

Discrimination and the Roma Community

FSG Annual Report 2024





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CONSEJO PARA LA ELIMINACIÓN
DE LA DISCRIMINACIÓN
RACIAL O ÉTNICA



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Chapter 1



Introduction





Introduction

This *Report on Discrimination and the Roma Community 2024* marks an important milestone in the history of our organisation and in our fight for equal treatment: it has been 20 years since the publication of the first report, as well as since the beginning of the Fundación Secretariado Gitano FSG's specialised work in addressing discrimination and antigypsyism in Spain. During these two decades, our annual reports have become an essential tool for drawing attention to the discrimination which, regrettably, continues to affect Roma in many aspects of their daily lives.

Throughout these 20 years, we have documented thousands of cases of discrimination (to be exact, 4 608 cases), in which we have provided support and accompaniment to the victims. This effort has allowed us to draw attention to rights violations and institutional shortcomings so that they might be correctly addressed, but it has also contributed to driving significant changes, at both legal and social levels. This anniversary is, therefore, an opportunity to highlight the achievements realised thanks to our methodology in dealing with cases of discrimination, but also to reflect on the great challenges that remain in the fight against antigypsyism.

This year's report is not only a testimony of the cases of discrimination that we continue to document, but also a space to survey the journey that we have been on since the FSG began working specifically on cases of discrimination and publishing these reports. It is in this context that we have invited experts from different fields to share their views on the changes that have taken place in these two decades. Academics, human rights defenders, colleagues from the FSG and representatives from various institutions and international organisations reflect on the evolution of approaches to antigypsyism in Spain, on the achievements realised and on the challenges which remain.

One of the main advances which we have seen is the increase in awareness and understanding of antigypsyism as a specific form of racism. 20 years ago, discrimination against the Roma community was usually ignored or normalised. Today, thanks to the continuous work of the Fundación Secretariado Gitano and other organisations, we have achieved the development of the antidiscrimination legislation, and the incorporation of antigypsyism into our laws and its recognition as a structural problem requiring specific policies and actions for its eradication.

These advances have also been translated into an ever-greater specialisation in our organisation's approach to discrimination. From an almost rudimentary operation without any specific resources, we have come to coordinate the Victims of Racial or Ethnic Discrimination Support Service (CEDRE), which we have been doing since 2013; to have a specific line of work in strategic litigation; to have a programme funded by FSE+ with professionals specialised in victim support, such as the *Calí Programme, for the Equality of Roma Women* was until the end of 2023; or in a more specific form, from January 2024 with the *Equal Treatment Programme, for the non-discrimination of Roma people*, with which eleven Roma jurists have been incorporated into our local teams.

However, despite these advances, the results obtained in our actions in cases of discrimination continue to show a worrying reality: Roma still face serious violations of their human rights, and discrimination in all aspects of their lives, from education and employment to health, housing and access to goods and services. Although the number of cases attended has increased, which shows a greater awareness and empowerment on the part of victims, cases of discrimination persist, which demonstrates that full equality is far from being reached.

Throughout these 20 years, we have also witnessed important institutional improvements, from the specialisation of public prosecutor's offices and law enforcement agencies in hate crimes, to fundamental changes in legislature. One of the most significant has been the passing of the Comprehensive Law for



Equal Treatment and Non-Discrimination, which has introduced key improvements for the protection of victims of antigypsyism. However, despite these advances, the implementation of the law continues to prove challenging. As we indicate in the report, the Independent Authority charged with supervising its enforcement has still not been created, and many public administrations lack the resources or training necessary to apply the law correctly. From the Fundación, we continue to insist on the need to activate all the necessary mechanisms to ensure that the rights enshrined in the law are translated into real protection for Roma.

2024 also allows us to take stock of other achievements, such as the consolidation of the Victims of Racial or Ethnic Discrimination Support Service, coordinated by the Fundación Secretariado Gitano along with other organisations. This service has been reinforced in recent years, which has allowed greater accessibility and more efficient attention to victims. The establishment of the telephone support number 021 has been an important step in bringing this service to those who suffer discrimination, making it easy to report their cases quickly and safely.

On this twentieth anniversary, we reiterate our commitment to the fight against antigypsyism and discrimination in all its forms. We would like to thank all the institutions, organisations and people that have accompanied us on this journey, and, above all, we would like to express our most sincere thanks to the victims of discrimination for their bravery and faith in our work. We continue working so that, within a few years, we can celebrate not only the anniversary of these reports, but also the eradication of discrimination against the Roma.

Sara Giménez
General Director of the Fundación Secretariado Gitano



Conclusions and summary of cases of discrimination



General summary of cases taken up in 2023. Conclusions and recommendations

In 2023, the FSG has taken up and attended to 384 cases of discrimination. In this section we compile the summary of the documented cases, whose details can be found in the electronic version of this report (<https://informesdiscriminacion.gitanos.org/>). Also, we incorporate a series of recommendations for authorities to ensure an effective response to discrimination against the Roma community and incidents of anti-Roma hate in all areas of life.

1. CONCLUSIONS AND GENERAL RECOMMENDATIONS

Awareness among Roma people about cases of discrimination is increasing, but there are still barriers which limit the adoption of more active measures for reporting, and which affect access to the justice.

Based on our experience, we can establish five general conclusions:

- 1) With respect to reporting of cases, we have ascertained two seemingly contradictory trends. **On one hand, there is a notably greater awareness by victims when it comes to reporting their cases, and a greater interest in defending their human rights.** Many Roma understand that these cases are discriminatory anti-Roma acts which violate their rights and attack their human dignity. But, on the other hand, despite divulging the cases and seeking support, in many instances those who have suffered these incidents do not wish to make any form of complaint or report: there continues to be a certain degree of distrust in state authority and institutions when it comes to reporting and judicial proceedings. **In other words, the victims want their cases to be taken up, and ask for accompaniment and information about their rights and about how to act in these cases, but they are frequently reluctant to take formal legal action.** This may be for fear of having subsequent problems with the person or company responsible for the discrimination, or of possible negative repercussions in the future or due to fatigue caused by the complexity or slowness of certain proceedings. Another factor is the perception of impunity in cases of anti-Roma discrimination, which represents a serious **obstacle to access to justice.**
- 2) **Positive results in cases of strategic litigation serve as an incentive and trigger more active processes around reporting. We have reinforced our work in strategic litigation¹, taking more cases of discrimination and anti-Roma hate crime to court and providing solid legal defence and comprehensive accompaniment to the victims throughout the legal proceedings.** In this sense, another barrier that could be influencing the aforementioned tendency to not report in certain cases is that **there are not many positive resolutions in the reported cases, resolutions in which the anti-Roma motivation of the crimes is recognised and in which the victim is given adequate restitution and measures are taken to guarantee the incidents will not be repeated.** We have observed that when we obtain a positive resolution or a guilty verdict, there is a greater tendency to report new cases, because the utility of reporting is better understood as a way of defending the rights of Roma people. Thus by contrast, **impunity incentivises under-reporting.**

1- See the section on Strategic Litigation, and the in-depth article on this subject in this report.



- 3) As in other years, we have also encountered many cases of intersectional discrimination, in which other situations of vulnerability apart from Roma ethnicity have played a role. **Gender is one of the most common conditioning factors in intersectional discrimination; in effect, Roma women face very complex social barriers, meaning that they need specialised attention and accompaniment.** Another relevant and alarming situation is cases of anti-Roma intersectional discrimination in **children, adolescents and people with disabilities**, above all in educational environments.

As can be seen in detail in the electronic version of this report (which details each case, the actions taken, and the results), numerous cases of discrimination and hate crimes against Roma people continue to occur in Spain, in all areas of social life. **These cases are also related to the spreading of anti-Roma hate messages on the internet and social media, which range from negative stereotypes and hoax-spreading to incitation of violence against Roma.**

- 4) **The new framework for protection and support for victims of racial or ethnic discrimination constitutes a qualitative advance in the guarantee of the right to equal treatment and non-discrimination. On one hand, the passing of the Comprehensive Law for equal treatment and non-discrimination offers a framework of protection against broad discrimination, and on the other, CEDRE's Victims of Racial or Ethnic Discrimination Support Service has been reinforced with more funding and human resources. This means more specialised and interdisciplinary capacity for support, assessment and guidance for victims².** We also view positively the recent passing of the **Strategic Framework of citizenship and inclusion against xenophobia and racism (2021-2027)** given that it implies the implementation in Spain of the EU Anti-racism Action Plan 2020-2025, notwithstanding the fact that there remain lacunae in regard to the fight against antigypsyism which we hope will be addressed during its execution.
- 5) That said, **we regret that these legal advances are not being applied in a totally effective manner, above all in regard to the Comprehensive Law for equal treatment and non-discrimination.** In effect, the Independent Authority for Equal Treatment has still not been created, despite the law having been passed two years ago. Similarly, we have verified that on many occasions the various competent administrations are not applying this law, which demonstrates the need for further training for state employees to ensure that they understand the implications of anti-discriminatory law, including provisions around infractions and sanctions, in its various fields of application.

² - For more information, see the section on Good Practices in this report.

From these conclusions and the different contextual elements, we would like to make a series of proposals and recommendations to improve the response to discrimination and antigypsyism, with an intersectional focus:

- The **effective application of the Comprehensive Law for equal treatment and non-discrimination** which was passed in 2022, above all in regard to the application of the sanctions scheme by the relevant authorities and the creation of the Independent Authority that the law stipulates in its Title III.
- **Training in the Comprehensive Law for equal treatment and non-discrimination for all the key actors in this field:** the judiciary, public prosecutors, lawyers and law enforcement agencies.
- The **application of the aggravating circumstance of antigypsyism which was also incorporated into the Penal Code** in 2022 (art. 22.4) thanks to the Comprehensive Law for equal treatment and non-discrimination, in cases of crimes against Roma people which have an anti-Roma component.
- The effective application and continued revision of the Strategic Framework for citizenship and inclusion, against xenophobia and racism (2021-2027).
- The establishment and adequate resourcing of **specialised comprehensive support programmes for Roma women**, above all those who are in the most vulnerable situations, with a view to empowering them in the exercise of their rights in the face of intersectional discrimination.

2. SUMMARY OF CASES OF DISCRIMINATION BY AREA AND SPECIFIC RECOMMENDATIONS

1. Discrimination and antigypsyism in the media

In the field of **communications media**, we have compiled 63 cases in 2023. Most of them are news items in which people's ethnicity is mentioned in cases of violence, delinquency or criminality. In these cases, as we have been doing for many years, we write to the media outlet to explain that mentioning ethnicity – when it is not relevant for the understanding of the news in question- goes against the media's own code of conduct and against international standards, as well as stigmatising the Roma. In some cases, the media recognise this mistake and eliminate the mention of ethnicity, and also commit to ceasing this bad practice, which demonstrates the utility of this awareness-raising work by the FSG. However, in many other cases, the media do not reply or rectify, showing that there is still much to be done to overcome this type of discriminatory bad practice, which surprisingly continues in this day and age.

3- For example, ECRI's General Recommendation No. 13, point 10. b), stipulates that the media should be encouraged "not to mention the ethnic origin of a person named in articles or reports when it is not essential for an good understanding of events". <https://rm.coe.int/ecri-general-policy-recommendation-no-13-on-combating-anti-gypsyism-an/16808b5aee>

Other cases which we have found are related to **anti-Roma comments expressed in TV programmes by journalists, commentators, guests or experts as they comment on news stories supposedly featuring Roma people**. These cases are especially serious because of the reach and impact that television has, which at peak viewing hours reaches millions of viewers.

We also frequently found anti-Roma comments published by news readers in online versions of newspapers. Always taking into account freedom of expression, we remind these media that they must moderate this content to ensure that racist and anti-Roma messages or comments are not published.

In order to improve the social image of the Roma community and thus prevent other types of discrimination that Roma can suffer, we call on:

- **Communications media** to apply what is stipulated in Article 22 of the Comprehensive Law for equal treatment and non-discrimination: to avoid all forms of discrimination in the treatment of the news, and to promote a non-stereotyped image of different people and population groups. News treatments that give a negative image of Roma people can lead to hostile attitudes, violent attacks or discrimination against Roma people.
- **Authorities** at all levels of government to **promote self-regulation agreements in the media, as well as awareness-raising and sensitisation campaigns** which show a positive, culturally rich, diverse and non-stereotyped image of the Roma community, thus generating counter-narratives to prejudice and hate speech.
- Those responsible for moderating content in news published in online versions of newspapers, **to analyse and promptly eliminate hate speech and anti-Roma comments published by readers of stories involving Roma**.

2. Anti-Roma hate messages spread by social media users

In the section on social media and online hate speech there are 136 cases. The Fundación Secretariado Gitano has participated for the last 8 years in monitoring cycles carried out by the European Commission around the code of conduct that internet companies signed to remove illegal hate speech from social media. In 2023 there was no monitoring cycle, but we participated in a cycle for a shadow report instigated by the International Network Against Cyber Hate (INACH). During this cycle, the FSG detected and reported 106 cases on social media such as Meta-Facebook, X-Twitter, Instagram and YouTube, which are included in this report in its online version. These cycles serve to show that **anti-Roma hate speech continues to be very frequent on social media, along with other discourses around stereotypes of Roma, hoaxes, and fake news which attempt to criminalise or give a bad image of Roma people**. One of our concerns is precisely that these networks operate with algorithms that spread and replicate many of these fake news stories exponentially.

Some of these messages are extremely serious cases, given that they incite violence towards, or even the extermination of Roma people, or dehumanise them by comparing them with animals. This type of messages, as well as being illegal and seriously damaging the honour and dignity of Roma, can lead to action, i.e. to serious attacks and violence against Roma men, women and even children.

We highlight some of these messages, which illustrate the seriousness of their content:

- *Why isn't the whole clan dead yet?*
- *Every time this happens they should be shot like the gang of savages they are.*
- *If only our old friend Adolf had finished them off in time, how peacefully we'd be living now.*

In view of the above, we call for:

- **The main social media companies**, to keep engaging and **to improve their response to anti-Roma hate speech**, removing illegal hate content as rapidly as possible, as established in Article 22 of the Comprehensive Law for equal treatment and non-discrimination, on the internet and social media.
- **A correct and efficient application of the provisions in the European Digital⁴ Services Law**, passed in 2023, in regard to transparency of algorithms, disinformation, fundamental rights and removal of illicit content.
- **Online forums**, to become more involved in the **fight against anti-Roma hate speech**, by moderating comments and removing the most serious hate messages.
- To the Public Prosecutor's Office coordinating against hate crimes and discrimination, and the relevant authorities, to implement new regulations **to oblige social media users to identify themselves, to prevent anonymity** and to facilitate prosecution of accounts dedicated to spreading illegal hate speech, fake news and hoaxes for the purposes of discrimination and incitation, or to prevent these people from using social media.

3. Denial of access to goods and services for reasons of gender-biased discrimination

In the section on **access to goods and services**, in 2023 we have dealt with 65 cases. These cases have taken place in restaurants, bars and clubs, swimming pools and other leisure centres, where Roma people have been prevented from accessing services simply because of their ethnicity.

A very common case of this type is the excessive surveillance of Roma women in shopping centres and supermarkets, where security guards closely watch these women, or accuse them of having stolen. These are instances of intersectional discrimination (given that they occur above all to women), which create great malaise and a feeling of humiliation and harassment, since these women are exposed in front of other customers in a situation that undermines their dignity and their image. **23 of these cases have this intersectional component.**

For cases of denial of access to goods and services, the FSG employs several strategies: on one hand, we file formal complaints, or we encourage the victims to ask for a complaint form. In other cases, we carry out mediation with the person in charge of the premises, club, bar, supermarket etc. so that they recognise their mistake and stop preventing access to these people. In more serious cases, we file reports in the Consumer Affairs Office or take other legal action.

4 - Available in: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age_en



Article 17 of the Comprehensive Law for equal treatment and non-discrimination refers to non-discrimination in the supply of goods and services to the public, and Article 21 establishes the prohibition of discrimination in access to premises or establishments. In principle this should allow a more effective approach to this type of cases. However, **the relevant consumer authorities are not applying this law correctly**, which demonstrates once more the need for an Independent Authority for equal treatment to ensure compliance with the principle of non-discrimination in access to goods and services.

As an example of a positive outcome, we highlight a case in which the Consumer Affairs Office reacted appropriately. The case took place in Cáceres: the doorman of a club prohibited entry to a group of young Roma. He told them that they could not enter the establishment because they were Roma, on specific orders by the managers to not allow entry to Roma people. The incident was witnessed by a third party who was at the entrance to the establishment. This person asked to speak to the duty manager to obtain a complaint form in order to complain about the denial of entry to the group of young people. The duty manager provided the form without objection, and with the help of this person the young people completed the form both at the establishment and at the relevant Consumer Affairs Office. Furthermore, the duty manager, along with the doormen, explained that they were following orders from the head of the establishment, who had prohibited entry to Roma people in several premises in Cáceres. The intervention by the FSG in this case consisted of an interview with the doorman of the club, who confirmed the instructions to prohibit entry. Help was provided in filling out the complaint form, which was presented to the Cáceres Consumer Affairs Office. At the registry of the Office, it was recommended to monitor the case in order to stay informed about its progress and avoid its being forgotten. The outcome was positive, since the Consumer Affairs Office responded by carrying out inspections to find out the facts at the club, and at others belonging to the same owner. One of the premises where entry was being denied was closed.

We call on:

- **The municipal directors of the Consumer Affairs Offices**, to duly apply the Comprehensive Law for equal treatment and to provide a prompt and appropriate response in cases of reports of discriminatory treatment.
- **Companies and public providers of goods and services**, to ensure that their personnel comply at all times with the principle of equal treatment and refrain from discrimination, in accordance with Articles 17 and 21 of the Comprehensive Law for equal treatment and non-discrimination.

4. Discrimination and antigypsyism towards Roma students

In the field of education we have registered 27 cases this year. These involve different situations of discrimination towards Roma students. In some cases, the issue is comments from some teachers about the Roma community, with stereotypes, prejudices and generalisations. These stereotypes are especially pronounced when they are against Roma girls, about whom teachers sometimes have very low expectations, emphasising gender roles: a clear example of intersectional discrimination. Another type of cases is harassment or bullying among the students, i.e. non-Roma students who insult or attack Roma children because of their ethnicity. All these cases also occur in a context of the educational segregation of Roma students, a phenomenon about which we have not received

express complaints, but which is documented and constitutes ethnic and structural discrimination which undermines equal access to quality education for Roma children.

As an example of a positive outcome, we highlight a case in Navarra: a young Roma woman set out to validate a certificate via her work experience. To do so, she needed to undergo an assessment, and in the final phase needed to obtain the certificate, she received anti-Roma comments from two of the examiners. They asked her: "Are you from the gypsy tribe?" They also added: "because you gypsies want to take the easy route." The young woman said that these comments made her feel uncomfortable. The examiner said that it was her assessment and that it was he who was asking the questions. The young woman was unable to validate her work experience, without any reason being given for her failure. However, she had passed all the tests and had answered all the questions. The rest of her classmates obtained the certificate. She was the only Roma person. By way of intervention from the FSG, the young woman was advised to request a review of the evaluation for its possible lack of objectivity. When the request was not granted, she was advised to present a higher-level appeal in which it was argued that the biased and anti-Roma questions from the examiners could have been the reason why she was unable to certify her work experience. The outcome was positive. A ruling was made in which the previous decision was revoked and the work experience validation was granted. The young woman was very satisfied with the FSG's work.

With the aim of preventing this type of situation in school environments, we call on educational authorities, at both the national and regional level, as well as on the whole educational community, to take measures to:

- **Reduce school segregation** in the framework of a Plan of Educational Inclusion and Against School Segregation, taking into account the information contributed in the *Exploratory pilot study on school segregation of Roma students*,⁵ published by the Ministry of Education and Professional Training and the FSG, and the study on *The Educational Situation of Roma Students in Spain*,⁶ carried out by the FSG.
- Investigate, sanction and respond adequately to **bullying suffered by Roma children and teenagers** in educational centres because of their ethnicity, applying the provisions of the **Comprehensive Law for equal treatment and non-discrimination in its Article 13**.
- We ask all levels of the **Education Inspectorate** to intervene in these cases to ensure respect for equal treatment and non-discrimination, and for the fight against antigypsyism in the field of education, making the best interest of the child central.
- Incorporate into the **educational curricula of all regions texts and educational materials about the history of the Roma people and against antigypsyism**, such as those published by the Ministry of Education for primary⁷ and secondary⁸ education.

5 - Available in: <https://www.gitanos.org/actualidad/archivo/136556.html.en>

https://www.gitanos.org/estudios/exploratory_pilot_study_on_school_segregation_of_roma_students.html.en

6 - https://www.gitanos.org/estudios/the_educational_situation_of_roma_students_in_spain.html.en

7- Available in: <https://sede.educacion.gob.es/publiventa/materiales-didacticos-sobre-el-pueblo-gitano-para-educacion-primaria/educacion-primaria/24970>

8 - Available in: <https://sede.educacion.gob.es/publiventa/materiales-sobre-historia-y-cultura-del-pueblo-gitano-para-educacion-secundaria-educar-frente-al-antigitanismo/educacion-secundaria-mundo-gitano/25684>



5. Discrimination in employment: barriers to equal opportunities

In the field of employment we have detected 32 cases in 2023. In general, they are cases of companies which refuse to accept a curriculum when the candidate for the position is Roma, or refuse to grant an interview when they realise the candidate's ethnicity. Discrimination also occurs in the workplace, when Roma people who are working in a company receive humiliating, insulting or negative comments about the Roma community, or harassment from bosses or colleagues. Roma are also unjustly accused of stealing when this happens in the businesses where they work. We see that in many cases the victims do not want to report, for fear of repercussions when it comes to looking for work in other companies in the area, or for difficulty in proving the racism as a motivation. These are the main factors which explain the high levels of under-reporting in Spain.

As a positive outcome we highlight a case in León: a Roma man was working as a waiter in a restaurant. One day the man was talking to some Roma customers and the boss asked him if he knew them, and if he himself was Roma, to which the man responded that he was. From that moment, the relationship changed and the boss even made anti-Roma comments to him, such as: "You should read more and apply yourself to your studies, instead of sitting with your cousins drinking beers and playing guitars." On another occasion, the boss said to him that she did not want Roma people in the restaurant. Finally, and without a reason, the boss fired him. By way of intervention, the FSG counselled the man and a mediation form for violation of basic rights on grounds of antigypsyism was presented. We advised and collaborated with the court-appointed lawyer. The outcome was positive: a trial was held and a sentence obtained which ruled the dismissal null and void on grounds of discrimination. A compensation of 7,501 euros was awarded.

All these discriminatory practices constitute an enormous barrier to Roma people's inclusion in the labour market, and the exercise of their right to work. This form of discrimination prevents people from leading a dignified life and affects their personal and professional development. For this reason, we call on:

- **Companies**, to include among their activities **the development of specific plans for equal treatment and non-discrimination**; to improve their attention to ethnic diversity; and to carry out awareness-raising initiatives among human resources personnel to eradicate these stereotypes and allow equal access to the world of work, in accordance with anti-discrimination provisions of the Workers' Statute and Article 9 of the Comprehensive Law for equal treatment and non-discrimination.
- **Labour inspectorates** to investigate, and where appropriate, sanction discriminatory and anti-Roma incidents which take place in the field of employment.

6. Discrimination in the field of healthcare (health centres and hospitals)

In the **field of healthcare** we have compiled 9 cases. The most frequent cases consist of hostile treatment towards Roma patients by medical staff or orderlies, and negative comments about Roma people. Some especially striking cases refer to the recording of patient ethnicity in medical reports, which is prohibited under Spanish law.

As a positive outcome, we report a case which took place in Cáceres: a worker suffered an accident at work in which he fractured a finger, and the company sent him to the mutual insurance company. The doctor who attended him told him that the fracture had not been caused by an accident but by a blow, and did not want to give him sick leave. The worker, who was convinced that the doctor's suspicion was because the doctor had identified him as Roma, contacted his boss, who confirmed that the accident had happened at work. By way of intervention, the FSG informed the worker of his right to equal treatment and non-discrimination. The insurance company was contacted to find out if they were processing his sick leave. The result was positive, since in the end the sick leave was granted.

In this area, we call on the state and regional health authorities to develop actions for equal treatment and the prevention of discrimination, and for the improvement of intercultural skills of health-care professionals, in order to avoid biases or prejudices when they attend Roma people. It is of fundamental importance that any staff who commit anti-Roma discriminatory acts in the exercise of their duties are duly sanctioned so that these acts do not go unpunished.

Likewise, we recommend that health administrations disseminate and train their staff in the contents established in Article 15 of the Comprehensive Law for equal treatment and non-discrimination, **which refers to healthcare.**

7. Discrimination by police services: police forces continue to stop and identify people based on ethnic profiling

In the field of **police services**, we have identified 11 cases in 2023. The majority are cases of police identifications based on ethnic profiling, a bad police practice which Roma people are often subject to. There have also been cases of prejudicial treatment by police officers towards Roma.

A case of bad police practice with an intersectional component and a positive outcome occurred in Madrid: a Romanian Roma woman was detained leaving a train by the Civil Guard, who alleged that she was a suspected of robbery because she was carrying a lot of jewellery. By way of intervention, the FSG interviewed the woman's husband, who had called the FSG to report discrimination and had explained that his wife had receipts for the jewellery, which had been bought second-hand. He then communicated with the relevant police station by telephone and the officers promised to call them to clarify the situation. The end result was positive. The officers understood that the Roma woman felt discriminated against by the arrest, and they called her to apologise.

We therefore urge law enforcement agencies to adopt the following recommendations:

- Introduce identity forms and independent bodies to allow **the supervision of police actions**, in order to prevent ethnic profiling, and to avoid the use of discriminatory profiling without an objective justification, **as stipulated in Article 18 of the Comprehensive Law for equal treatment and non-discrimination, which also applies to private security services.**
- Establish independent **oversight** mechanisms for police services, to ensure that discriminatory acts do not occur and that human rights are respected.



- Encourage the **recruitment of Roma officers** so that police forces are more representative of the society they serve.
- Improve the **practical training** of officers regarding the principles of non-discrimination and effective and unbiased policing, including a greater knowledge and application of the “Action Protocol for **Law Enforcement Agencies for Hate Crimes and Conduct which Violates Legal Standards on Discrimination**”.

8. Discrimination against Roma in housing: difficulties renting due to anti-Roma prejudices

In the **field of housing** we continue to find cases of discrimination (28 cases) in 2023. The most frequent cases are related with the refusal on the part of some real estate agencies or landlords to rent or sell a flat when they discover that the person or family that wishes to buy it is Roma. Another type of cases is related to coexistence, i.e. cases of non-Roma neighbours who are hostile to the fact that there are Roma neighbours in the building, or who unjustifiably report them to the police in order to harass some Roma families. There are also cases of displacements or evictions of Roma families, without the requirements of respect for human rights in this type of situation being met.

In this regard, we wish to highlight a fairly common circumstance, which in this specific case ended positively. It occurred in Zamora: a Roma man contacted an estate agent in an attempt to find a flat. He was granted an appointment to see the flat, but when the man arrived, the estate agent realised that the man was Roma, and said that before seeing the flat he would have to speak with the owner. As an intervention by the FSG, the man was advised about his rights; he indicated to the estate agent and the owner that this was a case of discrimination and that he was going to report them. The estate agency apologised for what had happened and promised to help him find a flat.

We appreciate that **Article 20 of the Comprehensive Law for equal treatment and non-discrimination prohibits discrimination in housing**, both by individuals and by companies, as well as by real estate agencies involved in sale, rental and intermediation such as advertising websites; this prohibition also includes individuals who make offers to rent or sell a property. We welcome the fact that the new Spanish Housing Law includes among its aims the necessary eradication of substandard housing settlements, a situation which disproportionately affects Roma people, as demonstrated in the Study of the characteristics and circumstances of people living in slum and substandard housing settlements in Spain (FSG, 2023).⁹

Furthermore, with the aim of ensuring the effective enjoyment of the right to housing by Roma, we urge authorities to take the following measures:

- The development of urban planning and housing policies which respect the right to equal treatment and prevent discrimination, including **residential segregation, as stipulated in Article 20.1 of the Comprehensive Law for equal treatment and non-discrimination**.

9- Available in: https://www.gitanos.org/estudios/estudio_sobre_el_perfil_y_la_situacion_de_las_personas_en_los_asentamientos_chabolistas_y_de_infravivienda_en_espana.html.es

- The implementation of the provisions of the **Housing Law**, with a more complete approach to the situations of residential segregation and slums, and the establishment of housing alternatives, both in the short and long terms, for families who live in these settlements.
- **Respect for the legally established procedures** for evictions or relocations carried out by municipal authorities, in which children's best interest is prioritised.
- The approval of a **National Plan for the eradication of slums and substandard housing**, with an appropriate budget and the implication of all regions, in line with the provisions of the EU Resolution¹⁰ of October 2022 about slums and the residential segregation of Roma communities.

9. Discrimination in other areas and anti-Roma hate crimes

We gather other cases of discrimination in a final section; these are cases which do not fall into a specific category (13 cases). Here are included some cases which are hate crimes, such as assaults or violent threats to Roma people on public spaces, arson attacks and threatening anti-Roma graffiti on various buildings and public spaces, which are examples of anti-Roma hate speech.

We highlight this case of hate crime for its seriousness: a young Roma man went to a bar to have a drink. After having served him, the owner informed him that she would not be serving him any more, while making various anti-Roma comments ("gypsies don't integrate, they live off benefits"); she knew that he was Roma. As he was leaving the bar, two customers present assaulted him, slapping him in the face. In his attempt to escape, the young man accidentally hit the bar owner. Subsequently, the two men, one of whom was an off-duty Civil Guard, tripped him over and beat him up, leaving him semi-unconscious. Despite calling the Civil Guard, they did not provide any assistance and left him on the street. By way of intervention, the FSG made an official report of the injuries, took photos and reported the facts of the case to the public prosecutor of hate crimes. The young man went to the Civil Guard to file a complaint and request the CCTV footage of the incident. The case is pending resolution. The court has not yet set a date for the trial.

In order to improve the response of the relevant authorities to hate crimes motivated by antigypsyism, as covered since 2022 in Article 22.4 of the Penal Code, we recommend:

- **To all police forces, at all levels, to create police diversity management units** inspired by the good practices initiated by some local police forces, such as in Madrid, Fuenlabrada or Burgos. In effect, many of these cases demonstrate the utility of **a specific police diversity management unit** in the application of appropriate protocols in the face of anti-Roma incidents and hate crimes.
- To the specialised hate crime and discrimination sections of the provincial public prosecutors' offices: we recommend that they promote and coordinate, in their respective areas, the

¹⁰ - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022IP0343&from=EN>



criminal proceedings aimed at the investigation and prosecution of discriminatory behaviours, **as stipulated in Article 32.1 of the Comprehensive Law for equal treatment and non-discrimination, about the Public Prosecutor's Office.**

- **That members of the Public Prosecutor's Office receive compulsory specialised training** related to the groups which tend to suffer discrimination, among whom are the people of the Roma community (Article 32.3 of the Comprehensive Law for equal treatment and non-discrimination).
- Regarding collective anti-Roma harassment, local authorities (public officials, politicians, police officers, authorities, etc.) are requested to comply with the CEDRE **Recommendation**¹¹ in these matters.

10. Cases of discrimination and antigypsyism detected at the European level

Lastly, we have reserved a section for **the situation of antigypsyism in Europe**. Here are compiled a few cases which exemplify the difficult situation experienced by many Roma in different European countries, who are subject to serious human rights violations and situations of structural antigypsyism in areas such as housing and education.

In this regard, it is worth remembering the fundamental role that the European Union institutions have in the establishment of a normative administrative framework and in the fight against antigypsyism¹². This is why we call on these institutions to:

- Ensure the approval and effective application of the **national action plans** against racism, in line with the content of the Commission Communication "A Union of Equality: **EU Anti-Racism Action Plan for 2025**"¹³.
- The **revision of Directive 2000/43/CE**, with the aim of broadening the areas in which discrimination is prohibited, and **expressly incorporating the terms antigypsyism and intersectional discrimination**, as in the Spanish Comprehensive Law for equal treatment and non-discrimination.
- The application of the EU Resolution of October 2022, about the situation of Roma families who live in slums, which recognises the existence of "**structural and institutional antigypsyism**" on a European scale.
- **The promotion of the use of structural and investment European funds (especially the ESF+)** for the improvement of the situation of the Roma people in Europe, with special emphasis on the fight against antigypsyism.

11 - Available in: https://igualdadynodiscriminacion.igualdad.gob.es/novedades/novedades/2022/pdf/Recomendacion_CEDRE_prevenir_practicas_antigitanas.pdf

12 - For more information on the EU recommendations in this regard, see the Annexes section in this Annual report.

13 - Available in: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52020DC0565>

- The transposition and implementation of the two new Directives on rules relating to equality bodies¹⁴, in order to strengthen the functions, capacity and independence of these bodies.
- Accelerate the infringement proceedings opened by the EU against Hungary, the Czech Republic and Slovakia for the segregation of Roma pupils in education, in line with the European Parliament resolution of 4 October 2023 on the segregation and discrimination of Roma children in education (2023/2840(RSP))

14 - Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services.

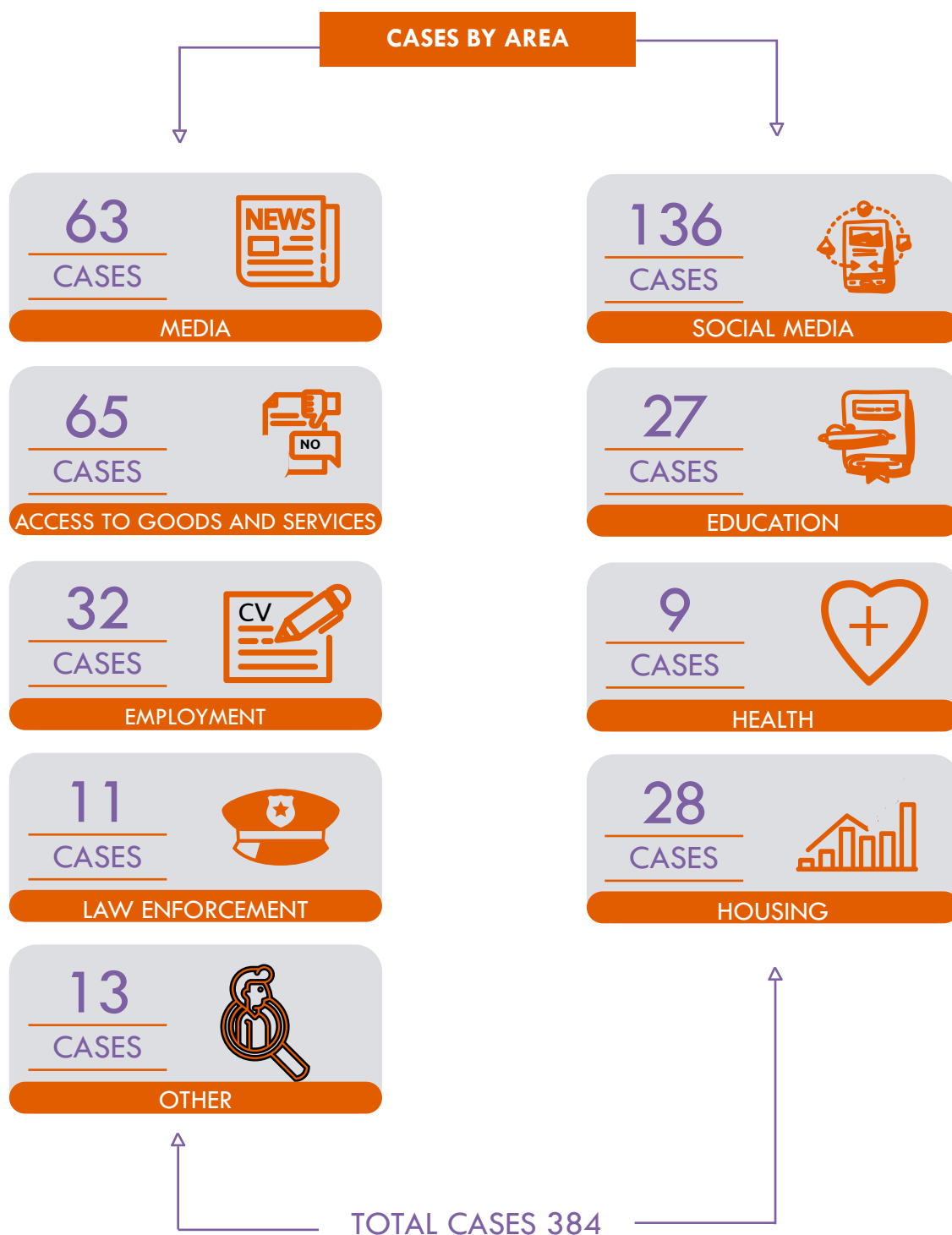
Presentation of disaggregated data

In this section we present the disaggregated data corresponding to the 384 cases compiled by the FSG during 2023.

Definitions in the categorisation of cases:

- 1) **Individual Cases:** When the discrimination or hate crime is directed at a specific, identified person.
- 2) **Collective Cases: three sub-categories:**
 - **The Roma community in general:** Cases which affect the image of the whole Roma community, or promote hate towards the whole Roma community (for example: bad journalistic practices where ethnicity is mentioned in the news item, phrase of anti-Roma hate on social media, “All gypsies are...”)
 - **Case with undetermined victims:** A collective case which affects a specific group of Roma people, whose exact number cannot be determined (for example, if a group of young people are denied entry to a nightclub because of their Roma ethnicity; this is a collective case, but we do not know who the victims are, nor how many there are).
 - **Case with identified victims:** A case where a group of Roma are discriminated against, and we know how many victims there are and who they are (“e.g.”, entry to a nightclub is denied to 5 young Roma men).

CASES 2023



ANALYSIS OF CASES

INDIVIDUAL AND
GROUP FIGURES

133

INDIVIDUAL
CASES



251

COLLECTIVE
CASES

251 COLLECTIVE CASES



198

CASES
ROMA
COMMUNITY
IN GENERAL



35

COLLECTIVE
CASES WITH
IDENTIFIED
VICTIMS



18

COLLECTIVE
CASES WITH
UNIDENTIFIED
VICTIMS



ANALYSIS OF VICTIMS

DATA BY GENDER
IDENTIFIED PERSONS 133

72

WOMEN



61

MEN

AGES OF THE IDENTIFIED VICTIMS

13

FROM 0 TO
17 YEARS

45

FROM 18 TO
25 YEARS

55

FROM 26 TO
35 YEARS

13

FROM 36 TO
45 YEARS

4

FROM 46 TO
55 YEARS

2

FROM 56 TO
65 YEARS

1

OVER
65 YEARS

TOTAL NUMBER OF IDENTIFIED VICTIMS 133



Strategic litigation undertaken in cases of discrimination, hate crime and antigypsyism





As explained in the *In Depth* section of this report, the FSG employs the tool of strategic litigation in some of the cases of discrimination and antigypsyism in which we intervene, with the aims of implementing human rights standards in our jurisprudence and obtaining justice not only for the victim of the specific case but also for the Roma community as a whole.

In this section, we present a summary of the main strategic litigation cases initiated with the support of the FSG. Included are both the cases that were opened in 2023 and cases opened previously¹ but whose judicial proceedings continued in 2023.

A) CASES REPORTED THROUGHOUT 2023

1 – Case of violation of the fundamental rights of a Romanian Roma woman in Huelva

A Roma woman of Romanian nationality, living in a situation of poverty and homelessness and with a disability rating of 43% received an eviction notification from the port authority, as she had been living in the port of Huelva since 2013. The woman had been on the housing list since 2016.

This case was managed jointly by the FSG and Cáritas, since it was a case of the right to decent housing where in the legal proceedings there was the potential for violation of the fundamental rights of a woman potentially affected by different intersectional factors. Likewise, we collaborated with GENTIUM, an expert body in legal defence and strategic litigation.

1- For a detailed exposition of the cases prior to 2023, see Strategic Litigation section of the 2022 Annual Report, available at

<https://informesdiscriminacion.gitanos.org/informes/2022>



An **appeal for the review of the administrative decision** of eviction was filed in the Administrative Court of Huelva on the grounds of **defence of fundamental rights**. Similarly, a writ requesting the temporary suspension of the eviction order was presented. This writ was filed on the basis that there had not been due analysis of proportionality and alternative housing options; if the eviction was carried out, the woman's right to decent housing would be violated.

On the 11th of July 2023, we were informed that the Housing Department of Andalusia had provided the woman with public housing. Given this result it was decided that the objective of the intervention had been achieved, and to withdraw the open appeal. The High Court of Andalusia issued a ruling on the 4th of September 2023 which declared the proceedings finalised as the objective of the process had been met.

2 – Report to the Provincial Public Prosecutor's Office in Madrid for denial of mobile phone renting services to Roma

This is a case of discrimination towards Roma people in mobile phone renting services, by order of the management of a telephone company. The instruction from the company to their sales staff was: **"Renting cannot be offered to customers who do not have money in the bank and to those of a Roma ethnicity."**

The FSG filed **a complaint to the Madrid Public Prosecutor specialised in hate crimes on the 25th May 2023**, for the crime of solicitation of the denial of access to goods and services in the private sector with anti-Roma motive.

On the 1st of February 2024, one of the affected parties testified in the Madrid Investigation Court No." 46, accompanied by the FSG. The court records were also requested to assess the possibility of support with legal representation as a case of strategic litigation. We are currently awaiting the resolution from the aforementioned court.

3 - Writ to the specialised Public Prosecutor's Office in the Madrid in the case of injuries sustained by a man in a supermarket assault, aggravated by antigypsyism

The facts of the case are as follows: a man who was shopping in a supermarket saw a man leaving a dog tied up; the man went to the security guard and asked him, "Son, can't you see that there's a dog there and they're not allowed in here?" The security guard replied, "That's not my job, are you afraid of dogs, gypsy?" And then he grabbed the man, took out his truncheon and hit him in the chest to eject him from the supermarket, while he said to him: **"Because I'm at work, otherwise you'd really find out, fucking gypsy."** The man went to the emergency room and filed a complaint at the police station of the National Police Force. Despite the fact that the man was not Roma, he was convinced that he had suffered the assault because his attacker had mistaken him for a Roma man (this is known as discrimination by perception), and so he contacted the FSG to report the case and request advice.

The FSG filed a writ to the specialised Public Prosecutor's Office in Madrid on the 22nd of June 2023, reporting a possible crime of bodily harm under Article 147.2 of the Penal Code, combined with the aggravating factor of antigypsyism under Article 22.4 of the Penal Code, given that the attacker acted under the belief that the man was Roma.

The man was summoned to testify in the Investigation Court as the complainant in a trial for minor offences. **The aggravating factor of antigypsyism was not taken into account.** The FSG helped the man to prepare his testimony and on the 14th of February 2024 he testified before the court.

The oral hearing was held and the security guard was acquitted as the evidence was not deemed conclusive.

4 – A case of discrimination in access to employment against a Roma man in León

A Roma man was working in a restaurant. Some Roma men came in, and he served them and talked to them for a while. Then **the boss of the restaurant asked him if he was Roma, to which the man responded that he was. The boss then told him that he should have told her that before she hired him, since she needed to know who was working in her company.** From that point on, the relationship with his boss changed completely, and she began to make comments to him with a clear anti-Roma component, such as, *“You have to read more and apply yourself to your studies, instead of sitting with your cousins playing guitars and drinking beers.”*

On another occasion, there was a group of Roma men in the restaurant having some drinks, and the boss said to the man **“Do you see why we don’t want Roma working here? Before, they only came from time to time, and now they come often, and that’s not good for business.”**

Some days later, the boss asked to meet him in a shopping centre and dismissed him, without giving further explanation. The man went to the FSG to tell them his situation and ask for advice. A conciliation paper was drawn up and presented to the Mediation and Arbitration Service of León and a public defender was requested, with whom the FSG collaborated in the preparation of the subsequent lawsuit in the labour relations court.

On the 17th of May 2023, the trial was held and the man testified, as did the specialist who had attended him in the proceedings and the jurist at the FSG in León specialised in hate crimes. On the 18th of May the Labour Relations Court No 3 **ruled that the dismissal was null and void on grounds of violation of fundamental rights and the man was awarded compensation of 7,501 euros.**

The case was widely reported in the media² and had a large social impact.

5 – Writ to the specialised Public Prosecutor’s Office in Valladolid for the crime of denial of access to goods and services in the private sector to a Roma family

A Roma man went with his family to a bar in Valladolid and when they ordered their drinks the waitress warned them that she was going to charge them 10 euros per drink. Although the man saw that other customers were being charged 5.50 euros for the same drinks, he told her to serve them and that they would pay the 10 euros. Then **the waitress told them that she was not going to serve them, because they were Roma.** The man asked for a complaint form, and when the waitress refused to give him one, called the Municipal Police to report the discriminatory treatment. The officers of the Municipal Police force advised him to present the complaint and file a report.

Likewise, the man contacted the FSG to report the situation at the station of the National Police Force, where the report was filed, with the accompaniment of the FSG specialist in discrimination and hate crimes.

2- See among other instances the reports at:

<https://cadenaser.com/nacional/2023/05/23/un-despido-por-gitano-problemas-para-acceder-al-alquiler-por-ser-marroqui-una-condena-de-la-onu-por-racismo-los-casos-que-ilustran-el-racismo-cotidiano-en-espana-cadena-ser/>
https://www.eldiario.es/economia/condena-empresa-despedir-trabajador-gitano_1_10230768.html
<https://www.20minutos.es/noticia/5130832/0/multa-de-7-500e-a-un-bar-que-despidio-a-un-camarero-por-ser-gitano-tenes-que-leer-mas-en-vez-de-tocar-guitarras-con-tus-primos/>

On the 31st of October 2023 the FSG presented a **writ to the specialised Public Prosecutor to report the facts, which could constitute a crime of denial of access to goods and services in the private sector** with an anti-Roma motivation, and to ask the Prosecutor to take up the case.

On the 8th of November 2023 the Prosecutor's Office took testimony from one of the men who suffered the discrimination. We are currently awaiting the decision of the specialised Prosecutor's Office.

6 - Conciliation and Arbitration petition, and collaboration in the lawsuit in the Madrid Labour Court for anti-Roma discrimination in employment

The case concerns a young Roma woman who was working in a beauty product company as a shop attendant. The young woman started to hear negative and prejudiced comments from her colleagues towards the Roma community, comments which became more and more serious over time. Some examples were as follows: "Gypsies grew up on milk cartons", "Gypsies are dirty, they smell bad, they all live off benefits", "You can't trust any gypsy, at most 10%." Similarly, her colleagues and the shop supervisors made gestures that they should be more vigilant, any time that people who had an ethnic profile associated with the Roma entered the shop. Also, they started to ask the young woman if she was Roma, which she denied for fear of losing her job. However, one day her colleagues and the supervisors started to laugh at a young boy, who from his ethnic profile was easily identifiable as Roma. At that moment, the young woman, who could no longer put up with the comments and actions, said that she was Roma as well and that the comments and jokes had to stop.

Due to her being Roma, the staff's attitude towards her changed completely and she started to be told that her performance was poor. Some days later, two of the supervisors took the young woman to the warehouse and made various observations about her poor performance. That same day she received a WhatsApp message in which she was told that they were terminating her employment and that she should not return to work the next day. She was convinced that she had been fired for being Roma, and contacted the FSG.

The FSG advised the young woman, and on the 16th of March 2023 **a petition for conciliation and arbitration was presented to nullify the dismissal on grounds of violation of fundamental rights by discrimination**, with an anti-Roma motivation. The conciliation proceedings were held on the 11th of April with the accompaniment of the FSG and without any appearance from any representative of the company. We requested a public defender and collaboration with the FSG and the victim to jointly prepare the lawsuit and with the FSG's expert advice. The lawsuit was presented on the 21st of April 2023 to nullify the dismissal on grounds of anti-Roma motivated discrimination. The date of 17th of October 2023 was given for the oral hearing. The young woman was accompanied by the FSG and in the courthouse **an agreement was reached between the parties for unfair dismissal, although the agreement did not recognise the violation of fundamental rights for antigypsyism**. Despite the agreement not being totally satisfactory, the young woman was very satisfied with the FSG's accompaniment during the process.

7 – Presentation of a lawsuit to the specialised Prosecutor's Office in Madrid for anti-Roma hate speech on social media

On the 26th of October 2023 a complaint was filed with the specialised Public Prosecutor's office in Madrid for anti-Roma hate speech on social media, which had come about after news reports about a young man who had been missing for four days. Although the authorities had communicated the hypothesis that he could have died from electrocution, rumours appeared blaming "a group of

between 20 and 30 Roma” for having participated in his death, without any consistent evidence. These hoaxes gave rise to the spread of dozens of anti-Roma hate comments on social media.

8 – Presentation of a complaint at the Granada police station of the National Police Force for anti-Roma graffiti on the headquarters of the FSG in Granada

Several graffiti appeared on the façade of the FSG headquarters in Granada, which said, “Gypsies out”, and below this was painted a hooked cross or swastika, a Nazi symbol, and also the letters VOX.

On the 15th of November 2023, the FSG presented a complaint to the police station of the National Police Force for incitation to hatred based on antigypsyism. We are currently monitoring the processing of the complaint.

9 – Violation of fundamental rights for the eviction of several Roma families in Vargas (Toledo)

Several Roma families, who had been living for approximately 10 years in a private property, received a summons for an oral hearing for eviction. The case constitutes a call to an oral hearing for the exercise of an eviction to immediately recover the full possession of the urban property.

The families had 10 working days to object, i.e. to present a written opposition to the claim, with all the documents they could provide (municipal residence certificate, bills, any notifications they had received, etc.) to demonstrate that it was their habitual residence.

They contacted the FSG for legal advice. Department for Equality and our local offices advised them on how to request free legal aid so that each family could be assigned a public prosecutor to defend their case and coordinate with the FSG. They were sent a proposed writ requesting the suspension of the deadlines until the public prosecutors had been assigned, which they presented to the court.

We contacted some of the families’ lawyers to see what strategy they would put forward and to provide them with some arguments related to the families’ situation.

We are monitoring the proceedings and communicating with the lawyers, as we understand the case as one of the right to decent housing.

B) FOLLOW-UP OF CASES REPORTED BY THE FSG IN PREVIOUS YEARS³

10 – Case of aggravated racist assault against a Roma teenager in Castellón

The events occurred on the 31st of August 2016, when a young Roma man of 17 years of age who was with his cousin **in the terrace of a bar in Azuébar (Castellón) was hit on the head with a bottle while the aggressor shouted, “We have to exterminate the gypsy race”, “Get out of town”, and “I’m going to kill you”**. The young man was taken to hospital in an ambulance, suffering from cranial trauma (lesions on the front left), neck pain and anxiety.

3 - In this section we collect the cases reported in previous years, which are also described in the Annual Report, Discrimination and the Roma Community 2022, in the section on Strategic Litigation: <https://informesdiscriminacion.gitanos.org/informes/2022-english>. Here we inform of the latest developments in the cases in 2023 and of the proceedings initiated by the FSG.



The FSG reported the case to the specialised Public Prosecutor's Office in Castellón as a crime of bodily harm under Article 148.1 of the Penal Code and criminal threats under Article 170.1 of the same, both of which crimes combined with aggravating circumstance under Article 22.4 of the Penal Code for having been committed because of the man's Roma ethnicity (i.e. a hate crime). **Also, the FSG decided to support the family by attending the proceedings, since the crime was both serious and a paradigmatic case of anti-Roma hate crime** (also recognised as such by the Public Prosecutor's office, who requested the application of the aggravating circumstance of racism).

After a wait of more than 7 years, on the 25th of January 2024 **the main defendant, having plead guilty, was sentenced to two years in prison for a crime of bodily harm under Articles 147.1 and 147.2 of the Penal Code**, and the aggravating circumstance of racism under Article 22.4 of the same was recognised. The terms of the prison sentence are conditional on the completion of a course in equal treatment and against racism.

11 – Case of aggravated racist assault against a Roma woman in Ontur (Albacete)

This case is a continuation of the proceedings initiated on the 4th of April 2019, when a report was filed with the Albacete Public Prosecutor's Office for crimes of hate and discrimination. The incident in question is an alleged crime of bodily harm (Article 147.1 of the Penal Code) with an aggravating circumstance of racism (Article 22.4 of the same) committed against a Roma woman for being Roma, who was accosted when she was leaving a religious ceremony and was assaulted, with her attackers saying to her **"You can't come through here, you gypsy shit" and "I shit on your race, gypsy"**, as they hit her several times and threw her to the ground.

The FSG advised and accompanied the woman to broaden her claim, highlighting that the assault she had suffered was an anti-Roma hate crime. Similarly, on the 4th of April 2019, a writ informing of the facts of the case was presented to the Albacete Public Prosecutor's Office, for a crime of bodily harm under Article 147.1 of the Penal Code aggravated by racism under Article 22.4 of the Penal Code. Due to seriousness of the case, as well as the context and the documentary evidence that had been gathered (photos and medical reports), we decided to take the case to court.

The court transformed the proceedings into a trial for a minor offence, without considering the aggravating circumstance of racism. We filed an appeal for review for this aggravating circumstance to be taken into account, but it was rejected.

In the end, in 2023 the woman decided to withdraw the claim because she was unwell and the proceedings were taking too long.

12 – Case of denial of entry to a premises in Jerez to 14 young people for being Roma

The events took place on the 13th of July 2019, when a group of 14 young people were going to a nightclub to celebrate one of the group's bachelor party. As they were entering they showed the reservation that they had made three days earlier for one of the reserved rooms. The doorman told them: **"You can't come in because you don't fit the customer profile."** One of the group asked why this was so and the doorman insisted, "Just that, you don't fit the profile". To which the young man asked if it was "because they were Roma" and the doorman relied: **"Yes, we don't want that type of customer here."**

The owner of the nightclub did not acknowledge the facts of the case or the discrimination. The FSG filed a report with the Provincial Public Prosecutor's Office in Jerez for a crime of denial of access to goods and services in the private sector, under Article 512 of the Penal Code.

On the 11th of September 2023 an Order of Provisional Discontinuance and Dismissal of the case was given because there was insufficient evidence of the accused's responsibility. The FSG presented an Appeal for Review and a Subsidiary Appeal, which did not have the support of the specialised Prosecutors as "the discriminatory motive was not substantiated as the fundamental element of the offence." The Provincial Court of Cádiz rejected the appeal filed by the FSG.

13 – Case of violation of fundamental rights of a young Roma woman convicted of a theft in a shopping centre in Madrid which she did not commit

The case concerns a young Roma woman who went to a shopping centre with her mother-in-law and her baby. As they were leaving the shopping centre, she was stopped by the security guard, who claimed that the toy which her baby was holding, which had a value of 6.90 euros, had been stolen. The young woman assured the security guard that she had not even been to the toy store in the shopping centre that day, and that the toy was a gift they had been given at the opening of another toy store. However, the young woman heard the security guard say to his colleague: **"Since they are gypsies, how are they not going to steal?"** Despite the young woman's explanations, the security guard detained her and her baby in the security room for more than half an hour, without the possibility to feed the infant or change its nappy, until the police arrived. When the officers arrived, they opened a police report based only on the testimony of the security guard and without taking into account the young woman's explanations, despite her asking them to look at the security cameras as proof that they had not been to the toy store.

She left with a summons to appear for a fast-track trial for shoplifting. The next day the trial was held, during which the young woman asked the judge to call the attendant at the toy store as a witness and to watch the security cameras. But the judge only took the security guard's version into account and convicted the young woman, ordering her to pay a fine of 26 euros for shoplifting, which also left her with a criminal record.

We presented **an appeal to the provincial court for violation of fundamental rights.** In the end the appeal was dismissed in a ruling from the provincial court which does not address one of the fundamental motives: the violation of the principle of equality and non-discrimination.

We filed an appeal for protection to the Constitutional Court on the 11th of January 2021, which was rejected for "lack of constitutional significance."

The FSG decided to continue with the case given the evidence and the fact that it is an emblematic case of intersectional discrimination. We have recently presented a **Communication to the UN Committee for the Elimination of Discrimination against Women** (CEDAW Committee) with the help of a lawyer who is an expert in intersectionality and international protection of human rights.

On the 25th of June 2024, the CEDAW notified us of the State's observations about our Communication, and on the 22nd of August we submitted our comments in response.

14 - Complaint to the Public Prosecutor's Office in Santander for hate speech via WhatsApp messages in Cantabria

The FSG reported six audios spread via WhatsApp, which contained anti-Roma hate speech, to the Public Prosecutor in Santander specialised in hate crime.

The FSG has filed a public prosecution for hate crime under Article 510.1 of the Penal Code, given the seriousness of the comments, the evidence obtained, the social impact of the audios and their dissemination throughout Spain, and the localisation of the author of the most serious message.



The Prosecutor's Office referred the proceedings to the magistrate's court, which initially dismissed the case because "the statements made do not have the necessary character to be included under the criminal offence of hate crime under Article 510.1 of the Penal Code." The FSG presented an appeal for review.

The FSG presented an indictment and a request for a hearing, and the prosecution service also presented an indictment along the same lines. We are currently awaiting a date for the commencement of the hearing.

15 - Complaint to the Madrid Public Prosecutor's Office for anti-Roma hate crime on the internet forum Burbuja.info

The FSG reported some anti-Roma hate crimes disseminated on the internet forum Burbuja.info to the police station of the National Police Force in Vallecas in Madrid.

We informed the specialised Public Prosecutor in Madrid of these anti-Roma hate comments, who referred them to the court, which opened investigation proceedings. A statement was made by an FSG worker in the Navalcarnero Magistrate's Court and by videoconference in the Villafranca de Penedés Magistrate's Court.

The FSG decided to appear at court and bring a public prosecution, hiring a lawyer who is an expert in hate speech, given that this was another case of anti-Roma hate speech on an internet forum such as Burbuja.info, which permits its users to publish and spread all kinds of racist and anti-Roma statements without any moderation. We are awaiting the decision of the Court, which we hope will decree the opening of a hearing.

16 – Case of violation of fundamental rights of 26 Roma families in the neighbourhood of La Pomeica (Teruel)

This case concerns an attempted displacement and eviction procedure which **could have left 96 people homeless, among whom were 31 children and 14 people with disability or chronic illness**. Almost all were Roma people in a vulnerable situation.

On the 9th of June 2023 the hearing was held in the Administrative Court No 1 in Teruel, which dismissed the claimant's case, which would have left 26 Roma families homeless. The principal grounds were the prolonged and tolerated presence of the families in the neighbourhood of Pomeica, their vulnerable situation and the need for a prior assessment of proportionality to take into account the lack of alternative housing to rehouse the large number of families. The trial had a large media impact in Aragón.

The claimant filed an appeal against this first ruling on the 6th of July 2023, to the High Court of Aragón, to revoke the ruling and be able to carry out the displacement and eviction of the families.

On the 6th of September 2023 we filed a statement of opposition to the appeal. On the 11th of January 2024 the High Court of Aragón processed the appeal, and the case is ready to be ruled upon. We are currently hoping that the High Court will issue a ruling confirming that of the Administrative Court.

17 – Administrative Appeal for violation of fundamental rights for the demolition of a dwelling with no housing alternative in Cañada Real (Madrid)

On the 16th of November 2022, officials from the Council of Rivas Vaciamadrid and law enforcement officers went to Sector IV of La Cañada Real Galiana and carried out a series of demolitions of several Roma family dwellings, whose occupants had temporarily left their homes. These demolitions were not covered by any legal authorisation which would have allowed entry to or demolition of the dwellings. There was no court order or administrative decision for demolition of the dwellings in force on the date of the events.

The FSG accompanied and advised the families whose homes had been demolished of the possible actions they could take. A Roma man affected by the demolitions decided to take legal action and the FSG provided him with legal representation via a lawyer. Two legal proceedings were begun:

An **Ordinary Administrative Appeal** was lodged on grounds of legality, given that the procedure was irregular.

A **Special Administrative Appeal for the legal protection of fundamental rights** was filed

On the 4th of December 2023 we filed the lawsuit for the fundamental rights proceedings before the High Court of Madrid. Testimony has been taken and we are currently awaiting the resolution of the case.

18 – Case of denial of access to a campsite in Cistierna (León) to nine families because of their Roma ethnicity

The events took place on the 22nd of July 2022, when nine Roma families constituting 40 people including children arrived from Avilés at a campsite in Cistierna (León). The families had called in advance to reserve, and they had been told that while the campsite did not take reservations they should not worry as there was currently space, and if there were not by the time of their arrival there was an area reserved for such situations, with water and electricity, although without shade.

When they arrived, the receptionist welcomed them and told them that they had been waiting for them. However, when the supervisor arrived they realised the unease of the staff, who told them, without asking any questions, that there was no room at the campsite and that they had to leave. The FSG filed **a complaint with the Public Prosecutor's Office in León for a crime of denial of access to goods and services in the private sector under Article 512 of the Penal Code.**

As this is one of the most common cases of antigypsyism, the FSG decided to support the victims so that they could appear in court as private prosecutors, and hired a lawyer who is an expert in anti-Roma hate crimes.

In July 2023 the victims had been summoned to testify, but due to a strike in the legal administration, the proceedings were suspended. The victims were given another summons for the 14th of April 2024. We are currently awaiting the end of the investigation phase and the opening of the hearing.

19- Case of refusal to rent a premises to a man because of his Roma ethnicity, in Jaén

A man came to the FSG and told us that he had made verbal agreement with an estate agent to rent a premises, having met all the requirements. **When the estate agent saw photos of his parents, identifiable as having a clear profile associated with the Roma, he told the man that he was**



waiting for the response from the insurance company and that he would be in touch. The man suspected that he was being given excuses for not renting him the premises because he was Roma.

Two non-Roma workers from the FSG carried out a test by calling the estate agency. They were told that the premises was available for rent, and even visited the premises.

The FSG advised the man, and he decided at first to lodge a complaint with the estate agent and the Consumer Affairs Office based on the Comprehensive Law for equal treatment and non-discrimination. When he did not receive an adequate response, he decided to file a complaint with the specialised Public Prosecutor in Jaén for a crime of denial of service in the private sector with an anti-Roma motive, as provided for in Article 512 of the Penal Code.

On the 13th of January 2023 we were notified of a ruling by the Public Prosecutor that referred the criminal investigation proceedings to the Jaén High Magistrate's Court.

The magistrate's court dismissed the case, based only on the testimony of the managers of the estate agency. An appeal was filed with the Provincial Court, requesting further investigation to continue with the pre-trial proceedings. On the 22nd of May 2023 we were notified that the appeal had been upheld and that the proceedings would be reopened, and a date was set for testimonies.

On the 20th of March 2024, the Provincial Court deliberation and voting took place, which dismissed our appeal, leaving the case firmly closed despite the evidence provided in the complaint and the fact that there had been no further investigations beyond the declarations of the estate agency managers.

20 – Complaint to the Public Prosecutor's Office in Huelva for anti-Roma hate speech on social media

After news of the death of a Roma man in a shooting, and the publication of a photo of some of the victim's relatives mourning his death, some anti-Roma comments were posted on social networks, on YouTube, and on Twitter.

The FSG filed a complaint with the specialised Public Prosecutor in Huelva on the 21st of April 2020, who communicated the referral of the proceedings to the High Court, as the events were understood to constitute a crime.

In 2023, we were told that the case had been dismissed due to the evidence being insufficient to establish responsibility.

21 – Case of anti-Roma motivated harassment by a neighbour of a family in Badajoz

A Roma family informed the FSG in Badajoz of constant harassment to which they had been subjected by one of their neighbours from the moment they had moved into their current residence.

The FSG filed a **complaint on the 27th of October 2020 to the Public Prosecutor specialised in hate crimes and discrimination** for criminal damage under Article 263.1 of the Penal Code, with an aggravating circumstance under Article 22.4 of the same. Also, we considered that the anti-Roma graffiti on the vehicle of the family could constitute a crime under Article 510.2 of the Penal Code.

In 2022 the magistrate's court ordered the provisional dismissal of the case and the Public Prosecutor specialised in hate crimes filed an appeal for the proceedings to continue as a crime of humiliation of the Roma ethnicity under Article 510.2 a) of the Penal Code.

On the 7th of March 2023 the Investigation Court No 2 ruled that a hearing should be opened, although no date was set, and that the accused was provisionally released on bail of €7,500. We are awaiting a date for the opening of the hearing.

22 – Case of attempted homicide aggravated by racism due to an arson attack on the dwelling of a large Portuguese Roma family

The FSG presented a complaint on the 1st of July 2021 with the Badajoz Public Prosecutor specialised in hate crimes for a crime of attempted homicide with an aggravating circumstance of antigypsyism for an arson attack on the dwelling of a Portuguese Roma family made up of 18 people, six of whom were children, in a village near Badajoz. As they threw the incendiary device, the perpetrators shouted phrases such as **“I’m going to kill you all, and your children too”** and **“I’m going to burn you all”**.

On the 5th of July the FSG filed an extension of the complaint with the specialised Public Prosecutor.

On the 16th of July the Public Prosecutor informed us that the proceedings were being referred to the Pre-Trial Investigation Court.

As this is such a serious case of anti-Roma hate crime, **the FSG is acting as a public prosecutor through a lawyer who is an expert in criminal and anti-discrimination law**. Currently, the proceeding has been provisionally dismissed while the victims, who live in Portugal, are located.

23 – Case of attacks, insults and threats against the Roma families of Peal de Becerro (Jaén)

This case of antigypsyism took place in Peal de Becerro on the 17th and 18th of July 2022, when several Roma families suffered insults, threats and attacks against their property, as well as the burning of their homes, after the terrible events of the violent death of a local young man which involved three Roma boys.

Various actions to report the aggressions and to support their victims were carried out.

On the 20th of January 2023 we received a notification from the Ombudsman informing us that the complaint had been accepted and that he had sought information from the Subdelegation of the Government of Jaén and the Council of Peal de Becerro regarding the families’ situation and the current state of the proceedings.

We are currently monitoring the situation of the families and the state of the proceedings.

24 – Case of attacks, insults and threats against the Roma families of Íllora (Granada)

A month after the events in Peal de Becerro (as described above), there was a similar outbreak of antigypsyism against Roma families in Íllora, a town in Granada. Following the violent death of a non-Roma young man allegedly committed by a young Roma man, **non-Roma people from the town mobilised to attack the neighbourhood where the Roma families live** and to expel them from the town via threats, insults and harassment, along with attempts to burn their belongings and homes.

The FSG contacted the affected families to offer advice and accompaniment and a **report was filed with the specialised Public Prosecutor to denounce the events for criminal threats to groups**



under Article 170.1 of the Penal Code; for the crime of humiliation of the Roma ethnicity under Article 510.2 of the Penal Code; for the crime of hate speech under Article 510.1 a) of the Penal Code; and for criminal damage under Article 263.1 of the Penal Code to which the aggravating circumstance of antigypsyism would be applied.

The specialised Public Prosecutor referred the events to the magistrate's court, requesting the application of the aggravating circumstance of antigypsyism.

Thus, on the 17th of February 2023, we have received a communication from the ombudsman enumerating the proceedings which have been carried out by the Subdelegation of the Government of Granada. The Council of Íllora was requested to urgently provide information about the proceedings they have carried out.

On the 22nd of June 2023, the Public Prosecutor ordered pre-trial investigative proceedings, and the legal considerations were that there was no relevant evidence of acts of incitation to hate, discrimination or violence. The acts of violence perpetrated against properties are in the Loja Investigation Court nº2, and the application of the aggravating circumstance of racism under Article 22.4 of the Penal Code is considered appropriate. We are currently monitoring the proceedings and awaiting the ruling from the Loja Initial Ruling and Investigation Court No 2.

25 – Case of threats and taunts against two Roma men in a street market in a town in A Coruña

This case concerns anti-Roma harassment suffered by two Roma street vendors, which consisted of insults, threats and attacks in the open-air market where they placed their stand on Sundays. These attacks were carried out by a local woman. The woman, who would park near the market, **would address them with phrases such as “Fucking gypsies”, “I would take you all to an island and leave you accelerated,” or “I wish Franco was alive to come and shoot you”**. On one occasion the woman even accelerated her car in an attempt to run over one of the men.

The FSG accompanied the vendors to file a complaint to the Civil Guard and subsequently, on the 19th of September a written request was sent to the specialised Public Prosecutor to participate in the case. The case is pending judicial resolution.

The victims were accompanied as they requested free legal aid. On the 29th of May 2024, a trial was set for minor offence. The FSG accompanied the vendors to the trial, which in the end was not held because of a problem in the courthouse. We are waiting for a new trial date to be set.

26 – Case of injury of an autistic Roma child by one of the staff at an educational centre in Madrid, with the aggravating circumstance of antigypsyism

The parents of a 3-year-old Roma child with autism came to the FSG to ask for advice about a violent situation that their child had suffered in an educational centre, at the hands on of the staff.

The parents, who were convinced that what had happened to their child and the lack of information from the educational centre were due to the family's being Roma, filed, with support of the FSG, a complaint with the **Public Prosecutor's Office for Minors for a crime against moral integrity under Article 173.1 of the Penal Code, with the aggravating circumstances of Article 22.2 and 22.4 of the Penal Code.**

In June 2023 we received a ruling from the Public Prosecutor informing us that they had opened preliminary proceedings and had filed a complaint with the High Investigative Court in Madrid. We are monitoring the situation and awaiting the judicial resolution from the Investigative Court.

27 – Case of denial of widow's benefit to a Roma woman in Seville

This is a case of the denial of the widow's pension to a Roma woman in Seville, for two reasons: the non-existence of a marital relationship or domestic partnership with the deceased, with whom she lived for 32 years and had four children, and her not being up to date with social security payments.

The FSG assessed the woman's case and recommended that she proceed to satisfy the social security debt, which she proceeded to do. Subsequently, **a preliminary claim was filed with the general management of the Social Security Institute**. It was argued that the denial of the widow's pension could constitute a case of indirect intersectional discrimination, given that it had two relevant components: the woman's ethnicity and gender (the woman had dedicated her life to raising and caring for a large family) and her social condition (given her situation of social exclusion and low level of education).

The claim was dismissed and the FSG accompanied the woman to ask for free legal aid. We contacted a public defender and jointly drafted the claim before the Social Court.

We worked in coordination with the public defender on the claim, which has been filed with the Social Court, providing all the arguments in accordance with the standards of the European Court of Human Rights. We are awaiting the judicial resolution.

We are currently awaiting the trial in the Social Court, which will take place in November 2024.

28 – Support and collaboration with other organisations in a case of violation of the fundamental right to housing of a Roma family

This case concerns a Roma family who tried to regularise their housing situation, requesting the regularisation of the dwelling in which they had been living since 2009. Their request was denied on the basis of a technical report which considered them a conflictive family since they were Roma. The family lodged an appeal through their lawyer, which was rejected.

The lawyer contacted the FSG to assess whether this constituted a case of antigypsyism and since then, we have collaborated with the lawyer in the adversarial administrative proceedings.

In 2022 an adversarial administrative appeal was lodged on two grounds:

The technical report from the Social Housing Agency **states that they are Roma, linking the conflictiveness to this fact**.

Tacit consent from the administration: two years had passed from the resolution to the notification.

The Administrative Court upheld the appeal, recognising the discriminatory bias, and recognised that the family had a right to regularise the situation of their home. However, the sentence was appealed before the High Court in Madrid.

On the 8th of November 2022 an appeal for reversal of the ruling of the Madrid High Court was filed at the Supreme Court, on the grounds of violation of the right to non-discrimination on the basis of ethnicity.

On the 26th of January 2023, the Supreme Court dismissed the reversal appeal for lack of appellate interest. An appeal for judicial review was filed with the Constitutional Court on grounds of constitutional significance, given the anti-Roma and intersectional nature of the discrimination (since the family was Roma and in a situation of poverty). In November 2023, the Constitutional Court ruled to reject the appeal for lack of constitutional significance.

29 – Case of neighbourhood assault aggravated by antigypsyism against three Roma families in a village in Granada

On the 26th of October 2022, we filed a writ informing the specialised Public Prosecutor of Granada of a **crime of bodily harm under Article 147.1, aggravated by racism under Article 22.4 of the Penal Code and combined with criminal threats under Article 170.1**. The case concerns an assault suffered by three Roma families in the town festival in Murtas, a small village in Granada.

The Roma families tried to leave the area but were prevented from doing so by 20 to 30 people who had organised against them. While they assaulted the families, the attackers shouted anti-Roma comments.

The families went to the health centre and then to the barracks of the Civil Guard to file a report. However, the Civil Guard told them that they were very busy and to come back the next day. They had to go to the Civil Guard of another village, which also did not accept their report, telling them they would need to investigate the facts. In the end, they had to file the report at the police station of the National Police Force in Granada. **For this reason, in the writ to the Public Prosecutor we also considered the behaviour of the officers as constituting a crime of dereliction of duty under Article 408 of the Penal Code.**

The Public Prosecutor notified us that preliminary proceedings had been opened, and transferred the case to the investigative court. We have contacted the family, and they are still awaiting a date for the hearing. The FSG will monitor the proceedings and accompany the families.

30 – Case of a Roma man hit by a car and the violation of his rights due to lack of information and assistance in Talavera de la Reina

A man was hit by a car in 2022, and despite taking the man to hospital, the driver of the vehicle left without giving any personal or contact information, as soon as he saw the man's family (his wife, son and daughter-in-law) and identified them as Roma.

When the wife of the injured man saw that the driver had left the hospital and had not left any contact information, she went to the reporting in Talavera and asked for their help. The officers replied that **"You must have spoken badly to him and so it's normal that he got scared"**, and **"But nothing has happened, your husband is fine, so that's that"**. The woman felt humiliated and even guilty for the fact that the driver had left. **The police minimized the situation and justified the driver's flight on the grounds that he may have felt afraid**, implicitly referring to the fact that they were Roma. They refused to look at the cameras and gave no information or advice.

Two days later, the man's wife went again to the local police station, and when they saw her, they said: **"Here you are again with the same story."** **The officers refused to give her any information or to take her report.**

With the support of the FSG, in July 2022 they filed a complaint with the Investigative Court of Talavera against the driver for the crime of bodily harm under Article 147.2 of the Penal Code and against the officers for a crime under Article 408 of the Penal Code.

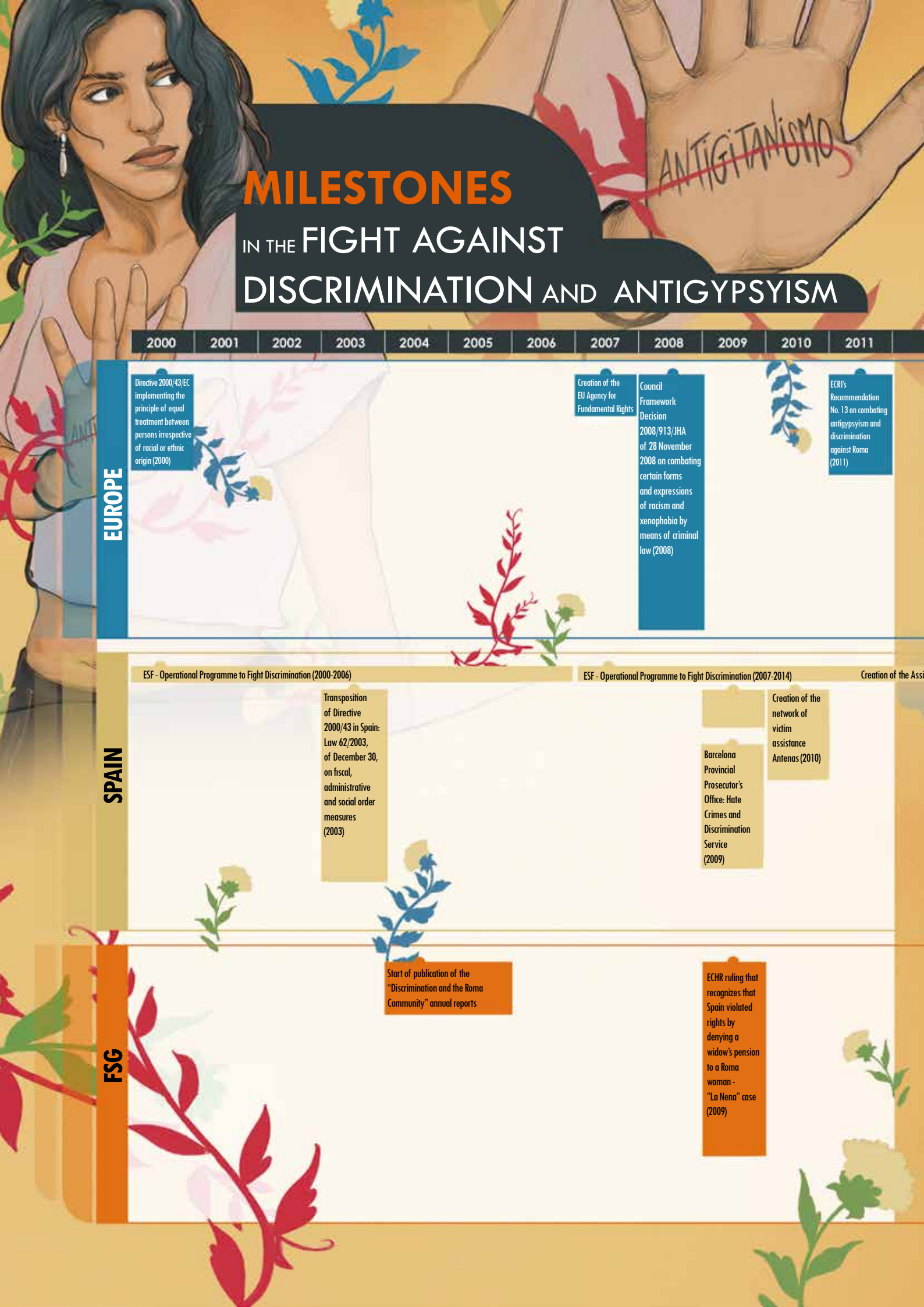
Likewise, the FSG sent a formal written complaint to the police superintendent.

The Talavera County Magistrate's Court No 2 set a date for 20th of September 2023 for the medical and forensic examination and summoned the man who was hit and his wife in order to take their testimony. The FSG is monitoring the proceedings and awaiting the beginning of the hearing phase.



In Depth.
**FSG: 20 years fighting
discrimination and
antigypsyism**





MILESTONES

IN THE FIGHT AGAINST DISCRIMINATION AND ANTIGYPSYISM

2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011

EUROPE

Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (2000)

Creation of the EU Agency for Fundamental Rights (2007)

Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law (2008)

ECRI's Recommendation No. 13 on combating antigypsyism and discrimination against Roma (2011)

SPAIN

ESF - Operational Programme to Fight Discrimination (2000-2006)

Transposition of Directive 2000/43 in Spain: Law 62/2003, of December 30, on fiscal, administrative and social order measures (2003)

ESF - Operational Programme to Fight Discrimination (2007-2014)

Barcelona Provincial Prosecutor's Office: Hate Crimes and Discrimination Service (2009)

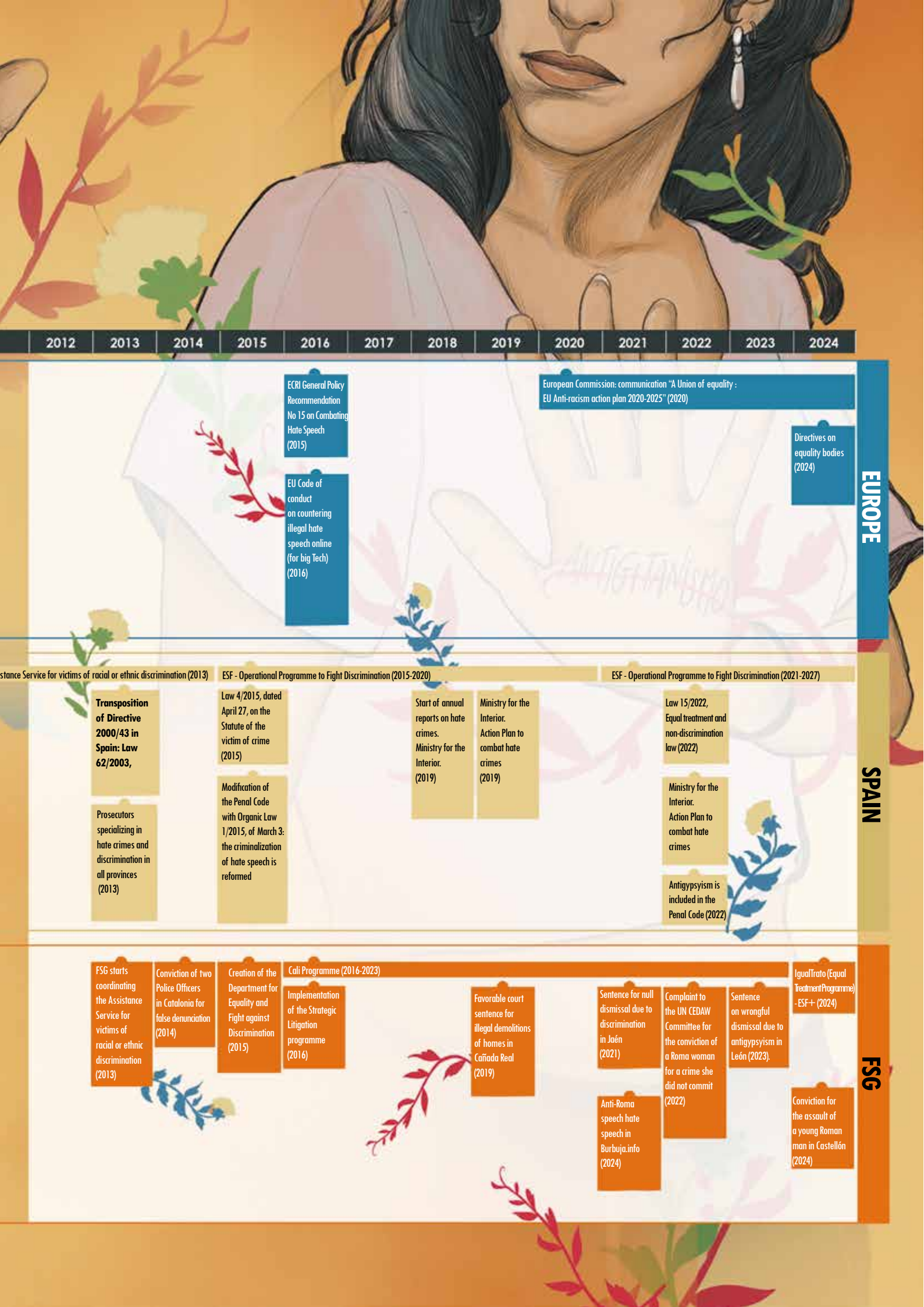
Creation of the network of victim assistance Antenas (2010)

Creation of the Assi

FSG

Start of publication of the "Discrimination and the Roma Community" annual reports

ECHR ruling that recognizes that Spain violated rights by denying a widow's pension to a Roma woman - "La Nena" case (2009)



2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024

ECRI General Policy Recommendation No 15 on Combating Hate Speech (2015)

EU Code of conduct on countering illegal hate speech online (for big Tech) (2016)

European Commission: communication "A Union of equality : EU Anti-racism action plan 2020-2025" (2020)

Directives on equality bodies (2024)

EUROPE

Assistance Service for victims of racial or ethnic discrimination (2013)

ESF - Operational Programme to Fight Discrimination (2015-2020)

ESF - Operational Programme to Fight Discrimination (2021-2027)

Transposition of Directive 2000/43 in Spain: Law 62/2003,

Prosecutors specializing in hate crimes and discrimination in all provinces (2013)

Law 4/2015, dated April 27, on the Statute of the victim of crime (2015)

Modification of the Penal Code with Organic Law 1/2015, of March 3: the criminalization of hate speech is reformed

Start of annual reports on hate crimes. Ministry for the Interior. (2019)

Ministry for the Interior. Action Plan to combat hate crimes (2019)

Law 15/2022, Equal treatment and non-discrimination law (2022)

Ministry for the Interior. Action Plan to combat hate crimes

Antigypsyism is included in the Penal Code (2022)

SPAIN

FSG starts coordinating the Assistance Service for victims of racial or ethnic discrimination (2013)

Conviction of two Police Officers in Catalonia for false denunciation (2014)

Creation of the Department for Equality and Fight against Discrimination (2015)

Cali Programme (2016-2023)
Implementation of the Strategic Litigation programme (2016)

Favorable court sentence for illegal demolitions of homes in Cañada Real (2019)

Sentence for null dismissal due to discrimination in Jaén (2021)

Anti-Roma speech hate speech in Burbuja.info (2024)

Complaint to the UN CEDAW Committee for the conviction of a Roma woman for a crime she did not commit (2022)

Sentence on wrongful dismissal due to antigypsyism in León (2023).










IgualTrato (Equal Treatment Programme) - ESF+ (2024)

Conviction for the assault of a young Roman man in Castellón (2024)

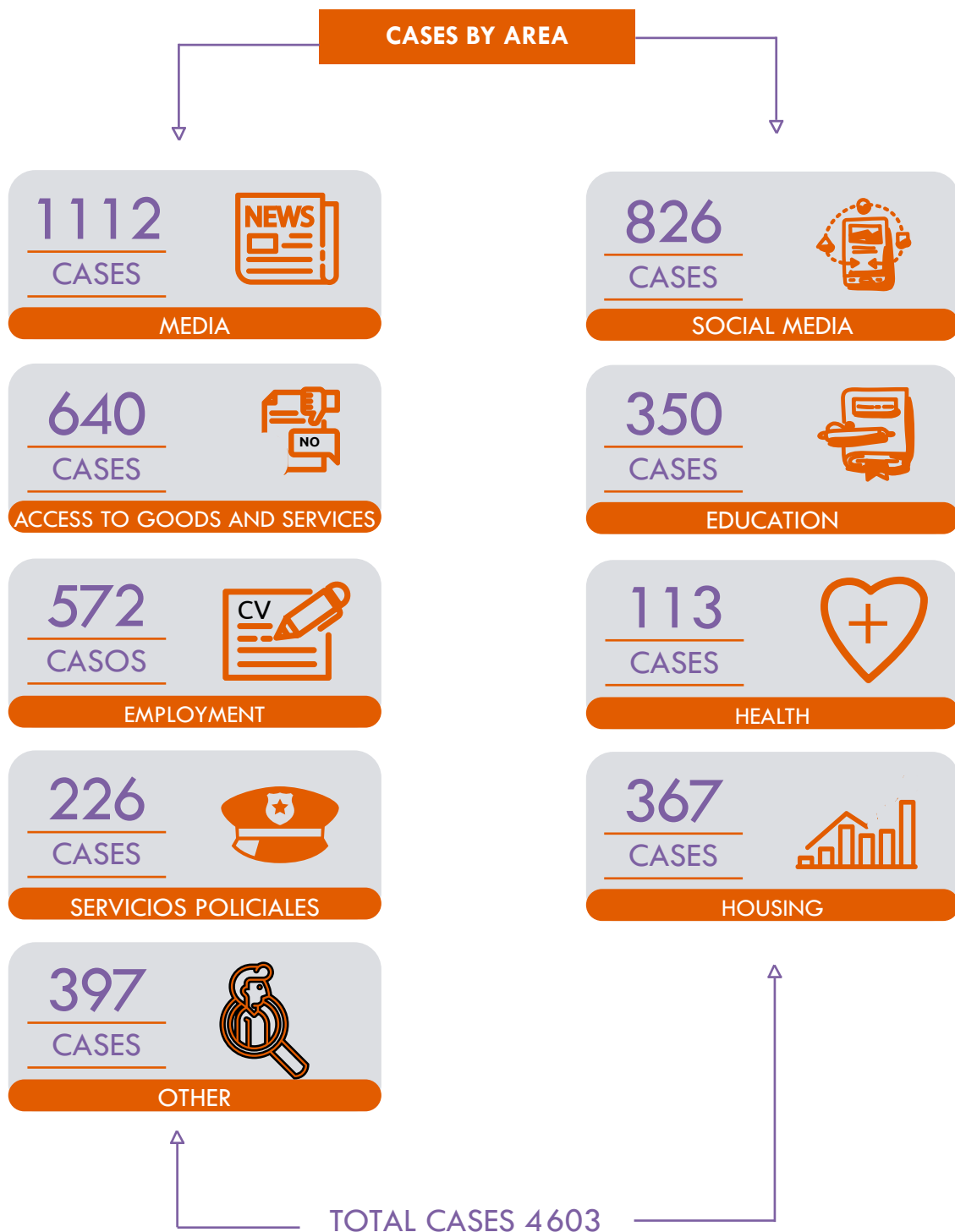
FSG

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
11	16	22	11	11	16	12	8	11	11	
ACCESS TO GOODS AND SERVICES										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
3	13	6	2	7	8	9	11	10	14	
EDUCATION										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
29	30	19	9	25	13	20	11	13	22	
EMPLOYMENT										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
16	33	58	20	31	37	28	67	44	32	
MEDIA										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
9	9	8	8	17	23	22	19	16	30	
OTHER										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
0	2	6	0	5	11	9	10	7	15	
SOCIAL MEDIA										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
3	3	2	1	2	2	0	1	2	5	
HEALTH										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
10	8	9	6	3	6	5	8	13	13	
LAW ENFORCEMENT										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
20	23	16	8	9	15	10	13	8	9	
HOUSING										
2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
101	137	146	65	110	131	115	148	129	151	
TOTAL										

HISTORY OF NUMBER OF CASES BY AREA 2004-2023

2014 17	2015 12	2016 28	2017 44	2018 57	2019 75	2020 64	2021 79	2022 70	2023 65	
ACCESS TO GOODS AND SERVICES										
2014 13	2015 9	2016 11	2017 17	2018 31	2019 37	2020 27	2021 51	2022 44	2023 27	
EDUCATION										
2014 26	2015 27	2016 44	2017 29	2018 56	2019 53	2020 28	2021 40	2022 46	2023 32	
EMPLOYMENT										
2014 51	2015 31	2016 54	2017 87	2018 108	2019 68	2020 129	2021 87	2022 68	2013 63	
MEDIA										
2014 36	2015 23	2016 26	2017 13	2018 22	2019 32	2020 23	2021 26	2022 22	2023 13	
OTHER										
2014 24	2015 13	2016 12	2017 13	2018 13	2019 115	2020 29	2021 189	2022 217	2023 136	
SOCIAL MEDIA										
2014 1	2015 5	2016 5	2017 9	2018 10	2019 11	2020 8	2021 16	2022 18	2023 9	
HEALTH										
2014 17	2015 14	2016 10	2017 3	2018 12	2019 9	2020 25	2021 26	2022 18	2023 11	
LAW ENFORCEMENT										
2014 9	2015 20	2016 12	2017 17	2018 25	2019 25	2020 31	2021 40	2022 29	2023 28	
HOUSING										
2014 194	2015 154	2016 202	2017 232	2018 334	2019 425	2020 364	2021 554	2022 532	2023 384	TOTAL 4608
TOTAL										

TOTAL CASES BY AREA OVER 20 YEARS



The work of the FSG in the fight against discrimination: from the beginnings to the present day

Sara Giménez Giménez

Deputy Director of the Fundación Secretariado Gitano

Isidro Rodríguez Hernández

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In this article we will address one of the issues which is most relevant for the Roma population – social rejection and discrimination – and the history of the FSG's work in this area. The first thing to consider is that we have been aware since 2000 that it was vital to address the discrimination and hostility suffered by Roma people as an essential barrier to a dignified life. It was clear to us that to advance towards equality of opportunity we needed to tackle the fight against discrimination – an everyday discrimination that persists because it is deep-rooted in a large part of society, which translates into the its being impossible for many Roma families to rent accommodation; into difficulties finding work; into denial of access to Roma people to leisure spaces; into excessive surveillance of Roma women when they go to shopping centres; into the segregation of children in some educational centres or specific classes; and so forth.

It is necessary to emphasise that these situations of discrimination not only violate the fundamental right to non-discrimination, but also hinder access to a dignified life and are an attack on the dignity of those who suffer these behaviours. From the testimonies that we have seen during the 20 years we have been supporting victims of discrimination, we can say that feeling this hostility is what hurts Roma people the most.

The Roma are the most rejected ethnic minority in our country and in the rest of Europe. Several sociological studies and Eurobarometers on discrimination have confirmed this reality. Among the vulnerable groups which are victims of discrimination, the Roma have been the most rejected minority mainly because of the negative social image linked to their community and historically rooted in wider society. For this reason, in 2000 our organisation began an analysis to tackle this issue, which coincided with the European

Directive 2000/43/CE on the principle of equal treatment of people independently of their racial or ethnic origin. It was clear to us that we had to make use of the existing Spanish legislation on matters of equality, and to work with the legal framework laid out in this Directive, with a focus on the Roma victims of discrimination who came to our offices.

This work coincided with an important landmark in policies related to the European Structural and Investment Funds: the European Social Fund began a period of programming in 2000 (2000-2007), which included an Operational Programme to combat discrimination, of which the FSG was a beneficiary and which was an important financial support for the growth of the organisation. As can be seen from the title of this operational programme, discrimination was now becoming part of the European agenda, and the difficult situation of the Roma, including the structural discrimination against them, was going to be part of the European conversation from that moment on.

In 2002, we created the Department for Equality and began important work on implementing a model of intervention in our organisation, as stipulated in the aforementioned Directive (Article 13) for equality organisations. This involved registering cases according to the type of discrimination established in the Directive, designing a protocol for attending to victims and, from 2004 on, publishing reports about these issues. As well as this, and along with other social organisations, we became standard-bearers for political advocacy so that the content of Directive 2000/43/CE could be transposed into the Spanish legislation within the established timeframe (3 years from the moment of its publication). We should recall that these were matters which were politically unimportant to



the majority of our political parties; it was a new issue, and social organisations had to work hard for the parties to meet the requirements of the transposition. The deadline for our government was the 30th of December 2003, and they carried out a minimal transposition in the Accompanying Law to the General State Budget, which was passed on the date of the deadline. This *modus operandi* made it clear to us that these matters were not a priority for the government. Thus, we continued our political advocacy with greater force, both at the state level and before the relevant European organisms (ECRI, the CESC committee, Equinet, etc.). It was vital that discriminatory behaviours which were not considered crimes did not end up in “legislative limbo” – that discrimination in our country should also have an administrative-legal response. The process has been too protracted, given that it has taken until 2022 for our country to achieve an adequate transposition of the Directive, in the Comprehensive Law 5/2022 for equal treatment and non-discrimination, of 12th of July. The good news in this respect is that we participated actively in the advocacy process via the Alliance for the Law for Equal Treatment, and we also contributed to the fact that this law included another significant change passed in the Congress: the inclusion of antigypsyism in Articles 22.4 and 510 of the Penal Code. I can proudly share my active participation, along with two other Roma members of parliament, in this process during my period in parliament, so that this change could become a reality.

Returning to our organization’s trajectory, one of the fundamental areas we began working on in 2002 -an effort that gradually strengthened over the years- was collaboration with key professional agents: participating in training activities with judges, public prosecutors, and law enforcement agencies on the legal framework of antidiscrimination and the situation of the Roma population. Furthermore, we began work in our offices to inform and empower Roma people in the exercise of the defence of their rights, given that under-reporting was and continues to be one of the main problems in the fight against discrimination. This is evidenced in many reports from the EU Agency of Fundamental Rights¹.

¹ - <https://fra.europa.eu/en/themes/roma>

In 2005 we began publishing our annual reports, *Discrimination and the Roma Community*, in which we documented all the cases of discrimination and antigypsyism which our teams across Spain had attended to in 2004. The goal of our publication was to make visible the daily reality of discrimination which Roma people suffer, to attune people to the impact of social rejection on fundamental rights that are essential for accessing a dignified life, and to analyse in depth issues and good practices in the fight against discrimination.

Throughout the years, we have incrementally improved our Protocol for Action in Cases of Discrimination, enabling our teams and improving reporting tools to offer more effective assistance to victims of discrimination. Bit by bit we became specialised in an area which our organisation understood more and more deeply as essential in realising real equality for Roma people. Our local teams, who attended Roma people, conveyed to the managers of the Department for Equality the need to keep making progress in these matters.

Another of our key moments was the decision to begin the programme of strategic litigation. A pivotal moment was the defence before the Human Rights Court in Strasburg of María Luisa Muñoz “La Nena” in the recognition of her right to a widow’s pension. The lengthy lawsuit began in 2002 and culminated with a favourable ruling from the Court on the 8th of December 2009, in which her right to perceive a widow’s pension was recognised. Strategic litigation has been and continues to be a pillar of our activity; it involves selecting cases of discrimination which meet a series of criteria (the type of discrimination, the profile of the victim, the social context, etc.), and obtaining a legal response to discrimination in various areas of legislation (criminal law, labour law, judicial review). This type of litigation, when it is successful, represents substantial progress in the legal defence on non-discrimination in our country, creating jurisdiction and serving as an example of the value of legal defence of the victims. We currently have 34 cases open in court, and we have obtained several positive rulings in recent years.

At the beginning we realised that the various legal actors had no familiarity with these issues; thus, training and sensitisation were vital, and

we began developing training programmes. We must continue working in this regard: those responsible for training in the legal sector should include structural training in anti-discrimination law and knowledge of the population groups affected by unequal treatment, specifically the real situation of antigypsyism and how to assist those who suffer it.

Finally, from the point of view of the victims of discrimination, the decision to litigate a case creates complications: there is a mix of fear of repercussions, distrust of the legal system's response, the embarrassment of recounting the discriminatory situation during the proceedings, the long duration of the process, etc. Hence, when victims decide to take this step, the response from the courts is very important, as it is that they be accompanied at all stages of the process. When they feel that the legal system protects them and is responsive, greater trust in the system in the face of violation of their rights is achieved.

Throughout our work we have been very involved in the correct application of the aforementioned Directive, working very actively in the creation by the Ministry of Equality of the Council for the Elimination of Racial and Ethnic Discrimination, of which we have been an integral member since its creation in 2009. Now is the moment to remember our contribution, and that of the other members of the Council's victim support group, in designing an Action Protocol to assist victims of discrimination. We think it is relevant to point out how various social organisations which assisted possible victims of discrimination, mainly migrants and Roma, began together a line of work linked with this Council: in 2010, NGOs proposed the creation of a so-called "Antenas Network", a network of social organisations which belonged to the Council in order to give assistance to victims of discrimination. The name was descriptive: our role was to detect possible cases of discrimination experienced by people using our services. In the end, after this pilot programme, the Ministry of Equality and the Council for the Elimination of Racial and Ethnic Discrimination provided this assistance to victims of discrimination with greater resources and the Victims of Racial or Ethnic Discrimination Support Service, under the auspices of the Council, was created. Since 2013 the Service has been delivered by a total of 7

NGOs,² of which the FSG is not only a member but a coordinating organisation.

It is easy to see how we began our organisation's work in these matters, and the way in which we have carried it forward. The FSG held action in the field of equality of opportunity for Roma as a clear pillar; that said, the defence of the right to non-discrimination was a cross-sectional issue, and our teams saw clearly that it was necessary to address it more impactfully. So, in 2015 the Department for Equality and Combatting Discrimination was created, in an attempt by our management and teams to drive this issue forward from a structural point of view. This department dealt with all the lines of work around equal treatment: the above-mentioned Victim Support Service, the tools for recording and taking on cases, the publication of the Annual Report on Discrimination and the Roma Community (whose 20th anniversary we celebrate with this year's report), the advising and training of the teams, the training of and coordination with key professional agents (public prosecutors, law enforcement agencies, jurists, the media, etc.), strategic litigation of cases in court, participation on social media and national and European forums (the European Commission, FRA, Equinet, ECRI, OSCE-ODIHR, the Council of Europe, etc.), being trusted flaggers in the EU monitoring cycles to notify about hate speech on social media, etc. All these actions by the FSG have been aligned with the policies for the fight against antigypsyism which have been promoted by the European Union (Resolutions, recommendations, decisions etc.³), which for more than 10 years have been emphasising the need for Member States to improve their policies and strategies in the fight against antigypsyism. Our actions have not only been aligned with these policies, but on occasion our political advocacy work has helped to drive these same policies, including encouraging the use of European Structural Funds to improve the lives of Roma people.

2- Asociación Rumiñahui, ACCEM, Comisión Española de Ayuda al Refugiado (CEAR), the Spanish Red Cross, Fundación CEPALM, Movimiento por la Paz - MPDL and Red Acoge.

3- All annual reports can be consulted at:

<https://informesdiscriminacion.gitanos.org/> In these 20 years we have taken up more than 4,600 cases of discrimination. These European texts can be consulted at: https://www.gitanos.org/centro_documentacion/herramientas/index.php



In 2016, another important event took place: the European Social Fund, with its comprehensive and specific approach to tackling the situation of inequality of the Roma, approved the Calí Programme, for the Equality of Roma Women. This programme allowed us to incorporate, in many locations, the professional profile of Equality Specialists, specialised in gender equality and equal treatment. The programme was implemented with great success until 2023 thanks to the work of 32 Equality Specialists, all women, the vast majority Roma professionals who in each region have pushed the work forward with the most vulnerable Roma women and with the key relevant actors in issues of socio-personal skills, gender equality and the fight against discrimination. Incorporating these professional profiles into our teams was one of the moments with the greatest regional impact, complementing the work of combatting discrimination from an intersectional perspective. The programme will continue with its intervention for equal treatment of Roma women in the period of ESF+ 2023-2029 and will be complemented with a new programme -IgualTrato- which the ESF+ has granted us funding for. This will reckon with 11 lawyers, in the majority Roma, to reinforce legal defence for victims of anti-Roma discrimination and to promote social awareness. It is an exciting moment, because our organisation, thanks to

the different programmes, will strengthen its legal experience and its quality assistance to victims of discrimination. We see only one shortcoming in this matter, relating to the application of Directive 2000/43/CE and the recent Comprehensive Law for Equal Treatment and non-Discrimination 5/2022. This concerns the creation of the Independent Authority for Independent Treatment and non-Discrimination. The government is almost two years late in establishing it, which represents a failure to implement the legislation and a deficiency in the protection of victims of discrimination. We do not want this law to become just an empty promise, so we will maintain the highest degree of advocacy until it is followed through.

Taking on the fight against discrimination in a diverse society is fundamental for justice, equality and democracy. In doing so, we will build cohesive societies and bring about coexistence and respect for difference. It is therefore necessary to continue tackling the hostility and discrimination which some people suffer simply because of their condition; it is a painful experience, unjust and unacceptable in an advanced democracy. From the Fundación Secretariado Gitano we will continue fighting discrimination against the Roma by assisting victims, providing legal defence, raising awareness and working in partnership with other organisations.



Strategic litigation, a key tool for the FSG in the fight against discrimination and antigypsyism

Cristina de la Serna and Edurne de la Hera

FSG Department for Equality and Combatting Discrimination

Precursors of strategic litigation in the Fundación Secretariado Gitano

The use of strategic litigation as a line of work in the Fundación Secretariado Gitano (FSG) for the defence of human rights and the fight against antigypsyism has its origins in two emblematic cases, in which the organisation, with no specific designated resources, opted to give legal support to the victims. The first was the **case of María Luisa Muñoz “La Nena”**, which had to be taken to the European Court of Human Rights. In 2009, the Court ruled that Spain had discriminated against a Roma woman, who was married according to the Roma tradition, in denying her a widow's pension.¹ The second was the **case of a Romanian woman falsely accused by the Mossos d'Esquadra (Catalonian Police Force) of child abuse**. In 2014 the Provincial High Court sentenced them to two years in prison and the payment of 12,000 euros in compensation.²

Our programme of Legal Support to Victims of Discrimination and Antigypsyism. Main objectives

Building on the foundations established in the aforementioned cases, in 2016 the FSG implemented our **Programme of Support to Victims of Discrimination and Antigypsyism and of Strategic Litigation**. This programme, which complemented the assistance and support to victims we were providing at the time via the *Calí Programme, for the Equality of Roma Women* and the Victims of Racial or Ethnic Discrimination Support Service (CEDRE), gave the organisation access to more resources to take serious cases of antigypsyism and cases representing a generalised pattern of discrimination to court. Since then, the FSG has brought lawsuits in various jurisdictions, mainly in

criminal law, judicial review and social law. Within the framework of this programme, the FSG has chosen two or three cases each year in which to appear in court as part of the proceedings or to give support to the victims of antigypsyism, providing specialised legal representation.

The main objective of the strategic litigation line of work is to contribute to bringing about changes in social norms that are necessary for the creation of **a more just and egalitarian society, in which the rights of the Roma are respected without any form of discrimination**. Specifically, we seek to change mentalities in our society; there are many stereotypes and prejudices about the Roma population which still persist, so it is important to raise public awareness and highlight situations of antigypsyism so that there can be a response and condemnation from the whole of society. In this way, we can generate the necessary social changes for equal treatment, human rights and social justice to become a reality.

Furthermore, strategic litigation opens the door to the **application of national legislation and international human rights standards**, of European jurisprudence, especially the European Court of Human Rights, to the questioning of legal shortcomings which still exist and to advocacy for the passing of new laws to make the right to equality and non-discrimination an effective reality. In all this we are not only respecting the principles of equal treatment and non-discrimination: we are also working so that an intersectional focus is applied in jurisprudence, above all in cases which specifically affect Roma women, so that they obtain the correct legal response which considers the aggravated nature of the discrimination.

Two other main objectives are the fight against impunity and the lowering of the high rate of under-reporting that there is when it comes to

1 - <https://www.gitanos.org/actualidad/archivo/47465.html>

2 - <https://www.gitanos.org/actualidad/archivo/104115.html.enl>



reporting anti-Roma hate crimes. It is important to report the cases, so that the victims receive support and accompaniment, and obtain guilty verdicts or resolutions that favour the victims and that offer redress and encourage other victims to report their cases. Our aim is for legal rulings to have an effect beyond the given case, and for them to serve to create positive changes in the enjoyment of rights by the Roma population.

The focus of strategic litigation for the FSG

Over the years the FSG has become one of the leading organisations in Spain and Europe in the use of strategic litigation as a tool of change and social transformation for the eradication of discrimination and antigypsyism.

In most cases, the victims who trust in us to take their case to court **are also participants in some of our programmes, and there has been previous social intervention by our local teams**, whose involvement in the support and care of victims is fundamental. In many of the cases we take to court, we carry out other extrajudicial actions, either in parallel or previous to the court proceedings, which can have an effect on the approach and outcome of the cases. This may take the form of claims or complaints to the administration or to consumer affairs offices, complaints to public prosecutors, reports to labour inspectors, etc.

That said, the cases which we decide to take to court are very small fraction of all the cases of discrimination and antigypsyism in which we intervene; since strategic litigation is a tool for social change, we only move forward with a few cases which **we select as strategic based on a series of very specific criteria**, such as casuistry (it must be a generalised pattern of discrimination which we have documented in numerous cases), the possibilities of success based on jurisprudence and available evidence, or the perspective of the victim, who must understand and share all the objectives we are pursuing with the suit, beyond their particular case.

In this sense, it is important to highlight that **we approach strategic litigation in a comprehensive way, not in isolation but as a tool to complement others**, such as victim

support, political advocacy, sensibilisation, training and the promotion of good practice. Also fundamental is the **communication strategy** which we design together with the FSG Communication Department, in an attempt to achieve the greatest possible social impact while always respecting the will of the victims and taking into account the circumstances of the case at each moment of the process. When we deal with a case of discrimination or antigypsyism, the first thing we consider is **the opinion and decision of the people affected** at any given moment, always giving them a leading role throughout the process, so that they feel at all times that it is they who are exercising their rights. It is the victims who are at the centre of the intervention, and it is they who take the decisions at each moment of the process. The lawsuits serve to give voice to the victims, because on many occasions telling their story has been the most effective form of redress.

Another fundamental element of our methodology of strategic litigation is the **selection of the lawyers who represent the FSG or the victim**. We always seek the best-qualified person in the legal field in question. In all cases, we look for people who are focused on human rights, gender and diversity and with high social commitment.³

We work with these lawyers **as a team**, in which participate the FSG staff (both those from the Department for Equality and those from the local offices), sometimes professionals from other sources and organisations, and of course the victims themselves, who as we said are the real protagonists of our intervention.

A clear commitment to strategic litigation: some of the cases which have had the greatest impact

After more than 20 years of professionalised work in the support of cases of discrimination and antigypsyism, the FSG continues to be firmly committed to providing resources to assist victims and to the use of the tool of strategic litigation. As a result of this commitment, via litigation in paradigmatic cases, some favourable resolutions have been obtained, which consolidate the framework of anti-discrimination law.

3 - We have worked with professional lawyers, such as Pastora Filigrana, Rafael Cid, Violeta Assiego, Ainhoa Jiménez, etc.

One of the most paradigmatic examples of our strategic litigations was our presence in 2016 in one of the most serious cases of antigypsyism that the FSG has been involved in: **a Roma teenager was hit with a bottle as the aggressor shouted, “The Gypsy race must be exterminated”**. After a lawsuit of more than seven years, the attacker was convicted for bodily harm, with the aggravating circumstance of racism, given a sentence of two years in prison and ordered to pay compensation of 3,500 euros. The prison sentence was suspended on condition of not committing further offences and attending a course on equal treatment and non-discrimination.

We have also litigated several cases of discrimination in the field of employment, most notably a case in 2018 in which **the discriminatory motive in the denial of access to employment to a Roma woman**⁴ was recognised in the Social Court. In 2022 we also obtained a legal ruling which **nullified the discriminatory dismissal of a young Roma woman**,⁵ in a proceeding in which we had dual procedural representation (as victim and as the FSG, an organisation defending the rights of Roma) and as a result of which the company had to compensate the young woman with 4,100 euros.

We have also filed lawsuits in cases of rights violations in defence of **the right to decent housing for Roma, free from discrimination**, in the administrative jurisdiction. The first of these cases is that of a **Roma family who were evicted and whose home was demolished in the Cañada Real Galiana in 2018**. This proceeding culminated in a favourable ruling by the High Court of Madrid in which the City Council had to pay 13 000 euros in compensation to the family.⁶ **Also in 2022 the FSG took part in the legal proceedings around the attempt to evict 96 Roma people, among whom were 31 children, with no housing alternative**. The first court ruling prevented the eviction of the families⁷ and the appeal ruling emphasised the

need to guarantee a housing alternative for the families as a step prior to any measure taken to enforce the rights of the owner of the land on which the homes are located. Likewise, **in 2023, the FSG attended court in collaboration with Cáritas and with the legal advice of Gentium, and managed to stop the attempted eviction in Huelva of a Romanian Roma woman** with a disability rating of 43%, in a situation of poverty and homelessness. The woman obtained adequate housing.

Another goal of this strategy of litigation has been to combat hate speech so that this type of messages do not go unpunished on social media and on internet forums. To this end, the FSG acted as public prosecutor in **the case of the user of an internet forum called Burbuja. info who, in 2018, made anti-Roma comments**, employing terms such as “scum” and “**the peak of subhumanity**” and making calls to “exterminate”, “kill” or “**genocide**” the Roma. In this lawsuit a sentence of one year in prison based on a guilty plea was obtained, with the sentence being suspended in exchange for the man attending a course on equal treatment and paying a fine of 540 euros⁸.

Finally, the FSG has also used the tool of strategic litigation to highlight and combat intersectional discrimination against Roma women. In this area it is worth highlighting the FSG lawsuit against the conviction in 2019 of a young Roma woman for a theft which she never committed. In this case, we denounced the sexist anti-Roma prejudice, shared by all the agents of the criminal justice system involved throughout the process (security guards, police, public prosecutors, judges, etc.), that “Roma women go to shops to steal”. The FSG reported the discrimination that the woman had suffered and, after exhausting all the domestic routes, presented a communication to the CEDAW committee, which is pending resolution.

Having just launched the **IgualTrato Programme, for the non-discrimination of Roma people**, we will continue with this line of work of strategic litigation in a much more specialised way, if that is possible, given that we will benefit from the participation of some of the 11 local Roma jurists who will strengthen this new working group.

4 - <https://www.gitanos.org/actualidad/prensa/comunicados/124166.html>

5 - <https://www.gitanos.org/actualidad/prensa/comunicados/135562.html>

6 - <https://www.gitanos.org/actualidad/archivo/127993.html>. We are currently awaiting the legal resolution in a very similar case.

7 - <https://www.gitanos.org/actualidad/archivo/127993.html>

8 - <https://www.gitanos.org/actualidad/archivo/133424.html.en>



Empowering Roma through Strategic Litigation.

A personal journey: from oral history to legal advocacy

D. Đorđe Jovanović

President of European Roma Rights Centre (ERRC).

When I was born, I inherited a rich oral history from my parents and grandparents. Due to low literacy rates within the Romani community, our history was passed down orally. However, this history was often fragmented, limited by the short lives of Roma. Due to health inequalities, Roma have shorter lifespans than the majority population. The stories rarely extended beyond a few decades, with some exceptional cases reaching back a century or so. One of the main messages conveyed through these stories was the persistent suffering of Romani people as a nonviolent group under various rulers, autocrats, and dictators. My families' oral history remembered violence committed against Roma by Maria Theresa during the Hapsburg Empire and Hitler's Nazi Germany.

Unsurprisingly, after centuries of relying solely on oral history and not having access to formal education, Romani communities lost significant parts of our historical narrative. Crucial aspects of our origins and heritage were forgotten over time; many Roma even forgot that our ancestors originally migrated from India. This absence of documented history and formal education left unanswered many questions a curious child might ask about their identity, origins, and cultural heritage. As a result, the collective memory of the Romani community became fragmented and much of our history remained obscured or unknown to successive generations. This gap in historical knowledge further contributed to our marginalisation and made it challenging for Roma to assert our identity and heritage in a world that often sought to erase or distort it.

Despite the richness of our oral traditions, my parents and grandparents couldn't explain to me, for example, why we have darker skin than non-Romani people, why this is perceived as something bad, and why this matters at all. The implicit - and explicit - message was that we were

perceived as a darker, somewhat tainted version of the majority population. My Romani parents and grandparents accepted this because it had been repeated to them so many times; they had been told they were lesser so often that they began to believe it.

I have internalised this message, and many other Roma that I've met, born in Europe at the end of the last century, have also had that same feeling. This became especially clear later, when we started connecting throughout Europe and learning from each other about how deeply rooted in historical context the marginalisation of Romani people is. In 13th Century Romania, Roma were enslaved and mainly owned by the church; as late as the 19th Century Roma were hunted by the aristocracy in some European regions during organised hunts; and during World War II almost one-third of the Romani population were killed by the Nazis.

Despite such strong historical evidence, Europe has often failed to acknowledge that it has "a past" with Roma. There remains a debate over whether the term 'Holocaust' should be used to refer to Romani victims, reflecting a broader tendency to deny or downplay the atrocities committed against us.

In fact, the turning point for Roma rights only came around 25 years ago, when we started using the law to address the human rights violations committed against us. The initial cases brought before domestic and international courts marked a significant shift: it became clear that Europe had a deep-seated problem with discrimination. Roma were among the first to raise issues of equality and ethnic discrimination through strategic litigation, prompting the European Union to introduce its first anti-discrimination directives. Slowly, member states and those aspiring to join the EU began

developing their own anti-discrimination laws, outlining how to achieve equality. Equality bodies were eventually established in every member state, representing one of the most significant advancements for Roma rights in Europe.

The role of litigation in Romani rights advocacy

Litigation serves as a cornerstone of the European Roma Rights Centre's (ERRC) strategy to combat discrimination and promote equality for Romani people. By leveraging legal action, we aim to achieve two primary objectives:

1. Establish legal precedents: by winning landmark cases, we establish legal precedents that benefit the broader Romani community. These precedents serve as powerful tools for future advocacy, influencing national and international legal standards.

2. Raise awareness and mobilize change: litigation brings visibility to the injustices faced by Romani communities, galvanizing public opinion and mobilizing stakeholders to push for policy and legislative reforms.

The ERRC currently has more than 150 ongoing strategic litigation cases in Europe. Almost all these cases are against state authorities. This extensive involvement in legal action is a testament to our unwavering commitment to combating discrimination and promoting equality for Romani communities across Europe.

Strategic litigation at the ERRC means supporting legal cases that are specifically designed to expose and contribute to the elimination of discriminatory structures that prevent Romani people from enjoying full equality.

Moving toward equality and self-determination

I firmly believe that Romani should be treated equally and free from any form of discrimination. They should have the autonomy to decide how they want to live, and the freedom to make these choices without external imposition is a fundamental right. Imposing external decisions on Romani communities is not only ineffective but also perpetuates the cycle of marginalisation and exclusion. Zero tolerance for discrimination

is essential for enabling Romani to exercise their rights fully and independently. It ensures that they are not subjected to prejudiced treatment in education, employment, housing, healthcare, and other vital areas of life. Only when Romani individuals are free from discrimination can they genuinely decide how they want to live, pursue their aspirations, and contribute to society on their own terms.

The path to equality and self-determination for Roma lies in eradicating discrimination and empowering them to make their own choices. By fostering an environment of respect, inclusion, and zero tolerance for prejudice, we can help Romani communities achieve the autonomy and equality they rightfully deserve.

The path forward: legislation and reality

The last 25 years have seen remarkable progress for Roma rights. For the first time, states have been held accountable and punished for discriminating against their own citizens of Romani origin. It was also the first time that Roma actively began using the law to defend their rights.

However, a huge gap still exists between the legislation and policy and the everyday struggle of Romani people. They face police violence, segregated schooling, bullying, limited access to health and resources, environmental injustice, and exposure to hazardous and dangerous living conditions on a daily basis.

We must remain realistic; 25 years is not enough time to change centuries of discrimination. However, if we imagine a timeline starting when Roma first arrived in Europe stretching to this day, it would clearly show that the only real, tangible change for Roma rights happened over the last 25 years. What, then, could happen in the next 25 years? Roma now have many advocates, and this process is now unstoppable. There will be change, and it is coming.

Chapter 5



Good practice and jurisprudence

Good practice and jurisprudence





1. Good practice

Strategic Framework for Citizenship and Inclusion against Racism and Xenophobia (2023-2027)

On the 4th of July 2023, the Spanish Council of Ministers passed the “Strategic Framework for Citizenship and Inclusion, against Racism and Xenophobia, 2023-2027”, a policy paper for progress towards a cohesive, inclusive, diverse and fair society which creates wealth, employment and development; and where there is no place for racism, xenophobia and intolerance.

The Strategic Framework fulfils the commitment made by the EU Member States to adopt national plans against racism before then end of 2022, and other commitments which derive from European and international instruments for the integration of immigrants and the protection of human rights.

In the Strategic Framework, the work started in previous “Strategic Plans for Citizenship and Integration” and in the “Comprehensive Strategy against racism, racial discrimination, xenophobia and other associated forms of intolerance” is updated in response to the changes, challenges and opportunities which arise in the current social and migratory context.

The document has been conceived as an inspirational, voluntary and flexible guide, a tool for national, regional and local administrations, civil society organisation and other actors who might wish to use it to guide their own plans, policies, programmes and actions in this area.

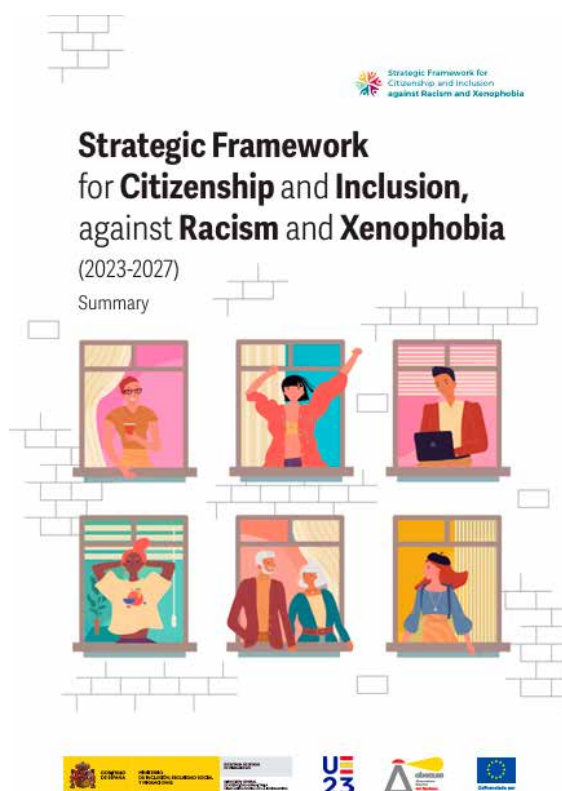
The publication is structured in two parts, which are divided into six chapters. It is also accompanied by an introduction and a total of five appendices. The first part of the document includes chapters 1 and 2, which describe the normative and strategic context relating to inclusion and integration, as well as a diagnosis of the situation. The second part comprises chapters 3 to 6 and relates to the construction of the Strategic Framework itself. In chapter 3 are described the objective of the Strategic Framework, the principles on which it is based and the perspectives which it considers. Chapter 4 addresses the six political blocs, 23 proposed courses of action and tactical objectives.

The document includes a section dedicated to the fight against antigypsyism and the situation of the Spanish Roma population (chapter 2.11), which recognises the need to keep working against discrimination towards Roma people: “The situation of vulnerability of the Roma community regarding their right to equal treatment is noteworthy. Despite the considerable progress in legislation, policies and actions implemented by successive governments, it must be acknowledged that the Roma population is still a group which is particularly rejected and discriminated against in Spain.”

The document is authored by the Secretariat of State for Migration. The Ministry of Inclusion, Social Security and Migration of the Government of Spain.

The Framework can be consulted at:

<https://www.inclusion.gob.es/oberaxe/ficheros/documentos/SummaryStrategic-Frameworkfor-Citizenship-and-Inclusionagainst-Racism-and-Xenophobia2023-2027.pdf>



Victims of Racial or Ethnic Discrimination Support Service from the CEDRE



In 2023 the Fundación Secretariado Gitano has continued to coordinate the **Victims of Racial or Ethnic Discrimination Support Service**, in collaboration with seven organisations which are key players in the fight against racism (CEAR, The Red Cross, Accem, Cepaim, Rumiñahui, MPDL and Red Acoge). The service is provided by the Council for the Elimination of Racial and Ethnic Discrimination (CEDRE), an organism attached to the Ministry of Equality.

This year the Ministry of Equality launched the **free telephone service 021**, an addition to the other means of accessing the Service, and published the **Annual Report on the results of the Service 2022**, which shows, above all, a notable increase in the number of cases attended (1570 cases), due in the main to the strengthening of economic resources and specialist staff. **In 2023 the number of cases attended to almost doubles, with a total of 2,582 cases.** Of this total, the **FSG has attended 551 cases.** 350 of these were attended by the specialists of the Calí Programme, and all of the victims of these cases were Roma; 201 cases were attended by the telephone team of the Victim Support Service of the CEDRE, and 22 of the victims of these cases were Roma.

Similarly, the service has produced **8 technical reports** which evidence the most reported areas of discrimination: discrimination in education, hate crimes and bad police practices, discrimination in access to health services, racism in sport, Islamophobia, denial of access to services (registry of residence, and appointments for migrants and asylum seekers), housing and discrimination by banking entities. **Some of these reports have served the CEDRE Council in emitting their recommendations** and communications, e.g. the “CEDRE Recommendation for identifying, preventing and stopping Islamophobia and discrimination against Muslims” and the communication from the CEDRE motivated by the racist insults suffered by the footballer Vinicius Jr.

Currently the Service has in place **23 offices for in-person assistance across the country, including in Ceuta and Melilla**, which are run by partner organisations and a central coordination team under the charge of the FSG. This team forms part of the Department for Equality and Combatting Discrimination, and is made up of eight people: the coordinator, the associate coordinator, two jurists who comprise the legal support team for all the Service staff, and four telephone assistance specialists who are responsible for guaranteeing telephone assistance via the 021 number, online at asistenciavictimasmracismo@igualdad.gob.es and via WhatsApp on 628 86 05 07, 365 days of the year from 9am until 9pm.

Analysis of cases and rulings on issues of racism, xenophobia, LGBTI-phobia and other forms of intolerance 2018-2022

In 2023 the Oberaxe published the document **“Analysis of cases and rulings on issues of racism, xenophobia, LGBTI-phobia and other forms of intolerance 2018-2022”**, directed by the researchers Andrea Giménez-Salinas, Associate Professor at the Pontifical University of Comillas and president of Foundation for Applied Research in Crime and Security (FIADyS); Jon-Mirenda Landa, Professor of criminal law at the University of the Basque Country (UPV/EHU) and Director of the Unesco Chair in Human Rights and Public Powers at the same university.

The aim of this study is to deepen the analysis of a sample of legal rulings which occurred between 2018 and 2022, relating to serious incidents of racism, xenophobia, LGBTI-phobia and other forms of intolerance. The analysis seeks to answer the following questions: which laws and norms are the most utilised; how many rulings are convictions and how many are absolutions; which are the most frequently aggressed population groups; and what is the profile of the aggressors and the victims.

Furthermore, the study attempts to show the effect of the reform of the Penal Code which took place in 2015 (LO1/2015), in which were modified the aggravating circumstance in Article 22.4 and Article 510. One consequence which has been observed is a change in the distribution of the



most frequent types of crime, such that the most numerous crimes found in the studied sample are crimes of hate speech under Article 510 of the Penal Code.

This work is the follow-up of those that were carried out with the same methodology titled “Analysis of cases and rulings on issues of racism, racial discrimination, xenophobia and other forms of intolerance, 2014-2016” and “Analysis of cases and rulings on issues of racism, xenophobia, LGBTI-phobia and other forms of intolerance 2014-2017”. It analyses a sample of the rulings given on issues of hate crimes in the period between 2018 and 2022 inclusive, obtained from the database of the Judicial Documentation Centre (CENDOJ), a facility belonging to the General Council of the Judiciary which has facilitated access to all the necessary material. The study mentions three rulings in which the motivation for the hate is antigypsyism.

The study was commissioned by the Follow-up Commission for the “Agreement on institutional cooperation in the fight against racism, xenophobia, LGBTI-phobia and other forms of intolerance” and has been carried out with funding from the Secretariat of State for Migrations, from the Ministry of Inclusion, Social Security and Migration.



No place for hate: a Europe united against hatred

In December 2023 the EU Commission and the High Representative for Foreign Affairs and Security Policy adopted a Communication titled “No place for hate: a Europe united against hatred”. The campaign is a call to all Europeans to oppose hate and take a stand in favour of tolerance and respect.

The communication recognises that Europe is experiencing an alarming increase in incitation to hatred and hate crimes which especially affect the Jewish and Muslim communities.

Via the Communication the Commission and the High Representative intensify their efforts to fight against hatred in all its forms, strengthening measures in different fields, such as security, the digital realm, education, culture and sport. The document envisages allocating more funding to protecting places of worship and, in parallel, envoys will be assigned with the express mandate of maximizing the impact of the EU policies to combat hate crime.

To offer protection against online threats, the Commission will finalise a strengthened code of conduct to fight against illegal incitation to hatred online in 2024, on the basis of the new horizontal obligations for online platforms established in the Digital Services Act. It will also intensify its cooperation with civil society organisations, experts, trusted flaggers and public authorities to detect the incitation of hatred online.

Coordinators from the Commission in the fight against racism, combatting antisemitism and fostering Jewish life and in the fight against anti-Muslim hate have played an important role in the past in the participation of communities and citizens. This work will now be strengthened and the coordinators will become envoys, with the specific mandate of intensifying coordination, e.g. through specific projects funded by the EU, and of getting the most from the potential of the EU measures for combatting hate crime, both on- and offline.

Knowledge and awareness are fundamental for mutual respect and tolerance. The most powerful vectors of these values form part of daily life: the media, education, culture and sport. To this end, the Commission will support training for journalists on respecting media norms and recognising incitation to hate, and will initiate projects aimed

at improving inclusion and diversity in education, culture and sport.

The fight against hate is a cause for concern at a global scale, and international cooperation is necessary. Working in close collaboration with those responsible for promoting rights at the global, regional and national levels strengthens the credibility and efficacy of the EU's action both within and outside the Union: the Commission and the High Representative will strengthen their contacts and networks to all levels, via diplomatic work, specific measures and collaboration with external organisations.

Through the application of the Digital Services Act and the strengthened code of conduct on combatting illegal incitation of hate, new strong measures will be taken to ensure that what is illegal offline will also be treated as illegal when it is online. The Digital Services Act establishes strict obligations for online platforms to counter unlawful content. It will be applicable to all platforms from the 17th of February 2024, although it is already being applied to nineteen online platforms and designated very large search engines. In accordance with the Digital Services Act, in the middle of October the Commission sent a formal request to X, Meta and TikTok for information about the supposed dissemination of violent and terroristic content and of incitation to hatred.

The Communication about a Europe united against hate is also a continuation of the EU Anti-Racism Action Plan 2020-2025, the EU Strategy on Combating Antisemitism and Fostering Jewish Life, the Gender Equality Strategy 2020-2025, the LGBTIQ Equality Strategy, the Strategy for the Rights of Persons with Disabilities 2021-2030 and the EU Roma strategic framework for equality, inclusion and participation 2020-2030.

In regard to the Roma population and antigypsyism, the Communication mentions that “a positive development in tackling hate-motivated harassment and violence was noted in 2021 compared previous findings of 2016, but no real improvements has been recorded when it comes to tackling discrimination.”

The Communication can be found at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52023JC0051>



Council Conclusions on Measures to ensure equal access for Roma to adequate and desegregated housing, and to address segregated settlements

In October 2023 the European Council published its conclusions about measures to guarantee equal access to decent and non-segregated housing, and to address the question of segregated settlements, a matter the Fundación Secretariado Gitano considers a priority. The FSG therefore sent contributions to this document, which were incorporated in the same.

In its Conclusions, the EU Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) invites Member States to “take concrete measures to improve the housing situation of Roma and to eradicate housing segregation where segregated Roma settlements exist”, making use of European Funds (ERDF, ESF+, Next Generation EU and other European funds).

An important point of the approved text is that, for the first time, in a regulatory EU framework, a definition of “«segregated settlements»” is agreed upon, which will facilitate the approach to their eradication with similar parameters in all countries. According to the conclusions of the Council, “segregated settlements” are slums and substandard housing settlements of an informal and stable nature, with physical, functional and/or social isolation, where the objective conditions related to housing, poverty and access to rights and public services are significantly worse as compared to the rest of the population.”



Slums are a structural problem which violate human rights and are the most extreme example of poverty that exists. To address it with guarantees, Member States must “Dedicate adequate financial resources to establish, maintain or improve infrastructure as necessary in disadvantaged neighbourhoods in terms of essential services such as transport, water and sanitation, sewage systems, digital networks, and access to public and private services such as refuse collection, health centres, schools, lighting, electricity, gas, and communication networks including telephone and internet connections, while considering the use of innovative, digital and green technologies. All interventions should be accompanied by active desegregation measures.”

The Council recognises that “The obstacles that Roma people often encounter when seeking access to adequate housing reinforces the vicious circle of intergenerational poverty and violations of human rights.” According to the Council, “antigypsyism is a form of racism [...] recognised by all Member States of the European Union as a barrier to inclusion, and hence the importance of tackling it”.

The Council therefore urges the Member States to “implement housing initiatives for vulnerable Roma communities, as well as for other vulnerable communities, and include safeguards and inclusivity criteria within national Roma inclusion strategies.” To make this more effective in the framework of the national Strategies, a specific indicator to reflect the advances in slum eradication would first need to be defined.

On the other hand, the Council also invites the European Commission and the Member States to continue using the “EU Roma Strategic Framework Portfolio of Indicators and pursuing the fulfilment of the EU level targets set out in the Framework, including, where relevant, quantitative and/or qualitative targets in their National Roma Strategic Frameworks.”

Furthermore, the Council invites the European Commission to “Support Member States in their efforts to address the problem of housing segregation and deprivation”. And to “foster concrete actions to guarantee effective and real access for Roma to non-segregated housing, adopting an approach that recognizes that a person may be discriminated against on the grounds of their racial or ethnic origin”

The document is available at:

<https://data.consilium.europa.eu/doc/document/ST-13517-2023-INIT/en/pdf>



Consejo de la
Unión Europea

Memorialisation as a strategy against antigypsyism in the Americas

In 2023 the Indigenous Peoples and Minorities Section of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the University for Peace (UPEACE) organised the international round table “Memorialisation as a strategy to tackle antigypsyism in the Americas”. The event included the participation of the UN Special Rapporteur on Minority Issues and civil society organisations. The round table attempted to monitor the global efforts by NGOs to consolidate the rights of the Roma, and to combat antigypsyism, its historic roots and its impact in the present. The event also took stock of the current state of inclusion policies for the Roma in the Americas and encouraged the processes of construction and appreciation of the memory of the Roma in public and private spaces.

As a result of the discussions carried out during the event, in April 2024 the Romani Memory Map in the Americas, which forms part of the efforts of the High Commissioner for Human Rights in the fight against antigypsyism and in the construction of memorialisation policies.

<https://www.gonzaga.edu/academics/global-engagement/international-research-and-partnerships/active-partnerships/romani-memory-map-of-the-americas>



2. Jurisprudence

Jurisprudence in cases in the European Court of Human Rights relating to discrimination against Roma (2023).

Szolcsán against Hungary

This case refers to the education of the claimant (a Roma boy) in a primary school attended almost exclusively by Roma children. His request to be transferred to another school in a neighbouring city was rejected because he did not live in the area of the school. However, he claimed that around a quarter of the students at the proposed school lived in the same city as him, which is nearby and a five-minute journey in public transport. He alleged that the curriculum at the school he was attending was inadequate and that he had been deprived of an adequate education.

The Court upheld that there had been a violation of Article 14 (prohibition of discrimination) of the Convention for the Protection of Human Rights, relative to Article 2 (right to education) of Protocol no. 1 of the Convention. The Court considered that the fact that the claimant's school was almost exclusively attended by Roma students constituted segregation, and reiterated that educating Roma pupils in segregated classes or schools without taking adequate measures to correct inequalities was incompatible with the duty of the State not to discriminate on racial or ethnic grounds. In the present case, the Court held, in virtue of the provisions of the Convention, that the State of Hungary had to adopt measures not only to put an end to the segregation of the Roma students in that particular school, but also to guarantee the creation of policies to put an end to segregation in education, as recommended in the Fifth Report on Hungary by the European Commission against Racism and Intolerance (ECRI).

The full ruling can be read at:

<https://www.cde.uai.es/wp-content/uploads/2023/04/CASE-OF-SZOLCSAN-v.-HUNGARY.pdf>

Memedova and others against North Macedonia

This case refers to border incidents which occurred in 2014, when the five claimants, all of Roma ethnicity, were denied exit from the country. The incidents took place in the context of a series of measures adopted by Ministry for Interior to strengthen the border controls for the citizens who were leaving North Macedonia and might be asylum seekers in the European Union. The claimants reported that their right to leave the country had been denied, and that the border police officers had singled them out because of their Roma ethnicity.

The Court held that there had been a violation relating to the claimants of Article 2 (freedom of movement) of Protocol no. 4 of the Convention in its own right and also in conjunction with Article 14 of the Convention (prohibition of discrimination). Specifically, the Court considered that neither the government of North Macedonia nor the national courts had provided a reasonable and objective justification for the distinct treatment that the claimants had been subjected to at the border, and concluded that they had been discriminated against because of their Roma ethnicity in the denial to them of exit from the country.

The full ruling can be read in English at:

<https://hudoc.echr.coe.int/?i=001-228661>