivo por unas cuantas personas. Además, afirmaron estar dispuestos a colaborar con la policía en todo lo necesario y negaron que se hubieran producido amenazas a los vecinos cercanos al presunto autor de la agresión con arma blanca por parte de miembros de su comunidad.

### El mercadillo se montará con normalidad

Aunque algunos de los vendedores ambulantes que ponen su puesto en el mercadillo de la Plaza Mayor consideran que celebrar hoy una manifestación en este punto sería una provocación y confían en que los cuerpos de seguridad actúen ya que sería ilegal, los representantes de la comunidad gitana declararon que solo quieren desarrollar sus vidas con normalidad y dejar de sentirse acosados y que la solución es que todo quede en manos de la justicia.

Así mismo manifestaron su intención de continuar hoy como cada sábado con su labor en el mercado al margen de las informaciones que apuntan a que puede producirse algún altercado. «No queremos entrar en ningún tipo de discusión ni enfrentamiento con nadie. Y si hay algún incidente, la policía se encargará», aseguró Luis Miguel Lizárraga, mediador intercultural del Secretariado General Gitano.



**EXCMO. SR,**

[REDACTED], en nombre y representación de la Fundación Secretariado Gitano (en adelante FSG), con CIF.- G-83117374, ante **V.I.** comparezco y como mejor proceda en derecho **DIGO:**

Que en la madrugada del día 10 de julio tuvo lugar una pelea en un bar del Parque El Barriles de la localidad de Aranda del Duero, ocasionado por la negativa del gerente de dicho establecimiento a servir una consumición a varias personas de etnia gitana

Que el altercado se saldó con una persona de etnia gitana herida de gravedad por arma blanca, apuñalamiento presuntamente ocasionado por el dueño del establecimiento

Que con posterioridad a estos hechos, se produjo un incendio del establecimiento del presunto autor del apuñalamiento que, según fuentes policiales, no guarda relación con el altercado del domingo, y cuyo móvil pudo ser el robo

Que el presunto responsable del incendio ya ha sido identificado y detenido por la policía

Que, a pesar de ello, cierto sector de la población considera el incendio un acto de represalia por el apuñalamiento, lo que ha generado un clima de enorme tensión en la localidad, y una peligrosa reacción ciudadana en contra de toda la comunidad gitana

Que, por todo ello, a través de distintos foros de Internet y de mensajes de móvil se convocó una manifestación de protesta en el mercadillo de la localidad, así como el boicot a los vendedores ambulantes gitanos

Que a pesar del fracaso de dicha convocatoria, continúan difundiéndose en diversos foros de Internet numerosos mensajes de marcado carácter racista (se adjunta copia como anexos 1 y 2), que incitan a la violencia y el odio contra la comunidad gitana, y que podrían ser constitutivos de delito, siguiendo lo dispuesto en el artículo 510 del Código Penal español.

Por todo lo expuesto,

**A V.I. SOLICITO** que tenga por presentado este escrito, se sirva admitirlo, y adopte cuantas medidas sean necesarias para el esclarecimiento de los hechos y las actuaciones a que haya lugar conforme a Derecho.

Madrid a 20 de Julio de 2005

**-EXCMO. SEÑOR FISCAL JEFE DEL TRIBUNAL SUPERIOR DE JUSTICIA DE CASTILLA Y LEÓN-**





Publicado: Mar Jul 12, 2005 7:47 pm Asunto:

... !! QUE METAN EN LA CARCEL A LOS PARÁSITOS INSOLIDARIOS Y RACISTAS DE LAS GITANOS !!  
PROPONGO UNA PLATAFORMA CÍVICA EN DEFENSA DE LAS BUENAS GENTES TRABAJADORAS. SIN AMBIGÜEDADES, CON SALERO, Y A VER QUIEN TIENE MAS COJONES, !! YA ESTA BIÉN !! O NOS UNIMOS O NOS MASACRAN, SEGURO.

(...)

Publicado: Mie Jul 13, 2005 11:52 am Asunto:

Si los cuerpos de seguridad no hacen nada tendremos que hacer algo nosotros. Estamos hasta los cojones de los gitanos, estamos hasta los cojones de que siempre vayan haciendo lo que quieren quedando impunes, estamos hasta los cojones de que conduzcan sin seguro, sin carnet, ... ¿Cuándo va a haber un político que le heche un par de huevos y aplique las mismas leyes para los gitanos que para nosotros?

Repito: Se está preparando algo gordo, nos vamos a defender, no nos vamos a quedar parados viendo como nos pisan, y si la policía no quiere hacer nada allá ellos.

ESTAMOS HASTA LOS COJONES DE LOS PUTOS GITANOS, sí, soy racista, me han hecho serlo ellos. \*\*\*\*\*

Publicado: Mie Jul 13, 2005 1:22 pm Asunto:

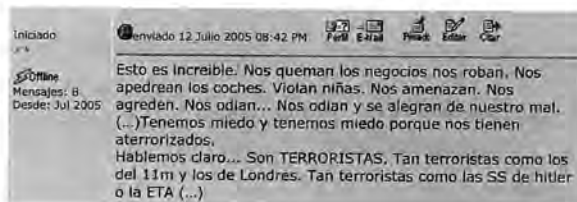
(...)

Estoy en contra de todo tipo de violencia pero apoyo al dueño del bar, no por ser gitano se es un ser superior o tienes permiso para hacer lo que te venga en gana espero que el hombre salga libre y todos estos gitanos en la cárcel o fuera de aranda para siempre

si soy racista pero solo con los gitanos ojala les manden a todos en una isla y quiten el tapon.

(...)

Gitanos fuera de aranda!!!



Enviado 14 Julio 2005 05:38 PM

yo opto por la opción de no bajar al mercadillo.

## muerto el perro muerta la rabia

Enviado 14 Julio 2005 05:40 PM

## NO AL MERCADILLO EN ARANDA!!!! NO AL MERCADILLO EN ARANDA !!!

Enviado 15 Julio 2005 05:30 PM

...prácticamente todos tenemos experiencias malas con los gitanos, y no porque los hayamos buscado precisamente... tienen una actitud respecto a los "payos" de odio y de sentimiento de superioridad sobre nosotros q técnicamente se llama RACISMO.... Está claro q hay gitanos "civilizados" pero se pueden contar con los dedos de las manos... y ojalá me equivocara y todos fueran bellísimas personas... pero no es así. Son educados desde pequeños para despreciarnos... y yo al sentirme despreciado y humillado por ellos no puedo más q sentir odio de igual forma hacia ellos... y no es un odio injustificado sino un odio de defensa

Enviado 18 Julio 2005 07:55 PM

Es verdad eso de que les van a dar 11 millones por abandonar sus pisos del Orfeón?  
Mientras al resto de la gente le cuesta un huevo llegar a fin de mes a esta gentuza se les regala un piso y, ahora se les va a pagar por irse de uno pisos de protección oficial que ellos mismos han destrozado?  
Dónde se les va a realojar? Se les va a regalar otro piso?  
Tienen gratis los libros, comedores, transporte, no pagan agua, luz, no pagan nada por los puestos del mercadillo de la plaza... hasta cuando vamos a aguantar esto?

Enviado 19 Julio 2005 12:37 PM

Lo de darles 11 millones de pts me parece el colmo!!!!  
Los verdaderos racistas son los gitanos!!!!  
No quiero ninguna otra agresión de estos indeseables. Hay que hacer algo!!  
P.D : Espero que esto no sirva para que resurga ese pequeño movimiento neonazi que parece que se ha disipado.



## CASE 39. Discrimination in Goods and Services

On 21 May 2005 at the Cordoba Fair a group of women, most of whom were Roma, approached the stand sponsored by a local media where they were served drinks under completely normal conditions. However, once they had been at the stand for a little over half an hour, one of the waiters came over to inform them that they could not stay any longer and that his boss “had sent him over to kick them out”.

One of the women wanted to know the reason that they were no longer welcome at the stand given that they had not caused any problems and had paid for what they had ordered. The messenger acknowledged that this had nothing to do with their behaviour but that his boss had ordered that no Roma be allowed to enter and that “he was just following orders”.

Amidst cheers from some of the other patrons, the group decided to leave the stand feeling humiliated and offended by the treatment they had received and when they asked for the complaint book they were told that it was not available at that time.

Similar events were denounced at three other stands by several NGOs which criticised the spread of racist and discriminatory practices against immigrants and Roma, calling for the closure of these premises in a letter to the Cordoba Town Hall. The Deputy Mayor for Fairs and Celebrations issued a warning to these stands, both in writing and verbally, that they were to serve all people and could only limit entry when they were full.

The version of the story portrayed on local television, however, is very different from that of the victims. The stand owner insisted that that night he was told that a group of people was bothering other customers because they were taking up the entire dance floor, not letting anyone else use it. He also admitted having told one of his employees to ask this group of women to leave but only for that reason and further stated that he had not met the women personally.

The following day when two of these women contacted him for having ordered their expulsion based on their Roma ethnicity, he apologised for the misunderstanding but denied having issued that order. The waiter also denied these allegations when his boss called him on the phone to find out what had happened, claiming that he simply asked them to leave for causing a raucous and specifically told them that this had nothing to do with their being Roma.

After this brief interview, the affected parties approached the FSG to present the case and expressed their intention of filing a complaint given that the perpetrators had not acknowledged any discrimination nor had any apology been offered. Despite the explanations offered by the owner, the women felt that they were thrown out because the stand was filling up and a group of Roma could “scare away” these customers because when the place was empty there were no problems.





A complaint was lodged before the National Police and one of Cordoba's local criminal courts initiated a preliminary investigation of the case thereafter notifying the complainants that the facts did not seem to constitute a criminal offence and therefore ordered the provisional closure of the proceedings on 23 November 2005.

However, those proceedings did not include declarations from any of the eye-witnesses to the incident therefore prompting the accusation, represented by a Roma lawyer employed by the FSG, to file an appeal for amendment against the order to close the case.

The arguments set out in that appeal once again ran through the facts, insisting on the discriminatory behaviour of the waiter and requesting that the investigation be continued given that the normal and habitual proceedings for cases of this sort were not carried out thus making it impossible to determine whether a criminal act had indeed been committed.

Despite this, the appeal for amendment was dismissed and the prosecution therefore filed a new remedy of appeal on 30 January 2006 before the Provincial Court of Cordoba for failing to have taken witnesses' statements as requested. On 1 March 2006, this latter appeal was also dismissed. The court argued that even if witness statements were taken, there were still a number of doubts which called for concluding the investigation applying the *in dubio pro reo* principle.



AL JUZGADO DE INSTRUCCION NUMERO TRES DE CORDOBA

D. [REDACTED], Procurador de los Tribunales y DOÑA [REDACTED], según consta acreditado en las Diligencias Previas nº [REDACTED] de este Juzgado, y bajo la dirección jurídica del letrado del Ilustre Colegio de Abogados, Marcos Santiago Cortés, ante el mismo comparezco y DIGO:

Que con fecha 23 de Noviembre de 2005, se nos ha notificado auto de fecha 22 de noviembre de 2005, por el que se acuerda el archivo de las presentes diligencias.

Entendiendo que dicho auto es perjudicial para los intereses de la perjudicada en esta causa, interponemos contra el mismo en tiempo y forma RECURSO DE REFORMA, que fundamento en las siguientes

#### ALEGACIONES

**PRIMERO.-** Esta parte considera que aún no hay datos suficientes para considerar que los hechos expresamente denunciados no son constitutivos de infracción penal. Según denuncia presentada por mi defendida, [REDACTED], el día 22 de Mayo de 2005 ante la Comisaría de Policía de Córdoba, en la pasada feria de Córdoba ella y sus amigas de etnia gitana fueron humilladas por la dirección de la caseta donde se encontraban bailando donde haciendo gala de su idiosincrasia gitana, efectivamente estaban bailando con sus hijos menores en el tablado de la caseta, reservado precisamente para bailar (¿es malo bailar en feria?). Fueron expulsadas, por el mero hecho, según palabras textuales del portero de la caseta, de que la dirección no quería clientes de etnia gitana porque presumiblemente daban mala imagen al negocio y el hecho repercutía en la caja económica de la misma, (por supuesto este individuo no ratificó este motivo en la declaración ante este juzgado). En la instrucción de esta causa, sólo se ha tomado declaración a la denunciante, que se ha ratificado en su declaración ante la policía y al dueño del negocio, que curiosamente ha negado los hechos argumentando, como se puede comprobar en su declaración, que: estaban armando jaleo bailando en el tablado (que es precisamente a lo que se debe ir a la feria, vamos) y ordenó al portero que las echara a la calle. Esta parte formula un interrogante que puede clarificar la conducta racista del jefe del negocio: En el caso que fuese cierto que "armasen jaleo", algo por otra parte muy normal en feria, ¿porqué no se les dio un aviso, una oportunidad de que

cambiaran de actitud? ¿Porqué esa prisa en expulsarlas de la caseta?. Es tristemente claro del más elemental sentido común fuente de todo sistema jurídico, que la dirección de la caseta no quería individuos que históricamente han provocado rechazo social. En otros foros, analizaríamos muy gustosos que tipo de historia es la que provocó este rechazo social.

Con todo el respeto, esta parte considera que los hechos no están lo suficientemente investigado para archivar la causa y que la instrucción de este caso aun no ha concluido, fundamentalmente porque no se han citado a declarar a ni uno solo de los testigos que presenciaron la conducta discriminatoria en la que se vieron envueltas mujeres trabajadoras que disfrutaban de su día de feria, ¿O quizás las minorías étnicas deban de bailar menos en una caseta de sevillanas? ¿Bajo que oscuro pretexto unas ciudadanas cordobesas honradas merecen ser expulsadas de una caseta pública y humilladas ante su propio pueblo? ¿Por ocupar excesivamente un tablado, como dice el jefe de la caseta en su declaración?. Yo al menos no me lo creo y este juzgado, con todos los respetos tampoco debería hacerlo.

Por ello solicitamos:

- Que se reciba declaración a las siguientes personas, testigos oculares de los hechos que pueden determinar como ocurrieron exactamente con un criterio infinitamente más objetivo que el del denunciado en esta causa y que no harán sino dar fe de lo que percibieron aquel día:

**SEGUNDO.-** Por las razones expuestas es por lo que solicitamos que se continúe con la instrucción del procedimiento iniciado y se practiquen las pruebas propuestas. Lo dicho anteriormente viene avalado por el art. 24.2 de la C.E. que otorga el Derecho "a utilizar los medios de prueba pertinentes" y que lo configura como un derecho fundamental autónomo. (STC 94/92, de 11 de junio, ) y un proceso con todas las garantías incluye el derecho del justificable a aportar los medios de prueba que considere pertinentes ( S. 26/93, de 25 de enero, FJ 4)..

Según reiterada doctrina del TC el derecho a la prueba es una de las garantías que a todos reconoce el art. 24.2 CE, derecho que el auto de archivo, niega a esta parte, pues no se han citado a declarar a los testigos de los hechos, presentes en el lugar en el momento en el que ocurrieron.



**TERCERO.-** Con el auto de archivo, que con el debido respeto hoy se recurre, se incumple el deber procesal de Instrucción. El "Ius ut Proceatur" que, en los casos de denuncia según el art. 269 LECr como es este, obliga al Juez instructor, a tenor del principio de garantía procesal penal y el principio de tutela judicial efectiva, a realizar la investigación que el caso requiera. En este sentido se pronuncian las Sentencias del Tribunal Constitucional, S. 1/85 de 9 de enero y 46/82, de 12 de julio.

**CUARTO.-** Respecto a la motivación del auto de Archivo, literalmente se dice: "De lo actuado no aparece debidamente justificada la perpetración de un delito". Entendemos que si no se practican las Diligencias de Investigación propuestas, que por otra parte, son las normales y habituales en este tipo de asuntos, no es posible determinar si existe o no infracción penal. Es en interés de la perjudicada pero también de una sociedad a la que se le avecina un horizonte global de mezcla de etnias en la que todos debemos tener cabida -incluida la feria de la Salud de Córdoba-. Con el debido respeto reiteramos que no debe darse por finalizada la instrucción de esta causa. En las circunstancias tan especiales que dieron lugar a la expulsión de unas señoras de una caseta de feria por bailar excesivamente (habrá que ver a este negociante de casetas si es capaz de expulsar con la misma decisión a los miles de jóvenes embriagados que cometen todo tipo de atrocidades y excesos en la feria) están presentes prácticamente todos los elementos del artículo 521 del código Penal que fundamentan la intervención de la vía penal y subsidiariamente, como mínimo, una falta del artículo 620,2 del mismo código. En este sentido, la Audiencia Provincial de Asturias, Sección 2ª en Sentencia de 13 de noviembre de 2000 es brillante e ilustrativa al dejar claro que la Dignidad humana está muy por encima de cualquier otro bien jurídico y que debe estar presente y latente en toda causa penal:

*"Efectivamente, si el juzgador de instancia califica de insensible y huérfano de una mínima educación la actuación de la denunciada, debiera de haber extraído la conclusión de que tal actitud constituía una vejación injusta para quien la sufría. Su dignidad (bien jurídico protegido en esta infracción del artículo 620,2 del Código Penal) tuvo que verse necesariamente lesionada, luego la falta existió y debe condenarse como autora de la misma a la denunciada, sin circunstancias modificativas de la responsabilidad, pues así se deduce de la interpretación del artículo 620,2 del Código Penal a la luz de lo establecido en el artículo 14 de la Constitución ( Los españoles son iguales ante la ley, sin que pueda prevalecer discriminación alguna por razón de nacimiento, raza, sexo, religión, opinión o cualquier otra circunstancia condicional o circunstancia social o personal)...las normas del establecimiento no pueden ir contra la letra ni el espíritu de la Constitución, sino por el contrario, si acaso, establecer una discriminación positiva...A mayor abundamiento, debe tenerse en cuenta que una conducta jurídicamente reprochable como la enjuiciada, de no tener repuesta penal, por pequeña que sea, no tendría ninguna, por lo que es necesaria- y posible- una interpretación integradora del ordenamiento jurídico.*

En el caso de estos autos, un grupo de ciudadanas de plenos derechos y obligaciones, han sido humilladas en atención a pertenecer a un pueblo que muy pocas veces en la historia dispuso de un Código Penal que contiene un tipo en el que se incluye el combatir las conductas discriminatorias hacia las minorías. Más bien, las minorías y concretamente la etnia gitana ha tenido que soportar siglos donde en el ordenamiento

regía un derecho penal de autor que anulaba la presunción de inocencia en estas personas así como "in dubio pro reo". Esta parte sabe de sobra que no estamos ante un delito de xenofobia o genocidio. No, no buscamos sensacionalismo o chivos expiatorios de conductas extremas de otros sino justicia. Humildemente creemos que una actitud que atente contra la dignidad humana, por muy pequeña que sea, no debe pasar de largo por el ámbito penal, ya sea como delito o falta. Ningún artículo del Código Penal, puede haberse escrito como adorno o símbolo de buena voluntad sino que todos deben ser armas efectivas y vivas que luchan por la paz y tranquilidad de todos y cada uno de los ciudadanos de este país. De los gitanos también. Por supuesto.

Por ello, creemos que no procede el archivo de las presentes diligencias, sino que es preciso realizar cuantas actuaciones sean necesarias para el esclarecimiento de los hechos.

Por todo lo expuesto,

**SUPlico AL JUZGADO** que tenga por presentado este escrito y por interpuesto en tiempo y forma **RECURSO DE REFORMA Y SUBSIDIARIO DE APELACION** contra la resolución que se recurre y en virtud de ello deje sin efecto lo acordado en el auto de fecha 22 de Noviembre de 2005, notificado a esta parte el 23 de Noviembre de 2005, para que esta parte pueda participar en la instrucción de la causa.

Es Justicia que se pide en Córdoba a 24 de Noviembre de 2005.





### HECHOS

**PRIMERO.-** En la causa referenciada se dictó por el JUZGADO DE INSTRUCCIÓN NUMERO TRES DE CORDOBA el auto de fecha 22-11-2.005 acordando el sobreseimiento provisional y el archivo de la causa.

**SEGUNDO.-** Contra dicho autos se interpuso por la representación procesal de doña [REDACTED], recurso de reforma y subsidiario de apelación, que fue desestimado el primero y admitido el de apelación, por igual resolución de fecha 19-01-2.006, y seguidos los trámites establecidos en el art. 787-3 de la L.E.Crim. se pasaron las actuaciones al Magistrado Ponente para su estudio y resolución.

### FUNDAMENTOS JURÍDICOS

**PRIMERO.-** Se aceptan los del auto recurrido.

**SEGUNDO.-** Apurar la investigación tal como pretende la recurrente con la toma de declaración de las personas que el día de autos le acompañaban en su diversión en la caseta de feria donde ocurren los hechos denunciados sería actuación baldía e innecesaria, pues aun admitiendo que las testigos, todas ellas amigas de la denunciante, se reafirmaran en la idea de que fueron expulsadas de la caseta por su condición o pertenencia a la raza gitana, en nada haría variar la decisión de sobreseer las diligencias ante la negativa por parte de los denunciados de haber invitado a la denunciante y a sus amigas a dejar citado recinto por las razones que éstas aducen, sino, como sostienen aquéllos, por molestar a los demás usuarios de la caseta, por ocupar casi todo el escenario destinado a baile y por no controlar a los niños que igualmente estaban con citadas mujeres.

En definitiva, a la vista de las circunstancias concurrentes y del entorno de diversión en que los hechos se desenvuelven, las dudas que ahora asaltan a esta Sala embargarían igualmente al Tribunal sentenciador, por lo que razones eminentemente prácticas y de economía procesal aconsejan poner termino ya al presente procedimiento bajo la influencia anticipada excepcionalmente del *in dubio pro reo*, debiéndose, en consecuencia, confirmar el auto



impugnado con declaración de oficio de las costas de esta alzada.

Vistos los artículos de pertinente y general aplicación al caso, las **Sala ACUERDA: Desestimar el recurso de apelación interpuesto por la representación procesal de doña [REDACTED]** contra el auto que en 19 de enero de 2006 dictó el Juzgado de Instrucción nº 3 de Córdoba en Diligencias Previas nº [REDACTED], y en su virtud confirmar meritada resolución con declaración de oficio de las costas de esta alzada.

Devuélvanse las actuaciones al Juzgado de procedencia con testimonio de esta resolución, para cumplimiento de lo acordado, archivándose el rollo.

Este auto es firme y contra el mismo no cabe recurso.

Así, por este auto, lo acuerdan, mandan y firman los Ilmos. Sres. que lo encabezan. Doy fe.



## CASE 10. Discrimination in Justice

On 6 September 2004 a Roma woman filed charges against a local police officer in Zaragoza for threat and coercion. According to her version, the police officer (who was off-duty at the time) approached the FSG service user at her market stand and threatened her by saying that she would be sentenced and would lose everything in a court hearing in which she and the officer were involved. The officer told her that the owner of the workshop where the events giving rise to the hearing had taken place, was a close friend of his and that he had testified in the officer's favour for that reason. He concluded with the threat "we're coming after you and I get paid 30 euros for every hearing I am called to attend".

The officer was referring to a legal proceeding which was still under way at that time for events which took place in 2003 in which the woman filed charges against this and another police officer for bodily injury, also affirming that during the arrest she had been treated in a disparaging manner due to her ethnic origin although this latter instance of discrimination did not form part of the formal complaint. In the company of her husband, the woman went to the car dealership where she had left her van the day before for a repair estimate and the maintenance record of the vehicle which the head mechanic said he would provide the following day. However, when the woman asked for those papers, the boss of the dealership refused to give them to her, claiming that this was in-house documentation. The local police arrived during the course of the ensuing argument and although the dealership owners denied having called them, this was proven false at the hearing where it was found that they had alerted the police the day before because they were anticipating problems.

According to the Roma woman, one of the officers had ordered her to leave the premises and when she refused he threw her to the ground to handcuff her, hit her, forcibly pushed her into the patrol car and insulted her on their way to the hospital where medical reports showed she had suffered a broken wrist. The police also filed charges against the woman for resisting authority and bodily injury but the report they submitted as proof of the said injury was issued a few hours before the events which took place at the car dealership.

The suit filed by the Roma woman for bodily injury was dismissed but as a result of the hearing and a number of appeals filed by her lawyer in collaboration with the FSG, on 25 April 2005 she was sentenced to six months imprisonment for resisting authority and a one-month fine of 6 euro per day for a personal misdemeanour.

The FSG and the woman's lawyer share the opinion that the police officer did not use the minimum force needed to control the situation and that she would have been treated differently if she had not been Roma. Both also felt that prejudice and stereotypes regarding the Roma population, particularly in their relations with the police, may have had a significant influence on the way the judge



viewed the facts but of course this would have been very difficult to prove and therefore only a simple appeal of the judgement or a new suit for discrimination could be filed.

Having regard to the second suit filed for threats made at the market, on 4 January 2005, a Zaragoza criminal court absolved the local police officer claiming lack of sufficient evidence given that, although the complainant ratified her testimony without any contradictions, due to the proceedings under way for the events which took place at the car dealership these latter facts required extra evidence.

A remedy of appeal was filed against that decision highlighting a wealth of case law indicating that when events such as this occur in private with no witnesses, a conclusive statement and the lack of contradictions over time can be considered as sufficient evidence to issue a condemnatory judgement.

Moreover, it was argued that the requirement for extra evidence was met by the fact that the police officer acknowledged that it was true that he was paid a daily allowance of 30 euro to attend a hearing and the complainant had no way of knowing this if that information had not been transmitted by the police officer.

Despite this, on 9 March 2005 the Provincial Court of Zaragoza issued a new judgement absolving the officer given that no new evidence was submitted against him.

Just as in the previous case, the FSG and the complainant's lawyer consider these facts to be an example of the existing structural discrimination against the Roma community in the judicial sphere and believe, based on their experience, that the judgement would have been different had the complainant not been Roma nor the defendant a police officer.

The victim is still receiving psychological treatment for the trauma endured and the feeling of defencelessness and mistrust she harbours towards the judicial system.





## AL JUZGADO DE INSTRUCCIÓN DE GUARDIA DE ZARAGOZA

[REDACTED], mayor de edad, vecina de Zaragoza, con domicilio en la calle [REDACTED], y D.N.I. núm. [REDACTED], ante el Juzgado de Instrucción de Guardia comparezco y como mejor proceda, DIGO:

Que por medio del presente escrito se interpone denuncia expresa contra el Policía Local de Zaragoza con número de carné profesional [REDACTED] por los siguientes hechos que se relatan a continuación:

*PRIMERO.-* El día de ayer, mientras me encontraba en el rastro de la Plaza de Toros de Zaragoza, el denunciado, que no vestía uniforme policial me saludó por mi nombre y llamó mi atención sin percatarme yo de que se trataba de ese agente. Tras saludarlo yo educadamente comenzó a decirme que si no me acordaba de él a lo que en principio le dije que no. Comenzó entonces en tono burlón a decirme que la denuncia que yo había puesto contra él se había archivado y que iban a ir a por mí. Que por el ordenador sabía que yo tenía detenciones anteriores por "tráfico de drogas", que yo había perdido el juicio, que me había quedado con "mi paliza" y que la denuncia que yo había puesto había sido archivada. Que ellos iban a por mí y que la denuncia contra mí iba para adelante. Asimismo comenzó a decirme "¿y de la furgoneta qué?" Que aun la tenía allí, que iba a perder todo. Asimismo manifestó el denunciado que el dueño del taller era amigo íntimo de él, que el Jefe del taller le llamó el día antes de los hechos y que habían salido a favor de él porque eran amigos. Para terminar me dijo: "vamos a por ti, y de cada juicio que me citan yo gano 30 euros, mejor dicho, para que lo entiendas, mil duros"

*SEGUNDO.-* Todos estos comentarios se refieren a un procedimiento que se sigue ante el Juzgado de Instrucción 4 de Zaragoza, [REDACTED] por unos hechos acaecidos el día 26 de agosto de 2003 en el concesionario de [REDACTED]. En ese procedimiento, en el que resulté gravemente lesionada, se interpuso denuncia contra este agente y otro más, a la vez que sorprendentemente se sigue un procedimiento contra mí por resistencia a la autoridad. La denuncia por mí interpuesta, finalmente fue archivado tras los recursos pertinentes.

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Esta denuncia se interpone por las amenazas que suponen las palabras vertidas por el agente y el temor que tengo a que por el denunciado se proceda a realizar cualquier acción contra mí.

Desde los acontecimientos de agosto de 2003, he tenido que seguir tratamiento psiquiátrico y psicológico de apoyo por los acontecimientos y el maltrato recibido por la Policía Local. Estos hechos acaecidos en el día de ayer, 5 de septiembre de 2004 se quieren dejar en constancia expresa y denuncia expresa por las coacciones y amenazas que suponen, y ante el temor de represalias futuras por parte del denunciado.

Por lo expuesto,

AL JUZGADO SUPlico, Que tenga por presentado este escrito y por interpuesta la denuncia que se pretende por coacciones y amenazas.

Zaragoza, a 6 de septiembre de 2004.



## AL JUZGADO DE INSTRUCCIÓN NUEVE

[REDACTED], Procuradora de los Tribunales y de Doña [REDACTED], según consta acreditado en autos de **Juicio de Faltas** [REDACTED] que se sigue ante este Juzgado, ante el mismo comparezco y como mejor proceda en derecho, DIGO:

Que mediante el presente escrito, en tiempo y forma hábiles para ello y, de conformidad con lo establecido en el art. 976 de la L.E.Cr. formulo para la Ilma. Audiencia Provincial de Zaragoza RECURSO DE APELACIÓN contra la sentencia de fecha 4 de enero de 2005 recaída en el presente procedimiento, notificada el día 10 de enero siguiente, y todo ello basándome en las siguientes

### ALEGACIONES

**PRIMERA.-** En la propia sentencia ahora recurrida se acredita en los fundamentos de derecho que mi representada, la denunciante ratificó, sin contradicción alguna los términos de la denuncia. Ello sin embargo dice el Ilmo. Magistrado Juez de Instrucción que no es suficiente para enervar la presunción de inocencia que ampara al denunciado. No obstante, existe reiterada jurisprudencia que nos indica que en casos como el presente, en el que los hechos juzgados tienen lugar en una esfera de privacidad y en ausencia de testigos, la declaración contundente y sin contradicciones a lo largo del tiempo puede ser suficiente elemento para desvirtuar la presunción de inocencia y dictar sentencia condenatoria.

A ello debemos añadir que ante testigos o en público el denunciado no habría vertido las palabras que se le imputan, dado su conocimiento de la materia por ser Policía Local de profesión.

**SEGUNDA.-** No obstante, existe ese plus o elemento incidental que el Ilmo. Magistrado Juez de Instrucción ha pasado por alto. En el acto del Juicio de Faltas, el denunciado reconoció ser cierto que percibe unas dietas de unos 30 euros (ó "mil duros") por acudir a cada juicio que se celebra y él interviene. Este es un claro indicio de que existieron palabras dichas por el acusado a mi representada, ya que en otro caso ¿de qué va a conocer doña [REDACTED] que la Policía Local cobra dietas y en concreto esa cantidad por acudir a los juicios? En esa manifestación del denunciado existe un claro indicio de que existió el encuentro en el rastro de la Plaza de Toros y que el denunciado refirió determinadas palabras a la denunciada. Si a ello añadimos que mi representada había denunciado al Sr. [REDACTED] por unas lesiones que le fueron causadas y por las que se sigue un juicio instruido ante el Juzgado de Instrucción 4 y ahora en el Juzgado de Lo Penal 3 en el que ambas partes intervienen nos puede hacer mucho más verosímil la denuncia interpuesta por mi representada.

**TERCERA.-** Entendemos por tanto que ha existido un error en la valoración de las pruebas ya que no se han tenido en cuenta elementos probatorios relevantes como ha sido la propia confesión del Sr. [REDACTED] reconociendo como ciertos algunos de los hechos relatados en la denuncia, y negando, por el lógico ánimos de defensa los que le podían perjudicar. Por ello, cabe valorar que sí existe ese "plus" probatorio que el Juzgado de Instrucción requiere para desvirtuar la presunción de inocencia que ampara al denunciado, y a la Ilma. Audiencia solicitamos que aprecie tal error en la valoración y acceda a estimar el presente recurso.

Por los expuesto,

AL JUZGADO SUPlico, que tenga por presentado este escrito con sus copias, y a su vista tenga por formulado en tiempo y forma RECURSO DE APELACIÓN contra la sentencia de fecha 4 de enero de 2005 del Juzgado de Instrucción Nueve de Zaragoza, y tras los trámites legales pertinentes se eleven los autos a la sección que corresponda de la AUDIENCIA PROVINCIAL DE ZARAGOZA a la que asimismo SUPlico, que en su día dicte sentencia estimando este recurso y condene al denunciado Don [REDACTED] como autor responsable de una falta de amenazas y vejaciones injustas prevista y penada en el artículo 620, 2º del Código Penal a la pena de veinte días de multa con una cuota diaria de 10 euros con la responsabilidad personal subsidiaria del artículo 53.

Zaragoza, a catorce de enero de 2005





SENTENCIA NÚM. 72/2005

EN NOMBRE DE S.M. EL REY

En Zaragoza, a nueve de marzo de dos mil cinco.

El Ilmo. Sr. D. [REDACTED], Magistrado de la Sección Primera de la Audiencia Provincial de Zaragoza, ha visto en grado de apelación el Juicio de Faltas núm. [REDACTED], procedente del Juzgado de Instrucción número Nueve de Zaragoza, Rollo núm. [REDACTED] seguido por falta de amenazas, contra [REDACTED], representado por la Procuradora [REDACTED] y defendido por el letrado D. [REDACTED] en cuyo juicio es parte acusadora [REDACTED] representada por la Procuradora Doña [REDACTED].

#### ANTECEDENTES DE HECHO

**PRIMERO.** En los citados autos recayó sentencia con fecha 4 de enero de 2005, cuya parte dispositiva es del tenor literal siguiente: "FALLO.- Que debo absolver y absuelvo libremente de la falta que se le imputaba en estos autos a [REDACTED] declarando las costas de oficio".

**SEGUNDO.** Se aceptan los hechos probados de la resolución recurrida, que se dan por reproducidos íntegramente en esta alzada, en evitación de reiteraciones innecesarias.

**TERCERO.** Contra dicha sentencia se interpuso recurso de apelación por la Procuradora Doña [REDACTED] en representación de [REDACTED] expresando como motivos del recurso los que señala en su escrito; y admitido en ambos efectos se dio traslado a las partes para alegaciones, tras lo cual se remitieron las actuaciones a esta Audiencia para la resolución del recurso.

#### FUNDAMENTOS DE DERECHO

**PRIMERO.** Se aceptan en esta instancia los Fundamentos de Derecho de la sentencia apelada. En efecto, para la resolución de la litis es preciso examinar las declaraciones de la denunciante y del denunciado a los efectos de poder obtener una convicción sobre la certeza o no de los hechos objeto de controversia y proceder, en su caso, a la condena del apelado, condena cuya posibilidad está limitada en esta alzada en los términos que se dirán pues ha de tenerse en cuenta la doctrina del Tribunal Constitucional contenida, entre otras, en sus sentencias 167/2002, de 18 de septiembre, 41/2003, de 27 de febrero (BOE de 14 de marzo), 68/2003, de 9 de abril (BOE de 13 de mayo), 118/2003, de 16 de junio; 189/2003, de 27 de octubre, y 209/2003, de 1 de diciembre (BOE de 8 de enero de 2004), doctrina conforme a la cual, no obstante la extensa posibilidad revisora del recurso de apelación, cuando se ha dictado una sentencia absolutoria en la primera instancia y se solicita en la alzada la condena del acusado, ésta no puede acordarse con base a las declaraciones de testigos, peritos y acusados si el tribunal no ha presenciado dichas pruebas bajo los principios de publicidad, inmediación y contradicción y la citada condena deba basarse en una nueva valoración de esos elementos probatorios que lleve a modificar los hechos probados, doctrina que aparece de nuevo recogida, aunque ligeramente matizada, en sentencias como las números 10 y 12, ambas de 9 de febrero de 2004, la 28/2004 de 4 de marzo (BOE de 6 de abril) y las números 94, 95 y 96 de 2004, de fecha 24 de mayo (BOE de 10 de junio) en las que se insiste en que la única posibilidad de dictar una sentencia condenatoria puede basarse en la valoración de nuevas pruebas practicadas ante el Órgano de apelación o en otras que no se exijan su examen bajo los principios antes dichos, manteniéndose la anterior doctrina igualmente en la más reciente sentencias número 128/2004, de 19 de julio (BOE de 18 de agosto), 192/2004, de 2 de noviembre (BOE de 2 de diciembre) y 19/2005, de 1 de febrero de 2005 (BOE de 3 de marzo).

Por tanto, no existiendo elementos probatorios al margen de las declaraciones de los implicados, debe mantenerse la sentencia impugnada.

**SEGUNDO.** Que se declaran de oficio las costas de esta alzada.

**VISTOS** los artículos 976 y 977 de la Ley de Enjuiciamiento Criminal y demás de general y pertinente aplicación.

#### FALLO

Se **DESESTIMA** el recurso de apelación interpuesto por Procuradora Doña [REDACTED] en representación de [REDACTED] contra la sentencia dictada en el Juicio de Faltas referenciado con fecha 4 de enero de 2005, la cual se confirma íntegramente, sin hacer condena en las costas de esta alzada.