

Equal Treatment

As a follow-up to advances made in previous years in terms of improvements made in equal opportunity for Roma through the implementation of pro-active measures, we should point out that in 2009 the fight on discrimination was key with regard to equal treatment.

The first major step forward in this sense was the favourable judgement issued by the European Court of Human Rights on 08 December 2009 acknowledging María Luisa Muñoz's right to a widow's pension. This judgement concludes that the refusal to grant her the right to a widow's pension for having married under the Roma rite was discriminatory and sentenced the Spanish State to compensate M^a Luisa in the amount of EUR 70,000.

This is a case of legal defence led by the Fundación Secretariado Gitano since the year 2000 bearing witness to the discriminatory, indifferent and unfair treatment received by M^a Luisa Muñoz at the hand of the Spanish State and the Spanish justice system when she became a widow. The judgement delivered by the Strasbourg Court literally stated as follows: *"It was disproportionate for the Spanish State, which had granted large-family status, had provided health coverage to M.D.'s family and had collected M.D.'s social security contributions for over 19 years, then to have refused to recognise the effects of Mrs Muñoz Díaz's Roma marriage when it came to the survivor's pension."*

A major step forward in this sense was the favourable judgement issued by the European Court of Human Rights acknowledging María Luisa Muñoz's right to a widow's pension.

Another of the advances is related with the formal constitution of the *Council for the advancement of equal treatment and non-discrimination of persons for reasons of racial or ethnic origin* on 27 October 2009 at a ceremony chaired by the Minister of Equality Bibiana Aído. The President and Vice-president of that body are José Manuel



THE DISCRIMINATION AND ROMA COMMUNITY REPORT

Fresno and Juan de Dios Ramirez Heredia, respectively, and the Fundación Secretariado Gitano is among the social entities representing the third sector. At the end of 2009, following this formal constitution, work got under way on the design of the Council's work plan whose implementation will begin in 2010. In this regard, defence of the right to equal treatment has been given an important boost and victims of discrimination will be informed and advised of their rights which will also serve to raise the awareness of the society in general.

As in previous years we would note that we have once again come up against sluggishness in the effective implementation of Directive 2000/43 on the enforcement of the equal treatment principle evident in its scant application in judicial decisions and expert reports and in terms of preventive measures enacted by the different government administrations. The Council for the advancement of equal treatment must discharge its duties in this regard and the Spanish State must be fully engaged in the protection of equality as a fundamental right.

As has now become common practice, the FSG's Area of Equal Treatment has developed all of the strategic lines and actions needed to counteract the phenomenon of discrimination and foster the principle of equal treatment. The following are summarised below:

TRAINING AND AWARENESS-RAISING

Several training initiatives were carried out by the Foundation itself and in collaboration with outside organisations and entities. Specifically, training actions targeted law enforcement officials of the city council of Puerto Lumbreras (Murcia) in June 2009; we



AT THE EUROPEAN COURT OF HUMAN RIGHTS

also formed part of the monitoring committee of the Stepss Project of the Fuenlabrada police to analyse actions taken to improve police action in the area of equal treatment and non-discrimination implemented as part of the said project and likewise took part in a best practices bureau of the Community of Madrid's Social Exclusion Observatory aimed at professionals working within the sphere of human rights as part of the work conference entitled *From exclusion to citizenship* held in Madrid in January 2009.

Furthermore, we carried out training initiatives aimed at legal experts, civil servants, media professionals and Foundation workers engaged at the headquarters and territorial offices. We took part in the training of NGO personnel in collaboration with the Human Rights Office of the Ministry of Foreign Affairs and Cooperation at the training seminar entitled *Practical application of anti-discrimination legislation* organised by the Roma Cultural Institute in Seville. We also participated in the conference organised by CEAR in Madrid entitled *Get informed*

The FSG was chosen as one of the social entities representing the third sector at the Council for the Advancement of Equal Treatment and non-Discrimination.

and take action and in the training seminar on multiple discrimination organised by the University of Barcelona focusing on *The inter-sectoral nature of gender discrimination and racism*.

Also within the sphere of capacity-building, we continued with the dissemination of the Practical Handbook on Equal Treatment, Police and the Roma Community published by the FSG and aimed at state police and security forces.

A boost was also given to capacity-building by the Area of Equal Treatment in the legal field in cases of discrimination at the seminar organised by the European Law Academy in Trier (Germany) on the study and practical enforcement of the anti-discrimination directives. We also attended the Seminar entitled *Making Rights a reality for all* organised by the European Union Agency for Fundamental Rights (FRA) held in Stockholm in December 2009.

ADVISORY SUPPORT FOR VICTIMS

In 2009 the FSG gathered 130 documented cases for its annual *2010 Discrimination*

and the Roma Community report. This activity includes the detection, gathering and documentation of cases of racial discrimination through the victim care and advisory service, press alerts and collaboration with other entities.

Assistance given to victims of discrimination in the filing of complaints and defence of their rights is done through a specialised office acting in coordination with the different FSG centres and in consultation with professionals and other services, mainly public administrations and NGOs involved in matters of equal treatment and combating ethnic discrimination.

Of the 130 cases gathered and analysed in 2009, 33 received strategic assistance in the form of communication and mediation at the request of victims or upon our own initiative in special cases with possible repercussions for the Roma community.

Specifically, the following actions were carried out together with intermediation: letters to the editors of different media for the publication of defamatory and discriminatory news stories against the Roma community. It is important to note that over 40% of our initiatives were directed at the media and we have only received a few letters of apology which were received privately, i.e. not published. Moreover, we found that when a discrimination complaint is filed, there is a lot of confusion surrounding the legal description of discrimination in court proceedings. Often times, discriminatory practices are registered as misdemeanours and the existence of discrimination is not recognised at all. To make matters worse, when the defendant is acquitted at the end

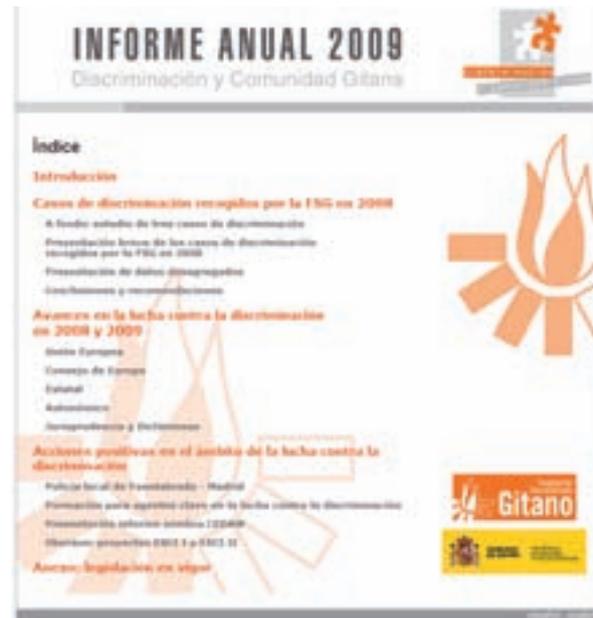
The 2009 Discrimination and the Roma Community Report provides a summary of 110 cases and a deeper analysis of three cases with special legal and social impact.

of the hearing, the victim not only fails to receive compensation but feels defenceless. Special mention should be made of the serious difficulty encountered in providing legal service to victims throughout the process.

2009 ANNUAL REPORT DISCRIMINATION AND THE ROMA COMMUNITY

We analysed the cases gathered and documented in 2008 in putting together the annual report *Discrimination and the Roma Community* which includes a summary of 110 cases gathered during the preceding year and a deeper analysis of three cases with special legal and social impact in the fight against discrimination. This report was published in Spanish and English, distributed at national and European level and is available in Spanish and English in PDF format on our web page at www.gitanos.org.

The report was presented publicly and then distributed. The presentation took place in Madrid at the Ministry of Equality, where we heard very constructive presentations on the defence of equality and a list of anti-



discrimination initiatives from the Hate Crime and Discrimination Service of the Barcelona Provincial Public Prosecutor and a report on affirmative action by the Fuenlabrada police (Madrid).

Periodic review of the FSG's web page (Area of Equal Treatment) has been instrumental in staying abreast of regulations currently in force, recommendations and decisions at European and international level, publications on equal treatment and the fight on discrimination (in Spanish and English), press alert observatory, publication of communiqués, etc.

POLITICAL AND INSTITUTIONAL ACTION

Analysis and follow-up on laws and national and European policies concerning equal treatment and the fight on ethnic discrimination have been kept updated.

The institutional line of action in the area of guaranteeing rights through active participation within the framework of the

European Union Agency for Fundamental Rights (FRA) has likewise been broadened. Several meetings have been held with European organisations working for the defence of rights and against discrimination and the FSG's Area of Equal Treatment continues to form part of the Fundamental Rights Platform, a network of organisations working in favour of equal treatment at European level organised by the European Union Agency for Fundamental Rights. Furthermore, the Area of Equal Treatment collaborated in a best practices survey of trade unions in the fight on discrimination conducted by the European Commission's Directorate-General for Employment.

At national level, close collaboration has been maintained with the Anti-discrimination Directorate-General of the Ministry of Equality which has powers concerning matters of equal treatment and gender and anti-discrimination and whose tasks include the drafting of the new Integration Act .

Lastly, the FSG was chosen as one of the social organisations to act as member of the Council for the advancement of equal treatment and non-discrimination of persons for reasons of racial or ethnic origin. In 2009, our Foundation participated in the different meetings called by the Ministry of Equality, with special mention of the formal constitution in October 2009 of this Council. During the course of 2010 the Council will implement its work plan in which the FSG will actively take part and collaborate in several working groups in defence of equal treatment and put a priority on the group attending to victims of discrimination.

The Area has had several coordination meetings with the Spanish chapter of the ENAR Network to develop joint actions and strategically coordinate efforts in defence of human rights and preliminary steps have been taken for the FSG to form part of the ENAR network.

One of the main actions carried out jointly with other social organisations (SOS Racism, CEAR, the Movement against Intolerance, etc.) was the drafting of the *Shadow Report on the Convention for the elimination of all forms of racial discrimination* (CERD) submitted to the Committee for the elimination of all forms of racial discrimination in November 2009.

Moreover, the Area of Equal Treatment has taken part in a study on the fight against discrimination, an R&D study conducted by the Universidad de Barcelona on multiple discrimination.



JOSÉ MANUEL FRESNO (COUNCIL FOR EQUAL TREATMENT) AND ISIDRO RODRÍGUEZ (FSG)