



Promotion
of Roma/Traveller
Integration and
Equal Treatment
in Education
and Employment

Partner report - Preparatory phase SPAIN



1. GENERAL FRAMEWORK OF THE SITUATION OF THE ROMA/TRAVELLER PEOPLE

The Spanish Roma community has suffered a historical discrimination shown during centuries in legal providences and legal provisions such as the Social Dangerousness Law, or certain articles of the Guardia Civil regulation.

In this sense, the Spanish Constitution of 1978 improved considerably the situation of the Roma community as, although it does not mention the ethnic minorities living in Spain, the right of equal treatment for all persons is recognised under article 14.

Nowadays, although remarkable advances have been achieved, discrimination is still one of the main obstacles for the Roma people's incorporation to society as full-fledged citizens. Roma people, according to all opinion studies, always appear as one of the worst valued groups, and such social rejection produces discriminatory practices in the daily life.

Reliable estimates of the Romani population in Spain range among 600,000 to 700,000 out of a total general population of around 40 million. Nearly half of the Roma in Spain live in the southern region of Andalusia, the autonomous community with the largest Romani population (approximately 3% of the total population). Large Romani communities are also found in Madrid, Valencia and Catalonia.

The Romani population is young in comparison with the population at large; around half of the Spanish Roma people are less than 16 years old and the birth rate of Roma is much higher than among the general population. Spanish Roma are also, however, very diverse and heterogeneous. Cultural differences among Spanish Romani peoples are in part related to regional differences and in part due to various historical and cultural factors.

Moreover, Spanish Roma are currently going through a period of important change. Several generations ago, for example, the majority of Roma lived in rural areas and small towns, but in recent decades many Roma have moved to urban areas. There has also been a gradual decrease in the birth rate and the number of children per family. The average age of marriage is also increasing, although it is still lower than the general population.

The social situation of the Spanish Roma has improved considerably during the last 30 years. This is fundamentally due to the fact that the Roma have gained from the universalization of welfare state benefits as well as the rest of the citizens, and also due to the action of positive measures specifically addressed to this group.

Despite this improvement of their living conditions, in comparison with the rest of society, the income level of the Roma is still under the average and a part of them still



live in conditions of poverty and exclusion (30% according to the National Action Plan for Social Inclusion 2001-2003).

2. IDENTIFICATION OF GENERAL PROBLEMS REGARDING DISCRIMINATION IN THE FIELD OF EDUCATION AGAINST ROMA/TRAVELLER

The education level of the Roma community is still nowadays under other social groups similar in composition and size. Few Roma people from the eldest generations have regularly attended school, finding a high percentage of Roma people over 18 years-old with an important level of illiteracy, being this level even higher among women.

Although a general access to schooling has been achieved for Roma children, discrimination within the educational system is still present in various fields, putting barriers to a normalised education.

In first place, we should point out the difficulties faced by many Roma children when registering in certain school centres, due to the rejection of some of the non-Roma parents and children. We should also point out the lack of guarantees to an equal access of Roma children to public and subsidised schools. Segregation and concentration of Roma children in special schools or in certain school centres is a discriminatory practice that may cause a lower quality education with less resources. Data confirms that few or non Roma students are present in private school, and very few in the subsidised one, being the majority concentrated in the public school centres, where the risk of ghettoisation and marginalisation of minorities is increasing.

As we can see, discrimination within educational system is not only produced by individual attitudes of practices. Certain educative legislation, apparently neutral in origin, may produce direct or indirect discrimination, especially when it is only taking into consideration the social characteristics of the majority population. On the other hand, textbooks and educational materials transmit very often, implicit or explicitly, negative images of the Roma community, or do not favour it's acknowledge by the majority population.

In this sense, the lack of attention to cultural diversity having a rather negative impact on the Roma people, as the school is designed representing only the cultural majority, and certain type of society. Spanish school centres have an important tendency to unification: the way to transmit the information and knowledge, the familiar relationship model, transport, communication, alimentation...not taking into account the multicultural society formed by different groups represented in the school centres.

In summary, the above-mention lack of attention to cultural diversity as well as the omission of reality and Roma culture in the education programmes, segregation and concentration, as well as generalised rejection of peers and teachers when shearing spaces with Roma children, is producing, among other consequences, school failure, absenteeism, and early school drop out.



Regarding non-obligatory education, the access of Roma youth to education is still very poor, and we should mention again as remarkable barriers the lack of attention to cultural diversity, the ignorance and lack of information on equal conditions about the utility of these studies, the lack of positive references within their community, isolation in context of a non Roma majority, etc.

On the other hand, regarding infant education, we also find an unequal offer and access, and only a very low percentage of Roma children are participating in this kind of education that would improve equality in primary education with higher guarantees of learning.

3. IDENTIFICATION OF GENERAL PROBLEMS REGARDING DISCRIMINATION IN THE FIELD OF EMPLOYMENT AGAINST ROMA/TRAVELLER

In first place, the Spanish Roma Community suffers higher unemployment rates than the majority population, being therefore relegated to sub-employment, informal labour market activities, or long unemployment periods.

Labour and contractual conditions of those having an employment reflect a clear disadvantage position: in most of the cases we find temporary contracts, employment without contract, poor incomes, etc.

Discrimination against Roma community in the field of employment occurs in different ways. On one hand, we should mention the discrimination in the access to labour market and vocational training. The negative of employers to hire a Roma is a frequent discriminatory practice, sometimes in a very visible way, but others in a very subtle way, adducing reasons as the lack of training or interest of the Roma people, and other indirect discrimination practices difficult to proof.

With regard to the professional and vocational training we find very often barriers in the access, among other reasons, because of the lack of existence of an adaptable offer to the reality of the Roma people, both in forms and contents.

On the other hand, discrimination may also be found in the place of work: relegation to occupations under the Roma worker professional category, rejection from bosses and colleagues, barriers in the promotion, harassment, etc.

We can also find that one of the main obstacles regarding employment and the Roma people is the transition from an irregular to a normal/official labour market. In this sense, certain traditional activities developed mainly by Roma people such as scrap and paper collection, mobile trading, etc, have been strictly regulated without assessing the negative impact on certain sector of the Roma community, constituting an example of indirect discrimination.



The situation of Roma women and young people is especially worrying as, apart from the lack of training in a very competitive labour market, we should add the lack of models and examples within the families to access to non-traditional labour market activities, or even to the labour market itself, as is the case of Roma women. In this sense, the lack of non self-employment work is also producing in many cases social marginalisation.

Finally, we should take into account that exclusion and discrimination practices in other fields as education, housing and sanitary services, are also having a negative impact on the employment opportunities of the Roma people, and are not favouring their access to a normalised labour market.

4. IDENTIFICATION OF GENERAL DISCRIMINATION PROBLEMS IN OTHER FIELDS AGAINST ROMA/TRAVELLER

Although over the last few decades Roma have gained general access to **health services**, and despite the fact that health care is generally guaranteed to all citizens, the Spanish Roma community is still having lower health indicators than the majority population, being this fact reflected in a lower life expectancy, high mortality and morbidity rates, and an special vulnerability to drug abuse, AIDS, disabilities, etc. Apart from the life conditions of an important sector of the Roma people linked to poverty and exclusion, discrimination is also playing an important role in the general health situation of Roma people. The lack of attention to the cultural diversity and the Roma needs and culture, is producing a non adapted transmission of information to patients and families, as well as physical and psychological obstacles. On the other hand, the existence of prejudices and stereotypes within health professionals is also producing unequal treatment and rejection of Roma people, an inferior quality attention in time and content, segregation in certain hospitals and health centres, lower domiciliary visits, etc.

In Spain, Roma people are since long sedentary and most of them live in neighbourhoods together with non-Roma population; even though around 7% of Spanish Roma still lives in shanty towns' settlements in depredated environmental conditions. There are still a number of realities that persist in impeding minimum conditions for a dignified life regarding **accommodation**: shanty towns, resettlements in segregated areas, inadequate housing and overcrowding, difficulties in gaining access to public housing due to inflexibility in criteria and requirements and lack of guarantee in renting housing on the open market, simply because they belong to this ethnic minority.

Roma people in Spain is very often suffering indefension in their relation with **justice services** because of the lack of an appropriate transmission of information on how to



defend their rights and to accede to all mechanisms and resources available. Social prejudices are also producing a discriminatory application of law, while ignoring and not taking into consideration social and cultural Roma particularities, as it is reflected in the high number of Roma people in prison because of minor criminal offences, especially women. Regarding **police services**, despite of the great advances achieved, harassment and police abuse is still frequently present in the relation of police forces with the Roma community.

Despite the fact that over the last several years some **media** sectors have adopted recommendations, the purpose of which was to eliminate the discriminatory treatment of minorities and excluded groups, this continues to be one of the fundamental channels which perpetuates prejudice against the Roma population in our society through the transmission of subliminal messages with non-representative images of this community thus contributing actively to the generalisation of new prejudices (for example the identification of Roma with drugs), spread to the rest of society through language, customs and social habits.

Finally, regarding the **access to general goods and services** many Roma still ignore the existence and usefulness of certain services and provisions which are established only regarding the majority society, or in which they suffer harassment and rejection (restaurants, cultural centres, bars, sport associations, etc).

5. MAIN ANTI-DISCRIMINATION POLICIES AND MEASURES IMPLEMENTED IN YOUR COUNTRY IN THE FIELD OF EDUCATION

The Law 1/1990 on the Education System stipulates that “education allows progress to be made in combating discrimination and inequality, be it on the grounds of birth, race, sex, religion or opinion on the basis of family or social situation”.

We also find in the law on the education system of 1990 the title V on Compensation for inequalities in education. Article 63 stipulates that in order to render effective the principle of equality in the exercise of the right to education, the authorities develop compensatory actions aimed at persons, groups, and territorial regions with unfavourable situations, and provide the necessary economic resources.

This compensatory education is not specially address to the Roma people, but is providing them with certain positive additional resources as special support programs, grants for meals or books, etc.

Nevertheless, there is not a clear legislative development regarding compensatory education, especially at regional and local level, where there is a discretional implantation.

Specific policies address to the education of the Roma community can be found in the Spanish National Action Plan on Social Inclusion 2003-2005, that establishes as



general objective in the field of education *to improve the education level of the Roma people in adult and scholarship age* through the following measures:

- Programmes and services to promote infant education and obligatory scholarship of Roma youth and children, and the correspondent accompaniment measures with their families
- Programmes to support the continuity and permanence of the Roma students in higher and university education, taking especially into account Roma women
- Training courses and sensitizing of teachers regarding diversity, the right to be different and the need of adapted curricula
- Programmes to promote the access and knowledge of new technologies within Roma community
- Programmes for Roma adult people

The Spanish Plan for the Development of Roma people that started at national level in 1989 establishes as one of the priority's activities in the framework of the programmes and projects financed:

- Scholarship support and follow up
- Alphabetisation and basic education for Roma adults
- Intervention with families to reduce absenteeism
- Extra-school activities of education support
- Leisure and free time activities

We can also find similar measures to the ones contained in the abovementioned plans in certain regional and local administrations, although their implementation and application is not homogeneous.

6. MAIN ANTI-DISCRIMINATION POLICIES AND MEASURES IMPLEMENTED IN YOUR COUNTRY IN THE FIELD OF EMPLOYMENT

The Spanish Penal Code prohibits discrimination in the sphere of employment, public or private, against a person because of his or her ideology, religion or beliefs, ethnic origin, race or nationality.



On the other hand, the Basic Law on Employment establishes under article 38.2 that Equal opportunities and equal treatment shall be the basic principles of employment policy.

The Law 10/94 on Emergency Measures to Promote Employment provides in article 1.2 that private employment agencies must guarantee the principle of equal access to employment and that they shall not establish discrimination of the grounds of race, origin or religion.

The Law on Violations and Sanctions of the Labour Laws considers the following to be very serious offences: unilateral decisions by the employer which involve unfavourable discrimination for reasons such as race, religion, etc.

Article 28.2 considers it to be a serious offence to establish conditions, through advertising, the dissemination of job advertisements or by any other means, which constitute positive or adverse discrimination for access to employment for reasons linked, among others, to race or ethnic origin.

Regarding specifically the Roma people, the Spanish National Action Plan on Social Inclusion 2003-2005 establishes as general objectives in the field of employment:

- Development, through the cooperation with NGOs, of programmes favouring employment and labour insertion of Roma people
- Promotion of social and labour insertion of Roma women, especially regarding her access to employment and other resources, goods and services. Development of programmes of sensitizing and promotion of equality between men and women.

On the other hand, the Spanish Plan for the Development of Roma people establishes as one of the priority activities in the framework of the programmes and projects financed:

- Labour insertion itineraries: personalised information and labour orientation, specialisation, employment seeking, etc.
- Pre-training workshops
- Training courses

We can also find similar measures to the ones contained in the abovementioned plans in certain regional and local administrations although, as in the case of education, their implementation and application is not homogeneous.

7. MAIN ANTI-DISCRIMINATION POLICIES AND MEASURES IMPLEMENTED IN YOUR COUNTRY IN OTHER FIELDS



Taking into account only those policies and measures implemented regarding specifically the Roma community we should again mention the Spanish NAP/incl 2003-2005 and the Spanish Plan for the Development of the Roma community. The main objective of the first one regarding this ethnic minority is to improve the living conditions of those in situation of social exclusion, guaranteeing the access and use of the social protection system and fostering a better coexistence and understanding among the different social and cultural groups. For this purpose, social development programmes with an integral approach are needed, providing simultaneous interventions in the fields of education, health, accommodation, training, employment, and social services.

The objectives and general actions foreseen within the Spanish NAP/incl 2003-2005 towards the Roma community in other fields different than employment and education could be summarized in

- Development of actions against discrimination, promoting equality, training of social agents, and information and good practices exchange.
- Promotion of up-dated information on the situation of the Roma community, through studies, investigations, and impact evaluation of the correspondent social policies.
- Development of training courses on intercultural mediation in the fields of social action, education, accommodation and health.
- Promotion of actions favouring the acknowledge of the Roma culture and identity, as well as the recovery and teaching of Roma language
- Promotion of a complementary action of the primary social services and NGOs, developing health promotion programmes to improve the access and correct use of sanitary services, with a special focus on the paediatric follow up, gynaecological care, etc.

On the other hand, the general actions foreseen within the Spanish Plan for the Development of the Roma People in other fields different than employment and education could be summarized in:

- Social action: information and orientation for Roma people, cooperation with social services, management of resources and documentation; training courses for volunteers, technical support for associations, sensitizing, etc.
- Accommodation: rehabilitation and conditionings of houses and surrounding environments, social-educative activities on the proper use of accommodation, relocation of families and follow up.
- Health: Training courses, vaccination campaigns, paediatric control, prevention of drug-dependencies and AIDS.



- Culture: Romano and flamenco lessons, cultural visits, cultural workshops expositions, etc.

8. IMPACT OF THE ANTI-DISCRIMINATION LEGISLATION ADOPTED, AND THE ACCOMPANIMENT MEASURES TO THESE LEGAL ISSUES REGARDING ROMA/TRAVELLER IN YOUR COUNTRY

As we can see in previous sections, the Spanish legislation and policy clearly provides for the general principle of equal treatment in keeping with the Constitution and international treaties. But there are major problems in its application. Although few actions are brought before the courts, discriminatory practices occur relatively often. Such discrimination may be institutional (especially in the application of certain legal provisions, as shown in some court rulings), structural (due to the situations in employment, education or housing to which certain groups are driven by the market or by social practices), or the work of individuals (such as occurs in companies or in the non-rental of housing to certain communities). These discriminatory processes chiefly affect the Roma community.

Regarding the enforcement of the law, there are generally few rulings on racial discrimination in the courts, which usually treat cases as violations of other types of legal right (aggression, damage to property, etc.) without taking account of racist motivation. A further complication is that those concerned do not bring many actions owing to red tape and to the small number of convictions. However, there have been court actions brought on account of discrimination (against gypsies, immigrants or black Spaniards) which have attracted a degree of public interest.

Apart from the general regulation of the equal treatment principle previous to the transposition of Directives 2000/43 and 2000/48, no specific anti-discrimination legislation regarding Roma people have been approved in Spain. It is only within certain plans or measures related to social inclusion programmes as the Spanish National Plan on Social Inclusion 2003-2005 or the Spanish Plan for the Development of Roma people where we can find certain provisions to combat discrimination.

On the other hand, the problem of these plans is that they are not defined within a general anti-discriminatory strategy or an integral approach, and have not enough concrete resources to make effective equal treatment, both in budget and in practical application measures such as positive actions, etc. There are also great difficulties in knowing the concrete impact of the plans, and difficulties in the implication and involvement of the Roma people in such measures carried out from the public sector.

We should also mention the general tendency in Spain to forget discrimination in the social debate on the Roma community situation, where an approach focused in social inclusion policies is prevailing. Discrimination and social exclusion have a huge impact on the Roma community and are clearly connected, but despite their links, specific measures and practices should be developed to combat both phenomena more efficiently. To focus the fight against discrimination against Roma community only in



social inclusion framework may have as a consequence the marginalisation of the whole minority and a minor effectiveness of policies and practices that would be not protecting the part of the Roma community suffering discrimination but not exclusion dynamics.

The last anti-discrimination legal provision adopted in Spain is the joint transposition of Directives 2000/43 and 2000/78 in the Law 62/2003, of 30 December, of fiscal, administrative and social measures, that came into force on 1 January 2004 with no previous debate in society at large and no political or parliamentary debate.

Generally speaking, Law 62/2003 was drawn up according to a criterion of “minimal” transposition, although on some points we are even below the Directive regulation, as is the case of the creation of a Council for the promotion of equal treatment and non-discrimination between persons on the grounds of racial or ethnic origin, where the word “independent” does not appear in the definitions of its functions.

The difficulty with the proposed body is that it may be hard to guarantee the independence in the development of his functions and its effectiveness. Its independence is uncertain for at least two reasons: first, because the definition of its functions omits the word “independent”, which appears three times in Art. 13.2 of the Directive, once in each description of the body’s three functions; and second, because its make-up is of an essentially governmental nature, so it appears to be a typical internal consultative body within the Spanish government, albeit with a (minority) presence of the social partners and NGOs. Its effectiveness is questionable because the body will not have a budget of its own; instead it will receive “the necessary support for the performance of its functions” from a social services body (IMSERSO) attached to the Ministry of Labour.

The Council should constitute an essential instrument in order to reduce the existing gap among legal and institutional practices, but we should wait to see how the new Spanish government define its composition and functions by royal decree in the following months.

9. ADOPTION OF A TARGET AND MAINSTREAMING APPROACH REGARDING DISCRIMINATION AGAINST ROMA/TRAVELLER PEOPLE ACCORDING WITH YOUR EXPERIENCE

Combating discrimination against the Spanish Roma community is not being carried out following a target approach, but in a general framework affecting other groups and minorities, such as immigrants.

Furthermore, we could say that the fight against racism, discrimination and xenophobia is socially linked almost exclusively to the immigration framework, instead of a wider field connected with human rights protection, with the risk of not taking into account the Roma minority problematic.

Roma and immigrant communities in Spain have to face similar direct and indirect discrimination process in fields such as education, employment, accommodation,



sanitary services, justice and police services, access to public goods and services, media, etc.

Nevertheless, despite the existence of common elements, independent and personalised policies and programmes should be developed bearing in mind their specificities and particular needs. In this sense, we would consider a positive step to implement a target approach regarding discrimination against the Spanish Roma community.

Regarding mainstreaming, Spain does not count with a reorganisation, improvement, development and evaluation of policy processes so that the equality perspective is incorporated in all policies, at all levels, and at all stages by the actors involved in the policy making.

Furthermore, we often find legal and policy dispersion at national, regional and local level, as a definition of the public duty to promote equality has not been developed yet. In this sense, we consider essential the contributions that the specialised body for the promotion of equal treatment could bring in terms of mainstreaming and elaboration of codes of conduct and equality programmes both in the public and in the private sectors.

10. NATIONAL STAKEHOLDERS MORE ACTIVE AND APPROPRIATE TO CORRECT DISCRIMINATION AND BRIEF DESCRIPTION OF THEIR ACTIVITIES

We should mention as the more active stakeholders to combat discrimination:

- The competent governmental bodies in the area of labour and social affairs at national (Ministry), regional (the so-called Consejerías of the Spanish Autonomous Communities), and local level (the so-called Concejalías of the Spanish City-councils) in the development of plans against social exclusion containing certain anti-discrimination measures.
- The Spanish Ombudsman and equivalent bodies of the Autonomous Communities in Spain having as main task the protection and defence of the fundamental rights and freedoms of all citizens, as well as the control of the public administration activities.
- Human rights and antidiscrimination NGOs such as the Spanish section of Amnesty International, Movimiento contra la Intolerancia, SOS Racismo, the Spanish Red Cross etc, carrying out sensitizing and denunciation campaigns, following up Spanish policies and legislation, receiving the victims' complaints, etc.



- Roma associations at national, regional and local level focused mainly in the defence of their Rights, the promotion of their culture and the empowerment and involvement of the Roma community in the decision making process.
- Spanish Trade unions with competencies in the defence of the rights of the workers more exposed to discrimination within the labour market such as the Roma and the immigrant community
- Research and investigation centres linked to University investigating the causes, consequences and main manifestation of discrimination, the existence of prejudices and stereotypes within the Spanish majority society, etc.

11. EXAMPLES OF GOOD PRACTICES AND STRENGTHS OF OTHER PUBLIC OR PRIVATE ENTITIES IN YOUR COUNTRY REGARDING ANTI-DISCRIMINATION MEASURES AND POLICIES FOR ROMA/TRAVELLER

ACCEDER, the European Social Fund's Multi-regional Operational Programme in the Fight against Discrimination, designed to favour access to employment in the case of certain groups in risk of social exclusion (including the Roma population), commenced operation in the year 2000 and is envisioned to operate until 31 December 2006, without prejudice to the extension of its actions further into the future by means of other forms of funding.

The results compiled from the 34 ACCEDER devices has surpassed initial expectations both in terms of number of users following individualised itineraries of labour inclusion and the number of contracts signed. The number of hired workers has by far surpassed the initial objectives set. These data represent small but significant steps forward in the elimination of all forms of discrimination in Roma's access to the labour market and in broadening and consolidating social cohesion.

The key aspect characterising the programme's work methodology is the link between social and economic factors, mindful of the state and needs of the Roma community and working from the vantage point of empathy and their specific interests, guiding actions so as to offer alternatives in response to specific deficiencies. At the same time, the needs and requirements of today's labour market (skills required to get and keep a job, labour situation in the different sectors of economic activity, etc.) must be kept very much in mind.

The initial objective of the Programme was to work throughout the period 2000-2006 serving 15,000 users and finding 2,500 jobs. At the close of 2003, 17.358 users were served and 10.000 job contracts were signed.

Of the users served, men accounted for 51% while women represented 49%. In terms of labour contracts, the percentages differ a little bit more. This data does however indicate, when compared with the high level of participation of women in training, a greater tendency for women to opt for training thus temporarily postponing their emergence into the labour market.



Labour information actions are the first phase of the work methodology entailing recruitment, labour information and the initial diagnosis of the employability of the beneficiaries.

The ACCEDER programme also provides labour guidance actions and accompaniment in the search for employment entailing a more in-depth diagnosis and tutoring sessions to provide guidance and individualised follow-up for beneficiaries throughout all the phases of the itinerary.

Finally, vocational training actions, and mediation and labour market inclusion actions are carried out, comprised of accompaniment initiatives in the active search for employment and mediation in the labour market identifying possible offers of employment that could be covered by service users.