



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Combined twenty-fourth to twenty-sixth periodic  
reports submitted by Spain under article 9 of the  
Convention, due in 2020\***

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\* The present document is being issued without formal editing.



## I. Introduction

1. Following the presentation by Spain of its twenty-first to twenty-third periodic reports (CERD/C/ESP/21-23) to the Committee on the Elimination of Racial Discrimination at its 2424th and 2425th meetings (CERD/C/SR.2424 and CERD/C/SR.2425), held on 26 and 27 April 2016, and in the light of the concluding observations adopted by the Committee at its 2443th and 2444th meetings, held on 11 May 2016 (CERD/C/ESP/CO/21-23), the combined twenty-fourth to twenty-sixth periodic reports are hereby submitted in a single document, as recommended by the Committee in paragraph 43 of the concluding observations.
2. This report seeks to present, as comprehensively as possible, the legislative, judicial, administrative and other measures adopted or implemented during the reporting period in line with the recommendations made in the Committee's concluding observations and with a view to giving effect to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.
3. The information contained in the present document supplements and updates the information already submitted to the Committee (CERD/C/ESP/21-23/Add.1) on the State's follow-up to the recommendations contained in paragraphs 12 and 28 of the concluding observations, as requested in paragraph 41 of that document.
4. Following this introduction, the report is divided into two parts: follow-up to the Committee's key recommendations and other recommendations by the Committee. In part one, the Committee's recommendations have been arranged according to the different articles of the Convention, even though the recommendations and the related information are linked to more than one article of the Convention, as the Committee has indicated in its concluding observations. Part two provides information on the recommendations contained in section D, "Other recommendations", in paragraphs 35 et seq. of the Committee's concluding observations.
5. The preparation of this report has involved a significant collective effort by various public institutions, coordinated by the Human Rights Office of the Ministry of Foreign Affairs, European Union and Cooperation and the Directorate General for Equal Treatment and Diversity of the Ministry of the Presidency, Parliamentary Relations and Equality, now replaced by the Directorate General for Equal Treatment and Ethnic and Racial Diversity of the Ministry of Equality.
6. The following ministries have made substantial contributions to the present report: the Ministry of the Presidency, Parliamentary Relations and Democratic Memory, the Ministry for Social Rights and the 2030 Agenda, the Ministry of Economic Affairs and Digital Transformation, the Ministry of Foreign Affairs, European Union and Cooperation, the Ministry of Justice, the Ministry of the Interior, the Ministry of Education and Vocational Training, the Ministry of Health, the Ministry of Equality, and the Ministry of Inclusion, Social Security and Migration. Consultations were also held with non-governmental organizations (NGOs) specializing in this field.

## II. Part One: Follow-up to the Committee's key recommendations

### Article 1 of the Convention

#### A. Information on the population (recommendation in paragraph 6)

7. Official statistics do not contain any information on membership of the Gitano community. This community is not recognized as a national minority and the principle of equality before the law is applied. According to data drawn from different studies, the Gitano population is estimated to account for between 1.5 and 1.7 per cent of the Spanish population. As stated in the National Strategy for the Social Inclusion of the Gitano Population 2012–2020, the Gitano population in Spain has increased with the arrival of Roma principally from Romania and Bulgaria, who, especially since 2002, when visa requirements for the two

countries were lifted, and again since 2007, when those countries joined the European Union, have chosen Spain as their country of destination. The number of Roma people of Romanian and Bulgarian nationality who, as European Union citizens, exercise their right to freedom of movement and residence in Spain is difficult to quantify, given that they are included in large contingents of Romanian and Bulgarian citizens who reside in Spain temporarily or permanently and that there are no public records that include information on the ethnic origin of foreign nationals in Spain. The available data come from studies and research, especially those conducted by NGOs that run programmes for Gitano/Roma immigrants, which estimate that there are between 40,000 and 50,000 Gitano/Roma immigrants in Spain (90 per cent from Romania, 6 per cent from Bulgaria and the remainder from other European countries).

8. Spain continues to be a country of immigration, both in terms of annual flows and in relation to the number of foreign residents. According to the Municipal Register prepared by National Statistics Institute, 10.1 per cent of the people living in Spain in 2018 were foreign nationals. In addition, the number of refugees and asylum-seekers has grown, placing Spain among the six European Union countries with the highest number of applications for international protection.

9. As in other countries, data on ethnicity are not collected in official population censuses. Annual reports and other documents on the integration of immigrants prepared by the Forum for the Social Integration of Immigrants – a collegial body comprised of representatives of public authorities, migrant and refugee organizations, and social partners – provide statistical data extracted from a range of official sources such as the yearbook and statistics of the Standing Immigration Observatory of the Ministry of Labour, Migration and Social Security, population and employment statistics of the National Statistics Institute, Eurobarometer, etc.

10. The Council for the Elimination of Racial and Ethnic Discrimination has been conducting studies on potential victims' perception of discrimination based on racial or ethnic origin since 2010. In accordance with the data protection legislation in force, replies are treated confidentially, which has made it possible to include a question asking interviewees to self-identify on the basis of their skin colour, religion, culture, etc. in this type of survey.

## Article 2 of the Convention

### A. Legislative and institutional measures (recommendation in paragraph 8)

11. The Government supported a bill proposing a comprehensive law on equal treatment and non-discrimination, which was presented in the Congress of Deputies but could not be finally adopted because Parliament was dissolved to make way for the 10 November 2019 general elections. This bill provides for the establishment of an independent equal treatment authority endowed with the necessary resources and fully meeting the requirements of European Union legislation and the recommendations made by the Committee. This proposal, which will soon be reintroduced for adoption, will help address those issues that make it difficult to gain a deeper understanding of the reality of discrimination in Spain and will establish proportionate penalties for a series of offences which constitute discrimination but are not covered by existing law.

12. The development of the Second Human Rights Plan was also put on hold as a result of the electoral process that culminated in the November 2019 elections. In December 2018, the Council of Ministers adopted a preliminary report on the drafting of the Plan. Subsequently, a first call for proposals was launched with the participation of civil society. The Plan is expected to include a national coordinating and monitoring body and human rights indicators.

13. The Council for the Elimination of Racial or Ethnic Discrimination is a consultative body composed of representatives of the central Government, the autonomous communities, local governments, social partners, and organizations and associations engaged in the promotion of equal treatment and non-discrimination on grounds of racial or ethnic origin, which ensures a diversity of approaches in the adoption and implementation of equal treatment measures. Work is also under way to encourage more organizations representing

victims of racial discrimination to become involved in the work of this body, with special emphasis on the participation of organizations of Africans and persons of African descent.

14. Aside from producing independent studies and reports on discrimination on grounds of racial or ethnic origin, the Council for the Elimination of Racial or Ethnic Discrimination is empowered to assist victims of such discrimination in filing complaints. This is done by the Victim Support Service, in partnership with nine NGOs. This formula is intended to enhance the quality and accessibility of such assistance.

15. Since 2015, contracts for technical support in the coordination and functioning of this Service have been awarded through open calls for tenders. The agency that has been awarded the contract in the last few years provides the following services: (a) in-person support for persons who are experiencing, have experienced or are cognizant of situations of discrimination based on racial or ethnic origin; (b) web-based online support for persons who are experiencing, have experienced or are cognizant of situations of discrimination based on racial or ethnic origin; (c) telephone-based support for victims of discrimination on grounds of race or ethnicity; (d) all necessary in-service training and awareness-raising activities for quality service delivery.

16. In 2020, the possibility of taking legal action, with the victim's consent, was included as a new feature for cases where strategic litigation can have a social impact, as recommended by the Council of Europe and the European Commission against Racism and Intolerance.

17. Much progress has been made in recent years in the coordination of the Victim Support Service with local institutions such as law enforcement agencies, hate crime and discrimination prosecutors, and some bar associations such as those of Malaga and Madrid. As a national body, the Council plays an important role in identifying and investigating cases, and thus in the enforcement of anti-discrimination legislation.

18. In the field of employment, reference should be made to the Master Plan for Decent Work, 2018–2020, which outlines the activities of the Labour and Social Security Inspectorate and establishes 55 operational measures in nine functional areas. In the “Protect fundamental rights and promote equality” functional area, the Plan expressly refers to the prohibition, in Spanish law, of attacks on workers' privacy and honour and the prohibition of all forms of discrimination, including on grounds of sex, age, disability, origin (including racial or ethnic origin), marital status, social status, religion or belief, political ideas, sexual orientation or gender identity. The most important actions taken and envisaged under the Plan include:

- Establishment of an Anti-Discrimination Unit, which will work for equality of treatment of all vulnerable groups
- Receipt of communications by the Labour and Social Security Inspectorate
- Participation in public authorities' strategies and action plans, such as the State Pact against Gender-based Violence, different Strategic Equal Opportunities Plans, or the National Strategic Plan for Children and Adolescents
- Specialized training courses at the School of Labour and Social Security Inspection
- Designation of specialized inspectors.

19. In 2017, the Spanish Government adopted the first State Pact against Gender-based Violence. This instrument was concluded on the basis of the reports of the congressional subcommittee and the Senate committee formed for this purpose, which proposed 214 and 267 measures, respectively, organized around 10 strategic priorities to advance towards the eradication of violence against women. The Pact sets out the road map for the period 2018–2022 and involves an additional financial commitment of 1 billion euros. The Pact gives special consideration to women who are particularly vulnerable to gender-based violence, including migrant and ethnic minority women, and contains specific provisions in this regard.

20. The Master Plan for Coexistence and Improved Safety in and around Education Centres was devised by the Ministry of the Interior, the former Ministry of Education, Culture and Sport, and other bodies and institutions for the purpose of bringing the police into schools to carry out safety training and awareness-raising activities for students, teachers and parents.

One of its primary objectives is the protection of victims from all forms of violence associated with bullying, xenophobia or racism. Information and prevention are carried out through activities and discussions with students at all grade levels on issues such as bullying at school, drug and alcohol abuse, radicalization, vandalism, racism, xenophobia, violence against women and all forms of discrimination or discriminatory attitudes, in addition to online and social media risks and safety. The number of talks given increased considerably between 2014 (29,894 talks) and 2018 (44,307 talks).

## Article 5 of the Convention

### A. Migrants, asylum-seekers and refugees (recommendations in paragraphs 12, 14 and 16)

21. The adoption of Royal Decree-Law No. 7/2018 of 27 July 2018 on universal access to the National Health System amended Royal Decree-Law No. 16/2012 of 20 April 2012 on urgent measures to guarantee the sustainability of the National Health System and enhance the quality and security of its services, which had made access to the National Health System contingent on the fulfilment of a series of requirements. The new regulatory framework guarantees universal health care in the National Health System to Spanish nationals and to foreigners who have established their domicile in Spanish territory. It also allows foreigners who are not registered or authorized as residents in Spain to exercise their right to health protection and health care on the same terms as Spanish nationals, at public expense in the absence of a third-party payer.

22. Complaints submitted by detainees in migrant holding centres in the exercise of their right to lodge complaints and petitions in defence of their rights and legitimate interests must be forwarded immediately and confidentially to the addressee, pursuant to article 16 (n) of Royal Decree No. 162/2014 of 14 March 2014 on the operational regulations and internal rules of migrant holding centres, which also provides for letter boxes where detainees may submit any type of petition, complaint or suggestion addressed to the director of the centre or, where appropriate, the due process judge. Petitions, complaints and appeals must be lodged with the competent administrative or judicial bodies or with the Public Prosecution Service, Ombudsman or a body or institution deemed appropriate (article 19 (1) of Royal Decree No. 162/2014).

23. Health coverage at migrant holding centres includes medical examinations, the preparation of medical records, general examinations and ongoing medical and health care during detainees' time at the centres, as well as a medical examination on departure and any other services that may be necessary for reasons of collective safety, without prejudice to the regulations in force covering hospitalization and specialist medical care. The medical units at migrant holding centres are staffed by a doctor and an auxiliary nurse who cover the aforementioned health-care needs for most of the day. Health care is also provided by emergency services and, as mentioned above, through the transfer of detainees to referral hospitals where necessary.

24. Detainees in these centres enjoy the rights afforded them by the legal system, free of limitations other than those imposed on their freedom of movement. The rights described below are among those guaranteed to detainees on entry into the migrant holding centres and during their time there.

25. Firstly, detainees have the right to be informed of their situation in a language that they understand. To that end, they receive a circular in their language, or in a language that they understand, containing information on their rights and obligations, the centre's internal and disciplinary rules, their right to lodge petitions and complaints with the due process judge if they believe their rights to have been violated, and how such petitions and complaints may be submitted.

26. Secondly, they enjoy the right to be assisted by counsel, appointed by the court if necessary, and to communicate with him or her in confidence, including outside the centre's general opening hours in case of urgency. The centres have facilities where counsel can

provide legal advice to detainees confidentially. Cooperation agreements are concluded with bar associations to establish the conditions of the legal aid service.

27. Detainees have the right to be assisted by an interpreter if they do not understand or speak Spanish. This service is provided free of charge if they lack the necessary financial resources.

28. Detainees benefit from freedom of religion and belief and the means necessary to practise them. Similarly, their religions' food customs, rites and holidays are respected, provided that they do not negatively impact the centre's security or activities or the rights of other detainees.

29. Upon admission to a migrant holding centre, detainees are examined by the centre's health-care staff and, as soon as possible, interviewed by its social welfare staff. Once a detainee's entry into the centre has been processed, the counsel involved in the case, the embassy or consulate of the detainee's country and the Ministry of Foreign Affairs, European Union and Cooperation are informed. Detainees are also permitted to make telephone calls, which are free of charge the first time, to their counsel and to a trusted person residing in Spain.

30. The centres have social and cultural welfare departments staffed by personnel with the necessary knowledge of human rights, immigration matters, international protection, intercultural mediation, the gender perspective and violence against women. The Ministry of the Interior may enter into agreements with public or private entities for the provision of support services. National and international organizations working to protect immigrants may visit the centres.

31. With regard to the concerns surrounding the deprivation of liberty of detainees in migrant holding centres, it should be recalled that detention in such a centre is intended to facilitate the return of migrants and must be authorized by a judge. The measure is implemented when there is a real prospect of returning an irregular immigrant, as set out in the Return Directive of the European Union. Detention is maintained only for the period strictly necessary for the purposes of the case, and may in no case exceed 60 days, a period far shorter than the 18 months permitted under the Return Directive. Detainees in migrant holding centres may apply for international protection during their detention, and such applications are processed by means of a summary procedure that is subject to the same deadlines established for applications submitted at the border.

32. Article 61 (1) of Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration (the Aliens Act) establishes detention as a precautionary measure that must be authorized by a judge and may be applied in cases in which no other precautionary measure is adequate to ensure an immigrant's expulsion, and in the circumstances set out in articles 57 (2), 57 (7), 54 (1) (a) and (b) and 53 (1) (a), (d) and (f) of the Aliens Act on judicial expulsion, as well as judicial expulsion as an alternative to a sentence, as set out in article 89 of the Criminal Code. Article 61 (1) of the Aliens Act also sets out several precautionary measures that may be adopted by the examining judge and that, like detention, are intended to ensure that the expulsion takes place. These include: (a) a requirement to report regularly to the examining judge; (b) a requirement to reside in a certain location; and (c) the confiscation of an individual's passport or proof of nationality, in return for which a receipt attesting to this measure is issued.

33. Circular No. 6/2014 of 11 July 2014, addressed to all provincial immigration and border force headquarters and units, is a mandatory instrument that provides examining judges with specific, defined criteria for assessing requests for detention as a precautionary measure. When considering such requests, examining judges must therefore apply the criteria established for requests for detention in a migrant holding centre, evaluating, *inter alia*, the personal, social and family situation of the foreign national concerned and the possibility of applying other, less restrictive, measures. Detention must serve as a measure of last resort when, owing to the circumstances, less restrictive measures cannot be imposed upon the individual. Given that remand in custody is not always the most suitable precautionary measure, examining judges in expulsion proceedings assess the foreigner's situation and personal status in accordance with the criteria established in Circular No. 6/2014.

34. Migrant holding centres are not prisons, but public administrative detention centres intended for the custody of irregular immigrants whose return has been mandated by an administrative decision. As such, their facilities, internal rules, furnishings and regulations governing access to communication channels differ from those of a prison. In 2019 the Government approved the comprehensive refurbishment of the eight migrant holding centres, located in Tenerife, Murcia, Las Palmas, Valencia, Barcelona, Madrid, Algeciras and Tarifa, to ensure that their infrastructure facilitates greater respect for detainees' dignity and human rights. The refurbishment was carried out in response to observations made by the Ombudsman, due process judges and national and international bodies. The centres operate according to a philosophy of transparency.

35. Regarding the recommendation to initiate independent investigations into any possible torture or ill-treatment, article 50 of Royal Decree No. 162/2014 on the operational regulations and internal rules of migrant holding centres provides that "independently of the powers granted by law to the judicial authorities, units of the National Police Force may conduct such inspections of the centres and their personnel as may be deemed necessary to ensure the effective fulfilment of their functions. Without prejudice to the foregoing, the Inspectorate for Security Personnel and Services of the State Secretariat for Security shall also establish the necessary plans for the systematic inspection of the centres."

36. In addition, the work of national and international human rights bodies competent to visit and inspect the centres must be facilitated at all times.

37. At the court level, due process judges, who are independent members of the judiciary subject only to the rule of law, ensure that detainees' rights are respected for the duration of their detention. The due process judge hears any complaints and petitions made by detainees in relation to their fundamental rights and may visit them if he or she becomes aware of any serious violations or believes it would be useful.

38. Furthermore, article 50 of Royal Decree No. 162/2014 provides that the operation and management of the centres is subject to ongoing monitoring by the national human rights institution, which in Spain is the Ombudsman. In its capacity as the national mechanism for the prevention of torture, the Ombudsman's Office makes unannounced visits to the centres and is authorized to access all facilities and the centres' registers and to conduct confidential interviews with detainees and staff. As a result of these activities, and in addition to its annual report, which is accessible to the public through its website, the Ombudsman's Office prepares technical reports, recommendations, suggestions and decisions.

39. The migrant holding centres are also subject to audits by regional monitoring mechanisms, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe, which has visited a number of centres on several occasions in recent years.

40. Spain has experienced a very significant increase in applications for international protection, receiving more than 100,000 in 2019, or twenty times the number received in 2014, which was fewer than 6,000. In response to this increase, a plan has been implemented to improve the performance of the Office for Asylum and Refugees with the ultimate goal of providing the best possible service and maximum guarantees to applicants for international protection. In July 2018, a special public-sector recruitment drive was launched to fill an additional 231 posts in the Office for Asylum and Refugees, leading to a substantial rise in the number of decisions adopted. Between 2018 and 2019, the number of decisions increased fivefold, from 12,000 to 60,275. The following actions have also been undertaken:

- Development of a new software application for processing applications for international protection
- Improvements to the generation of statistics on applications for international protection and their dissemination on the website of the Ministry of the Interior
- A new system for processing applications, with a significant increase in staff
- A new on-call system to guarantee the provision of services on non-working days
- An action protocol for mass arrivals of persons requesting international protection

- Improvements to the quality of procedures through training and the distribution of methodological guides for the examination of applications

41. Under the Asylum Act, applicants for international protection who lack financial resources receive social and reception services enabling them to meet their basic needs in decent conditions while their case is being processed and, if they are granted refugee status or international protection, facilitating their ability to live independently and become integrated into the host community. The activities undertaken as part of the Reception System for International Protection Applicants and Beneficiaries fall into the following categories:

- Government-funded reception facilities managed by non-profit organizations, in which 10,272 places were available as of 31 July 2019
- Four public refugee reception centres with a total of 416 available places
- Supplementary government-funded projects and resources aimed at facilitating beneficiaries' development in their new environment and their integration into host communities, for example through access to jobs and rented accommodation

#### **B. Ceuta and Melilla (recommendations in paragraphs 18, 20 and 22)**

42. The principle of non-refoulement and effective access to the international protection procedure is guaranteed, in accordance with the international treaties ratified by Spain and in a manner compatible with the country's border surveillance obligations and the maintenance of internal security and public order, as enshrined in Act No. 12/2009 of 30 October 2009 on the right to asylum and subsidiary protection. In 2015 international protection offices were created in both Ceuta and Melilla, at the border posts of El Tarajal and Beni-Enzar, to strengthen international protection guarantees. Furthermore, the tenth additional provision of Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration provides that all actions to turn back aliens attempting to enter Spanish territory illegally "shall be carried out in accordance with the international human rights and international protection instruments to which Spain is a party".

43. In relation to the principle of non-refoulement, as established in article 23 (2) of Regulation No. 557/2011 implementing the Aliens Act, the procedure for the return of foreigners attempting to enter the country illegally, including those intercepted at or near the border, consists of their transfer by the State security force that intercepted them to the relevant National Police station without delay so that they may be identified and, where appropriate, returned. In that connection, article 57 (6) of the Aliens Act provides that "expulsion may not be undertaken when it violates the principle of non-refoulement, affects pregnant women by posing a risk to their pregnancy, life or physical integrity, or affects sick persons by posing a risk to their health".

44. With regard to the recommendation in paragraph 18 on the submission of applications for international protection, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection provides for the possibility of examining applications at border crossing points and in detention facilities. In all cases, these procedures must uphold the same principles and fundamental guarantees as those pertaining to applications made within the territory.

45. In both Ceuta and Melilla, applications for international protection are processed at border posts and in Spanish territory. Persons submitting applications in Ceuta and Melilla enjoy the same guarantees as applicants elsewhere in Spanish territory, including the right to health care, free legal assistance and an interpreter, in addition to the right to information on matters relating to the procedure, their rights and obligations during the process, the possibility of contacting the Office of the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organizations recognized under the law, the rights and social benefits available to them as applicants for international protection and the possible consequences should they fail to comply with their obligations.

46. The administrative procedure for processing applications at the border, including those submitted in Ceuta and Melilla and at other border posts, involves specific legislative guarantees. These include notification of UNHCR, mandatory free legal assistance, short processing times of four working days, a requirement that reasons must be given for



rejections, the limiting of rejections to certain cases provided for by law and the admission of applicants into the territory if the authorities fail to issue a decision within the legally established period. The total number of applications processed in Ceuta and Melilla – in the territory and at border posts – increased almost fivefold between 2014 and 2019, from 935 to 5,000, according to provisional figures for 2019.

47. On 29 October 2019 the judge of the Sixth Examining Magistrate’s Court of Ceuta once more closed the case against the 16 Civil Guard officers accused of manslaughter through gross negligence and denial of assistance in relation to the deaths of 15 persons on 6 February 2014. As a result, a stay of proceedings was granted with respect to all those under investigation.

48. The temporary migrant reception centres in Ceuta and Melilla, which are attached to the public administration, were, from their inception, intended to serve as temporary residences for foreign nationals while their administrative status is being evaluated, with a view to their being referred to the most appropriate service. It is therefore important to note that the centres are not detention centres, in that their occupants enjoy freedom of movement, nor do they form part of the national system for the reception of asylum-seekers.

49. The centres provide basic services such as housing, clothing, food, cleaning, hygiene and security, as well as specialized services including health-care and training programmes; leisure, sporting and cultural activities; legal advice; and social intervention programmes. The activities in each of these areas of intervention entail the following:

(a) Information and guidance: these activities aim to facilitate the reception of new arrivals by providing information on the centres’ operation and rules and on basic concepts relating to the host community. The residents’ situation is monitored at the individual, family and group levels;

(b) Psychological support: residents receive psychological support and interventions to overcome any difficulties that they may experience in adapting and to encourage them to develop psychosocial competencies and skills. This support is provided through initial individual and group assessments; individual and group psychological interventions; psychoeducational interventions and monitoring for minors; specific interventions for women and particularly vulnerable persons, such as victims of gender-based violence and trafficking in persons; interventions to address alcoholism and drug use; guidance; information and advice; and the production of reports;

(c) Legal aid: most activities in this area are geared towards providing legal advice on international protection, statelessness and other aspects of migration. Possible cases of trafficking in persons are detected, and the Framework Protocol for the Protection of Victims of Trafficking in Persons is activated;

(d) Translation and interpreting: these activities facilitate communication among all persons connected with the centres and ensure that residents correctly understand the information, advice and services provided to them;

(e) Training and leisure: leisure activities are provided to improve relationships among residents, promote their participation and enhance their social integration. Training activities serve mainly to promote the learning of Spanish, and they encompass literacy, information on customs and ways of life, reading and writing skills, school support and basic computer skills;

(f) Health care: this area of intervention consists of support for medical examinations on admission to the centre, the monitoring and surveillance of residents’ health and the referral of requests to the public health system where necessary. Particular attention is paid to pregnant women and the monitoring of children’s health, vaccinations, etc. Health is promoted through workshops on the prevention of HIV and hepatitis, the promotion of healthy habits and the provision of medicines and medical supplies. Since 2014, the available spaces have been remodelled and refurbished to adapt them to resident numbers, with the creation of adjustable spaces to be used when there is a large influx of new arrivals. Separate rooms are allocated to men and women, and family rooms are assigned to families large enough to occupy an entire room;

50. Ceuta and Melilla have a special status with respect to the rest of the Schengen area, and access to the mainland from these two cities is therefore subject to border control and to compliance with the entry requirements broadly set out in European Union regulations (article 6 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)). Persons are prevented from crossing the border if they do not meet the entrance requirements, not because they bear documentation attesting to their asylum-seeker status. Such documentation constitutes a guarantee and a right, and never a limitation. Similarly, article 7 of Directive 2013/33/EU allows host member States to limit an asylum-seeker's freedom of movement for reasons of public interest or public order or when necessary for the processing and monitoring of his or her asylum application.

### C. Gitanos and Roma (recommendation in paragraph 24)

51. On 6 April 2018, the Council of Ministers adopted a decision on the declaration of the Day of the Gitano People and the recognition of Gitano symbols. In doing so, it granted a long-standing request made by Gitano civil society organizations by agreeing to proclaim 8 April as the Day of the Gitano People and to recognize the formal use of the Gitano flag approved at the first World Romani Congress, which is blue and green with a red 16-spoke wheel, and of the anthem entitled *Gelem, Gelem*, for commemorations, ceremonies and institutional events concerning the Gitano people. In addition, two tragic events in the history of the Gitano people have been officially commemorated since 2016. These are the *Samudaripen*, in memory of the Gitanos who were killed at the Auschwitz-Birkenau Nazi concentration camp in the night of 2 to 3 August 1944, and the Great Round-up of 30 July 1749, also known as the general imprisonment of Gitanos.

52. The National Strategy for the Social Inclusion of the Gitano Population 2012–2020 sets out a series of intermediate objectives, to be achieved by 2015, and final objectives, to be achieved by 2020, in the areas of education, employment, health and housing. These are the indicators that will be used to measure progress or setbacks in the implementation of the Strategy. The Strategy also covers areas such as social action, Roma participation, the improvement of knowledge, gender mainstreaming, non-discrimination and the promotion of equal treatment, social awareness-raising, the promotion of culture, the provision of assistance to Roma from other countries, the microterritorial approach and political action at the European level.

53. The final objectives of the Strategy in each priority area are listed below.

54. Education:

- Increase the proportion of Gitano children who receive early childhood education before they enter compulsory education (under 6 years old): 95 per cent.
- Increase the enrolment of Gitano children in primary education (6–12 years old): 99 per cent.
- Reduce absenteeism (absences from school for periods of more than three months) in primary education: 10 per cent.
- Increase the number of Gitano children enrolled at the grade level appropriate to their age: 90 per cent.
- Increase the enrolment of Gitano children aged 13 to 15 years in secondary education: 90 per cent.
- Reduce the rate of school dropout before the completion of compulsory education.
- Increase the number of Gitano students who graduate from compulsory secondary education.
- Reduce the rate of absolute illiteracy among Gitanos (over 16 years old): 3 per cent.
- Reduce the proportion of Gitanos aged 18 to 24 years who are not studying or undergoing training and who dropped out during or at the end of compulsory education: 80 per cent.

- Increase the proportion of Gitanos who have completed post-compulsory education: 8 per cent.
55. Employment:
- Increase the employment rate among Gitanos: 60 per cent and 52 per cent for women.
  - Reduce the unemployment rate among Gitanos: 20 per cent.
  - Increase the proportion of Gitanos who are employees: 48 per cent.
  - Reduce the rate of temporary employment among Gitano workers.
  - Increase the proportion of Gitano self-employed professionals and workers (excluding employees) who pay social security contributions: 75 per cent.
  - Reduce the proportion of Gitanos who work for the family business: 20 per cent.
  - Increase the proportion of Gitano workers in skilled occupations (above the level of elementary occupations).
56. Housing:
- Reduce the percentage of Gitano households living in slum conditions: 0.5 per cent.
  - Reduce the percentage of Gitano households living in substandard housing: 3 per cent.
  - Reduce the percentage of Gitano households lacking some basic equipment: 2.1 per cent.
  - Reduce the percentage of Gitano households with damp problems: 35 per cent.
  - Reduce the percentage of Gitano households living in areas that lack urban infrastructure: 10 per cent.
  - Reduce the percentage of Gitano households living in overcrowded conditions: 20 per cent.
57. Health:
- Improve the perceived health status\* of the Gitano population\* (Health status perceived as “good” or “very good” among persons aged 35 to 54 years): 76 per cent (men), 66 per cent (women).
  - Reduce traffic accidents among Gitanos aged 16 years and over: 22 per cent (men), 16 per cent (women).
  - Reduce smoking among Gitanos aged 16 years and over: 30 per cent.
  - Reduce obesity among Gitanas (over 16 years old): 15 per cent.
  - Reduce the number of Gitanas who have never consulted a gynaecologist: 16 per cent.
  - Reduce the number of accidents at home (house, stairs, hallway, etc.): 26 per cent (men), 28 per cent (women).
  - Reduce obesity among children aged 2 to 17 years: 10 per cent (boys), 9 per cent (girls).
  - Increase access to oral health care (reduce the number of children who have never been to the dentist): 38 per cent.
58. In order to achieve the intermediate and final objectives set out in the Strategy, successive action plans for the social inclusion of the Gitano population have been approved. The one currently being implemented is the 2018–2020 Action Plan, which specifies the measures to be taken to meet the objectives defined in the Strategy and establishes the frameworks to be used at various levels of government, specifically at the State and autonomous community levels. The Plan covers the four priority areas, as well as five other areas of focus, namely social inclusion, equality and gender-based violence, non-discrimination and anti-Gypsyism, culture and citizenship, and participation.

59. The 2018 progress report contains an evaluation of the first year of implementation of the 2018–2020 Action Plan and provides not only an overview of the measures taken by the central Government but also information on the initiatives launched by the autonomous communities and local authorities. For the first time, thanks to the collaboration of the Spanish Federation of Municipalities and Provinces, 70 local authorities participated in the preparation of that report, which includes a preliminary analysis of their contributions. The report also sets out the progress that needs to be made over the next two years in each of the areas covered by the Strategy and the type of measures that will be taken by the central Government, autonomous communities and local authorities to achieve this progress. It also reflects, for the first time, the important role played by Gitano civil society organizations – represented through the State Council of the Gitano People, an interministerial collegial body with an advisory role, attached to the Ministry for Social Rights and the 2030 Agenda, and the Interfund Committee, which is composed of representatives of the European Social Fund and European Regional Development Fund administrative units – in helping to coordinate the planning, monitoring and evaluation of initiatives aimed at the Gitano population, in general and in each of the areas covered by the Strategy.

60. The new European Union framework for national Roma integration strategies is currently being developed, on the initiative of the European Commission and with the active participation of the National Contact Point (Directorate General of Family Diversity and Social Services of the Ministry for Social Rights and the 2030 Agenda), which is, in turn, promoting the participation of national stakeholders.

61. According to the midterm follow-up report on the implementation of the National Strategy for the Social Inclusion of the Gitano Population 2012–2020, which was published in 2017, the situation of the Gitano population in Spain has improved as described below.

62. Housing:

- The percentage of Gitano households living in slum conditions fell from 3.9 per cent in 2007 to 2.17 per cent in 2015.
- The percentage of Gitano households living in substandard housing fell from 7.8 per cent in 2007 to 6.46 per cent in 2015.
- The percentage of Gitano households lacking some basic equipment fell from 8.5 per cent in 2007 to 4.2 per cent in 2015.
- The percentage of Gitano households living in areas that lack urban infrastructure fell from 19.5 per cent in 2007 to 10.34 per cent (average) in 2015.
- The percentage of Gitano households living in overcrowded conditions fell from 29.4 per cent in 2007 to 8.9 per cent in 2015.

63. Education:

- The enrolment of Gitano children aged 13 to 15 years in secondary education has risen by 8 percentage points for boys (from 84.2 per cent in 2007 to 92.3 per cent in 2012) and by 17.5 percentage points for girls (from 71.7 per cent in 2007 to 89.2 per cent in 2012).
- The rate of absolute illiteracy among Gitanos has decreased.
- There has also been a decrease in the proportion of Gitanos aged 18 to 24 years who are not studying or undergoing training and who dropped out during or at the end of compulsory education.

64. Health:

- The number of Gitanas who have never consulted a gynaecologist dropped from 25.3 per cent in 2007 to 16.4 per cent in 2015.
- There has been a reduction in the number of children who have never had a dental check-up. According to data from the 2014 Gitano population health survey, between 2006 and 2014 the proportion of boys who had never had a check-up fell from 49.5 to 37.7 per cent and the proportion of girls from 51.4 to 43.9 per cent.

65. It is also worth mentioning the National Strategy to Prevent and Combat Poverty and Social Exclusion 2019–2023, which was adopted by the Council of Ministers on 22 March 2019. Its main objectives are to combat poverty, especially child poverty, and to reduce inequality and income disparity. Several sections of the Strategy refer specifically to the Gitano population (in the analysis of the current situation, attention is drawn to the fact that Gitanos are at higher risk of poverty and social exclusion and face problems in the areas of training, employment, housing and health care). Although the Strategy sets out global measures to address social exclusion, some of them are aimed specifically at Gitanos. Some examples are given below.

66. Training and employment. The lines of action relating to objective 2.2 – which is to promote lifelong learning and ensure that vulnerable people, especially young people, secure sustainable and high-quality employment that allows for active and steady participation in and integration into the labour market – include incentivizing employers to hire people who struggle to find employment, including Gitanas, in order to increase their employability.

67. Health. The lines of action relating to objective 3.1 – which is to respond equitably to health-care needs and improve the health of the population, particularly the health of the most disadvantaged groups – include promoting strategies and programmes designed to improve the health and lifestyles of groups in vulnerable situations, including the Gitano population.

68. Information, knowledge, social innovation and transparency. The measures set out under objective 4.5 – which is to develop a system that manages information and knowledge efficiently, provides innovative responses to social needs and is transparent – include conducting studies and research on different realities and responses to needs, for example, in the light of the national Gitano population health survey.

69. In the field of education, the Ministry of Education and Vocational Training has supported the implementation of the National Strategy for the Social Inclusion of the Gitano Population 2012–2020 by taking measures to further progress towards specific objectives such as increasing the enrolment of Gitano children, the completion rate at different levels of education, the academic success of Gitano students at all levels and the level of education of the adult Gitano population. The indicators show that the Gitano community in Spain has enjoyed greater access to education in recent years. According to a comparative study on the situation of the Gitano population in Spain with respect to employment and poverty in 2018, published by Fundación Secretariado Gitano in 2019, the proportion of illiterate or uneducated Gitanos fell from 59.3 per cent in 2011 to 36.5 per cent in 2018 and the rate of enrolment of Gitano children in primary education is close to 100 per cent. Furthermore, the number of Gitanos who attend primary or secondary school is increasing, even if they do not complete their studies. According to the study, the proportion of Gitanos who were in primary or secondary education rose from 30.7 per cent in 2011 to 46.2 per cent in 2018, while the proportion of Gitanos who have completed secondary education (high-school diploma or mid-level vocational training) almost doubled over the same period, from just 7.4 per cent in 2011 to 14.2 per cent in 2018. Lastly, the proportion of Gitanos with a tertiary-level diploma or a degree rose from 2.6 per cent in 2011 to 3.2 per cent in 2018. It can be concluded from all these figures that the participation of the Gitano population in formal education improved over the seven years in question.

70. The “Promote” programme for the provision of support and educational guidance is aimed primarily at young Gitanos and their families. The goal of the programme is to increase the number of Gitano students who graduate from compulsory secondary education and continue with post-compulsory education. Between its launch in 2009 and 2019, 1,288 students who took part in the programme obtained their compulsory secondary education certificate and continued with their studies. The programme is managed by Fundación Secretariado Gitano, a non-profit organization that provides services for the development of the Gitano community in Spain and Europe, with funding from the public authorities and the European Social Fund.

71. The inclusion of Gitanos as a priority vulnerable group in the European Structural and Investment Funds policy documents for 2014–2020 was a very important step forward.

72. The adoption of the European Social Fund and the European Regional Development Fund operational programmes made it possible to run initiatives to promote the social

inclusion of Gitanos. Specifically, under the operational programme for social inclusion and the social economy, the European Social Fund has financed various types of activity:

- Integrated insertion pathways: support, training and employment measures and individualized counselling and guidance that are designed and provided with due regard for the inequalities between Gitanas and Gitanos and the economic needs of the local area.
- Awareness-raising and public information activities aimed at breaking down discriminatory stereotypes and prejudices against the Gitano population.
- Programmes specifically promoting the integration of Gitanos into the labour market:
  - The “Access” programme, a job placement initiative, the aim of which is to effectively assist Gitanos with finding employment. This programme is being implemented in 14 autonomous communities and is an example of good practice at the European level. It has been running since 2000, with funding from the European Social Fund for the 2000–2007, 2008–2013 and 2014–2020 programming periods.
  - The Calí Programme, which is focused on promoting equal opportunities for Gitanas and their integration into society and the labour market and combating multiple discrimination. The aim of this programme is to improve the integration of members of vulnerable groups, especially Gitanas, into society and the labour market. This programme was launched in 2016 and is run by Fundación Secretariado Gitano. It is financed by the European Social Fund under the operational programme for social inclusion and the social economy, together with the Ministry for Social Rights and the 2030 Agenda and Fundación “la Caixa”. Between 2016 and 2019, 1,700 women took part in the programme, which is being carried out in 14 autonomous communities and 27 localities.
  - The “Employing Digital” programme, which was carried out in 2018 and 2019, was focused on digital skills training for participants in training for employment and the sharing of experiences among trainers in the digitalization of traditional jobs and the provision of training for employment in Java and JavaScript development.
  - The “Learning on the Job” programme, which was implemented in 22 cities by Fundación Secretariado Gitano. The programme was launched in 2013 with financial support from the European Social Fund and was continued under the operational programme for youth employment as from 2016. According to the implementation report for the period 2013–2018, a total of 2,580 young people had participated in the programme, almost half of whom were women. Of those, 1,736 had completed the training course and 691 had found a job.

73. In order to increase the employability of women from particularly vulnerable groups, social and labour market integration programmes, involving tailored pathways and support measures, have been carried out. Under the 2014–2019 SARA Programme, support was provided to not only migrant women who encounter social and cultural barriers but also women over 45 years of age, young women and Gitanas. This programme was funded through a direct grant to four civil society organizations. Under the 2014–2019 SARA Programme, 2,204 migrant women have taken part in 127 workshops and 705 Gitanas in 40 workshops held in various places.

74. As regards the progress indicators in the area of employment, the comparative study mentioned above shows that more effective and intensive intervention is needed with respect to certain indicators, such as the rates of employment and unemployment among Gitanos. The employment rate among Gitanos dropped from 43.8 per cent in 2011 to 30 per cent, whereas the targets set in the Strategy were 50 per cent by 2015 and 60 per cent by 2020. The unemployment rate among Gitanos is 52 per cent, compared with 36.4 per cent in 2011, while the targets were 30 per cent by 2015 and 20 per cent by 2020. For some other indicators, such as the proportion of Gitanos who are employees, the targets for 2015 and 2020 have been far exceeded: 53 per cent of Gitano workers are employees, compared with 37.6 per cent in 2011.

This proportion exceeds the targets of 40 per cent for 2015 and 48 per cent for 2020. Meanwhile, the rate of temporary employment among Gitano workers has fallen from 70.9 per cent in 2005 to 68 per cent.

75. In the area of health, the Ministry of Health works in close collaboration with Red Equi-Sastipen-Rroma, a network of 22 Gitano associations working in health promotion, three universities and various experts, to identify and support Gitano health promotion initiatives. Red Equi-Sastipen-Rroma was created in 2010 with the aim of generating interest in the field of health among Gitano associations. Its work has been recognized as an inspiring example of community resilience by the World Health Organization (WHO), which awarded it the Nelson Mandela Award for Health Promotion.

76. In November 2019, the Public Health Committee of the Interterritorial Council of the National Health System and the Executive Committee for Social Services of the Territorial Council of Social Services and of the System for Autonomy and Care in Cases of Dependency adopted the Oviedo Declaration on health promotion and the Gitano population. It is a consensus document that promotes activities to improve the health and welfare of Gitanos by taking social determinants into account, fostering community involvement and capitalizing on health assets.

77. The Ministry of Health is in the final stages of developing an online course on health equity and the Gitano population that will be offered to health professionals with the aim of raising awareness of the health inequalities that affect Gitanos and the anti-Gypsyism in which they are rooted.

78. The 2018 annual report on discrimination and the Gitano community, which was prepared by Fundación Secretariado Gitano and financed by the Ministry of Health, Consumer Affairs and Social Welfare, drew attention to the daily discrimination suffered by the Gitano community, focusing specifically on the intersectional discrimination experienced by Gitanas, the progress achieved, good practices and the most recent case law on discrimination.

79. In 2018, Fundación Secretariado Gitano, with the support of the Human Rights Office of the Ministry of Foreign Affairs, European Union and Cooperation, published a guide on intersectional discrimination against Gitanas to improve people's understanding of this form of discrimination.

#### **D. Identity checks (recommendation in paragraph 28)**

80. Police identity checks may be carried out in only two scenarios:

- When there are indications that the person may have been involved in the commission of an offence
- When, in view of the circumstances, it is considered reasonably necessary to carry out an identity check in order to prevent the commission of an offence

81. Any action by a member of the State law enforcement agencies that involves discrimination on the basis of racial or ethnic origin, religion or beliefs constitutes a very serious disciplinary offence and is dealt with through the existing supervisory mechanisms and punished accordingly.

82. The Inspectorate for Security Personnel and Services of the Ministry of the Interior is responsible for monitoring and following up on complaints and suggestions made by members of the public regarding the State law enforcement agencies. The types of complaints that are dealt with through a process of identification, analysis, remedial action and communication include complaints of racial profiling. Instruction No. 7/2007 of the State Secretariat for Security and Instruction No. 8/2019 of May 2019 of the State Secretariat for Security, containing the guide on good practices for dealing with complaints and suggestions, which takes into account the recommendations of the Ombudsman on that subject, establish that any complaint submitted by a member of the public must be thoroughly investigated, that an investigation report must be drawn up and that it must be decided whether the complaint should simply be recorded as such or should give rise to disciplinary or even judicial proceedings.

83. From 2015 to 2019 inclusive, 112 complaints relating to racial issues were processed (13 in 2015, 17 in 2016, 33 in 2017, 30 in 2018 and 19 in 2019). Of these, two complaints from 2017 concerning the conduct of an off-duty officer gave rise to criminal proceedings and remain pending in court. In three other cases, disciplinary proceedings were initiated. One of these cases, from 2017, resulted in exoneration. In the other two cases, from 2018, sanctions for serious misconduct were imposed for comments made by officers, including while off duty. The remaining complaints were investigated but did not give rise to disciplinary or criminal proceedings. Some complaints specifically concerning identity checks based on racial profiling have been received (7 in 2018 and 3 in 2019), but all of them have been dismissed as unfounded.

84. The Council for the Elimination of Racial and Ethnic Discrimination collects data on acts of discrimination or hatred recorded by the Support Service for Victims of Racial or Ethnic Discrimination, whose last report, published in 2019, referred to a total of 22 cases in the area of security and policing.

#### **E. People of African descent (recommendation in paragraph 30)**

85. Regarding the recommendation to secure equal opportunities for participation by people of African descent in public employment and governmental bodies, article 23 (2) of the Constitution establishes the right of all citizens to have equal access to public service, subject to the requirements laid down by law.

86. A dialogue with Africans and people of African descent has been under way since 2017 and the following initiatives are being undertaken:

- A study aimed at deepening knowledge of and characterizing the community of Africans and people of African descent.
- Planning of a seminar to review existing knowledge of the contribution of Africans and people of African descent and their situation in Spain historically and in the present day.
- During the review of the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance, civil society consultations, to which associations of Africans and people of African descent and relevant experts were invited, were held in December 2019.
- The Directorate General for Equal Treatment and Ethnic and Racial Diversity of the Ministry of Equality met with more than 50 organizations of Africans and people of African descent in 2020 to put together a programme of work with a view to learning about the situation of this community in Spain and analysing with them whether the enjoyment of their civil, political, economic, cultural and social rights is being ensured.

87. In order to promote greater knowledge of and respect for the heritage, culture and contribution of people of African descent, the following measures have also been taken:

- Programme for cooperation with people of African descent, run by the Spanish Agency for International Development Cooperation.
- Measures to address the matter of people of African descent in the Spanish education system.
- Studies on the perception of racial and ethnic discrimination. A new survey on the perception of racial and ethnic discrimination, allowing for a more detailed analysis of the structural discrimination suffered by Africans and people of African descent, was conducted in 2020.

88. It is also worth mentioning the project carried out under the cooperation agreement between the Ministry of Education, Culture and Sport and the University of Porto in Portugal on the description and reproduction of documents pertaining to the history of slavery that are preserved in the General Archive of the Indies. The project related to the commemoration of slavery and recognition of and support for initiatives by the black African and



Afrodescendent community to carry out education campaigns on the colonial periods and the transatlantic slave trade.

89. On 7 October 2020, a seminar was held by the Spanish Racism and Xenophobia Monitoring Centre, together with the Group on Dialogue with Africans and People of African Descent. The event was opened by the State Secretary for Migration, who noted that it was a priority for her office to “recover the keys to the past that give new meaning to the way in which the historical, political, economic, scientific and cultural legacy of Africans and people of African descent contributes to the history of Spain” and to engage in regular dialogue with Africans and people of African descent, in order to further inclusion and understanding of all people who are part of Spanish society in its diversity ([https://www.youtube.com/watch?v=i8n3d\\_khNWE](https://www.youtube.com/watch?v=i8n3d_khNWE)).

#### **F. Right to education (recommendation in paragraph 32)**

90. On 3 March 2020, the Council of Ministers adopted the draft organic act on education, which is expected to improve educational outcomes in terms of equity and quality and thus to allow for significant progress to be made towards effectively ensuring the right to education on an equal basis and without discrimination. This bill provides for the adoption of measures to implement policies aimed at social equality and to better protect the right to education of groups in vulnerable situations, such as migrants, Gitanos, persons with disabilities and persons at a socioeducational disadvantage, by reducing the segregation of these groups and providing them with the necessary support throughout their time at school. It sets out measures that are designed to ensure the provision of inclusive education, the availability of personalized support, the prevention of learning difficulties and the use of support mechanisms as soon as difficulties of that kind are detected. Under the bill, early childhood education would be planned, managed and carried out in such a way as to make up for the effects that cultural, social and economic inequalities have on child learning and development and to ensure early detection of special educational needs and early intervention in such cases. In order to prevent segregation in public and charter schools, the public authorities would be required to guarantee equal access without discrimination and the freedom of parents and legal guardians to choose a school, and to ensure an appropriate and balanced distribution of students with special educational needs among schools.

91. Under the bill, the curriculum taught at the various stages of basic education would cover the prevention and peaceful resolution of conflicts in all areas of personal, family and social life, and democratic values and human rights, including equal treatment and non-discrimination. One of the new developments for which the bill provides is the inclusion of a course on civic and ethical values in both primary and secondary education. This course would be focused in particular on cultivating knowledge of and respect for child rights and other human rights, including those enshrined in the Constitution, education for sustainable development and global citizenship, gender equality and the value of respect for diversity. Its aim would be to foster critical thinking and a culture of peace and non-violence. The teaching on democratic values and human rights and the prevention and peaceful resolution of conflicts would include studying and cultivating respect for other cultures, particularly the culture of groups such as Gitanos, and historical events and conflicts during which serious human rights violations were committed, such as the Holocaust.

92. There are plans to draw up a comprehensive strategy on migration in 2020. The strategy will include tools to combat school dropout among young migrants in vulnerable situations. In addition, in March 2019, a law on the improvement of teaching conditions in non-university education was passed. The purpose of the law is to reverse the cuts in public spending on education, as the circumstances that led to the adoption of exceptional measures in 2012 no longer exist.

93. The Ministry of Education and Vocational Training has been providing students with support measures and individualized assistance and promoting diversity in order to prevent them from leaving school or training programmes early and to reduce dropout and repetition rates. These include:

- The Programme for Educational Advancement and Support through Guidance and Academic Strengthening, a cooperation programme between the Ministry of

Education and Vocational Training and the autonomous communities, has been running since 2018 and focuses primarily on preventing students from failing or dropping out and reducing dropout rates. The programme provides guidance and academic strengthening through support for schools in socioeconomically vulnerable areas, targeted action aimed at groups in especially vulnerable situations (such as immigrant and Gitano students and students with special educational needs), the involvement of the educational community in the education process and increased training for teachers to enable them to respond to a variety of educational needs.

- Scholarships and study grants.
- Efforts by the Ministry of Education and Vocational Training and the departments of education of the autonomous communities to promote a commitment to supporting the inclusion of Gitano history and culture in school curricula. A protocol has been prepared to provide guidance on the inclusion of the culture and history of the Gitano people, and class materials have been developed for students. Pedagogical materials for teaching Gitano history and culture in primary and secondary schools will also be published. One example of good practice is the initiative of the educational authorities of the Government of Castilla y León to develop innovative teaching units and educational materials for the study and wider awareness of Gitano history and culture, which will be included as a mandatory part of the school curriculum.
- Measures to train and raise the awareness of teachers through specific courses on Gitano culture and methods of addressing diversity. Specifically, a course has been offered on providing educational support to Gitano students.

94. The goal of the MUS-E Programme, a joint effort of the Ministry of Education and Vocational Training and the Yehudi Menuhin Foundation, is to promote the educational and cultural integration of socially disadvantaged students through artistic activities in primary and secondary schools and in special education. The MUS-E Network includes 156 schools in 11 autonomous communities. The MUS-E Programme emphasizes the importance of dialogue and interaction among different cultures and the development of creativity and the imagination through involvement in the arts as an integral part of education. During the 2018/19 academic year, 30,786 children participated in the programme; overall, almost half (43 per cent) of those enrolled in MUS-E schools are of immigrant and/or Gitano origin and/or are differently abled.

95. The measures currently in place to prevent school segregation aim to ensure an equitable distribution of Gitano students, thereby reversing the ghettoization of schools. To this end, a balanced distribution is sought in student enrolment so as to avoid segregation or overrepresentation, through the gradual redistribution of enrolled students among schools close to the population centres where such students are concentrated and through a review of the schools' service areas and enrolment criteria, and thus avoid a concentration of Gitano students in a single area school.

96. The Ministry of Education and Vocational Training also has a work stream on education about and commemoration of the Holocaust, which includes activities to encourage remembrance, raise awareness and prevent contemporary forms of discrimination based on race or other characteristics. The Ministry is in charge of training related to teaching about the Holocaust; such training has been facilitated by the signing of agreements with institutions such as the Federación de Comunidades Judías de España para la Erradicación del Antisemitismo (Federation of Jewish Communities of Spain for the Eradication of Antisemitism) and the Anne Frank Foundation and the adoption of a general protocol for action by the Ministry, the Centro Sefarad-Israel and Yad Vashem – The World Holocaust Remembrance Center (2019). In addition, the Ministry organized the National Ángel Sanz Briz Competition in order to publicly recognize schoolteachers who have prepared materials and resources that have helped raise awareness and understanding, among Spanish children and youth at the various levels of primary and secondary education, in relation to all aspects of the eradication of antisemitism and the Holocaust, or who have engaged in educational best practices that contribute to the same goal in a cross-cutting manner.

97. The FRIDA Project on training for the prevention and detection of racism, xenophobia and related intolerance in the classroom was, in its early stages, co-financed by the European

Union under the 2013 Progress programme for employment and social solidarity; since 2016, it has been funded by the General Secretariat for Migration. Its purpose is to provide training and awareness-raising among teachers, school administrators and the educational community on human rights and the prevention and detection of racism, xenophobia and related intolerance. The Project has been carried out in collaboration with the National Centre for Education Research and Innovation of the Ministry of Education, Culture and Sport, all the autonomous communities, the autonomous cities of Ceuta and Melilla and civil society. Throughout 2019, information on the Project was made available to the educational community around the country through the publication of a handbook for the prevention and detection of racism, xenophobia and related intolerance at school and informational leaflets to publicize it in English, Spanish, Catalan, Galician and Basque; the publication of a report on impact and needs assessments in relation to the FRIDA Project; and a seminar on the prevention of racism and xenophobia at school, which was held in Pamplona in collaboration with the Government of Navarra. In total, since 2015 more than 1,400 teachers have participated in FRIDA seminars, held in various cities (Madrid, Sevilla, Ceuta, Valladolid, Guadalajara, Valencia and Pamplona).

## Article 6 of the Convention

### Information on racist incidents (recommendation in paragraph 10)

98. In September 2018, an agreement was signed by the General Council of the Judiciary, the Attorney General's Office, the Legal Studies Centre and the Ministries of Justice, of the Interior, of Labour, Migration and Social Security, of the Presidency, Parliamentary Relations and Equality, of Education and Vocational Training and, lastly, of Culture and Sport. This agreement is the successor to the Framework Agreement on Cooperation and Collaboration signed in 2015. It provides for inter-institutional cooperation and collaboration in the fight against intolerance, setting out active policies and prevention and detection measures within the areas of competence of each of the signatories. In connection with this agreement, three working groups have been formed: one on statistical data collection and analysis of rulings, one on online hate speech and one on training. These groups aim to improve the statistical data collected on hate crimes and incidents that are handled by the justice system, create a framework for cooperation in combating online hate speech and provide training for members of various professions (legal practitioners, law enforcement officers and other government officials).

99. The working group on statistical data collection and analysis of rulings was involved in the preparation of a study analysing cases involving racism, xenophobia, negative attitudes towards lesbian, gay, bisexual, transgender and intersex persons and other forms of intolerance and the rulings in those cases, covering the period 2014–2017, which was conducted by the Fundación para la Investigación Aplicada en Delincuencia y Seguridad (Foundation for Applied Research on Crime and Safety) and funded by the State Secretariat for Migration. The study analysed the rulings on hate crimes between 2014 and 2017 and identified the relevant judicial trends. Cases tried were analysed in terms of a series of variables, including the characteristics of the persons investigated and of the victims, as well as procedural and substantive aspects of the rulings. The study has thus provided a sample-based review of the final decisions handed down by Spanish courts in hate crime cases during the years indicated and has provided the Government, civil society, interested specialists and the public with an analysis that is groundbreaking in both Spain and Europe. The report has been published and the full version is available on the website of the Spanish Monitoring Centre on Racism and Xenophobia: <http://www.inclusion.gob.es/oberaxe/ficheros/documentos/Informe-Analisis-y-Sentencias-Definitivo.pdf>.

100. With respect to the outcomes regarding the legal issues addressed in the rulings analysed, which correspond to the period from 2014 to 2017, the following can be stated:

- Verdicts: 65 per cent of the cases resulted in convictions, 12 per cent resulted in acquittals and 16 per cent resulted in both convictions and acquittals. Only one case was dismissed.

- The aggravating circumstance provided for under article 22 (4) of the Criminal Code (a general aggravating circumstance applicable to any type of offence: motivation of the offence by “racism, antisemitism or another form of discrimination based on the ideology, religion or beliefs of the victim or his or her ethnicity, race, nationality, sex, sexual orientation or identity, gender, illness or disability”) was found to exist in 19 per cent of the cases, mainly those involving hate based on sexual orientation (31 per cent), race (26 per cent) or ideology (19 per cent).
- Imprisonment is the penalty most often imposed in hate crime cases (31 per cent), followed by disqualification from holding public office (21 per cent) and an injunction not to approach or communicate with the victim or the injured parties (7 per cent). The average length of a prison sentence is 2 years. The longest sentences were imposed in cases involving hate based on ideology, race or ethnicity.

101. In addition, a sub-working group has been created on the response of the criminal justice system to hate crimes, in order to analyse the issues surrounding the traceability of such crimes. This subgroup is conducting a study on the traceability of hate crimes in 2019, with a special focus on cases in the Community of Madrid and in the Basque Country. The purpose of the study is to follow alleged hate crimes from the time they are reported to their potential culmination in a court ruling, while making specific recommendations to optimize the procedure and improve the availability of information on these crimes.

102. A report on the conceptual definition of hate crimes has also been prepared. It clarifies basic concepts for dealing with and discussing so-called “hate crimes”.

103. In addition, since 2013, the State Secretariat for Security of the Ministry of the Interior has been preparing an annual report on trends in hate-crime-related incidents in Spain, based on the incident reports on file with the Spanish law enforcement agencies. Updated figures for 2018 are now available and show that there were 1,557 such incidents that year, representing a 12.6 per cent increase in this type of offence over the 2017 figure. This latest report includes two new categories of discrimination: discrimination based on illness and generational or age discrimination. It shows that 531 offences were found to have been motivated by “racism and xenophobia”, which was second only to “ideology” as a motive (596 cases). As for the “types of incidents”, the most common was “threats”, with 320 recorded incidents, followed by “injuries”, with 278. There are plans to add anti-Gypsyism as a separate category of hate- or discrimination-based incident in the 2019 report.

104. It should be noted that there is a disparity between the figures provided by the public prosecutors’ offices and those provided by the Ministry of the Interior, because law enforcement agencies record hate-related “incidents” or “known cases” – a concept that is broader than the concept of offences – and because the mere suspicion or mention, by any of the persons involved in the incident, of a hate-based or discriminatory motive suffices for the incident to be recorded as such, even if such motives are later ruled out. However, efforts will be made to standardize the categories used so that more precise figures can be obtained for cases of this type. The work being done by the signatories to the inter-institutional agreement is aimed at facilitating better oversight of all proceedings initiated in relation to hate crimes and discrimination.

105. Furthermore, the creation, in 2013, of the post of a divisional prosecutor at the Attorney General’s Office to coordinate all efforts to combat hate crimes and discrimination State-wide was an important milestone in the fight against this type of crime in Spain. The office of the special prosecutor for hate crimes and discrimination is responsible for coordinating the network of special prosecutors tasked with upholding equality and fighting discrimination through the criminal justice system, for identifying hate crimes, for undertaking statistical monitoring, for following up on proceedings or procedures initiated in connection with hate crimes and for ensuring compliance with the obligations of Spain under international treaties and the rules laid down in its domestic legal system, in addition to the requirements stemming from the case law of the European Court of Human Rights. The work of the special prosecutor is directed towards promoting a proportionate, deterrence-based and rights-based criminal justice response in accordance with specific legal rules. To further that aim, a special prosecutors’ network was launched, initially comprising provincial special prosecutors and later being expanded to include liaison prosecutors in local prosecutors’

offices. This, along with the involvement of the Cybercrime Unit of the Attorney General's Office and – given that certain attacks and acts constituting offences are perpetrated by minors under 18 years of age – the Juvenile Prosecution Service, has made it possible to provide a fuller response and prevent wrongful conduct from going unpunished. The Cybercrime Unit plays a key role in fighting hate crimes, as it is the unit that takes part in pretrial proceedings and files charges when hate crimes are committed on the Internet, which happens quite frequently.

106. As hate crimes cut across multiple fields, efforts are coordinated with other specialized departments, such as those working on immigration, victim protection and disability issues. The network of special prosecutors seeks to harmonize practices related to prosecution and sentencing requests throughout the country and to standardize police reports in order to identify whether the element of hate is present in circumstances leading to criminal acts.

107. In addition, the Attorney General's Office has stepped up its training activities by organizing several workshops led by hate crime and anti-discrimination experts, aimed at prosecutors in general. The basic training programme for students at the Legal Studies Centre who have passed the selection process for prosecutors covers the handling of hate crimes. Training activities are also organized by other institutions and groups. Special prosecutors from the various provincial prosecutors' offices take part in training sessions held for bar associations, State law enforcement agencies and civil society representatives; this allows all those engaged in combating hate crimes to meet and learn about each other.

108. With respect to reparation for victims, Act No. 4/2015 of 27 April 2015 on the rules governing the status of crime victims, which establishes a series of procedural rights and protection measures for victims of "crimes committed in Spain or subject to prosecution in Spain, regardless of the nationality of the victims, of whether they are adults or minors and of whether or not they are legal residents". The fact that a crime is "committed for reasons of racism or antisemitism or on other grounds relating to the victim's ideology, religion or beliefs, family situation, ethnicity, race, nationality, national origin" is expressly mentioned as a circumstance to be taken into account in adopting such measures and adapting them to the specific needs of the victim in question (art. 23 (2) (b)).

109. Following are some of the rights set out in Act No. 4/2015 of 27 April 2015 on the rules governing the status of crime victims: the rights of victims to understand and be understood (art. 4); to receive information from the time of first contact with the competent authorities (art. 5); to receive translation and interpretation services (art. 9); to have access to assistance and support services (art. 10); to actively participate in the criminal proceedings (art. 11); not to have contact with the offender (art. 20); and to have their privacy protected (art. 22).

110. Protection measures aimed at avoiding crime victims' revictimization are also included (arts. 25 and 26). For example, victims' statements are given in specially designed or adapted facilities and are taken by or with the assistance of professionals who have been specially trained to reduce or limit harm to victims; and steps are taken to protect victims' privacy, such as preventing contact between them and the alleged perpetrators and closing the oral hearings to the public.

111. Act No. 4/2015 of 27 April 2015 also provides for the establishment of victim assistance offices (art. 27) that give information about the possibility of accessing a public compensation scheme; information about the specialized services that can offer assistance to victims, in accordance with victims' personal circumstances and the nature of the offence committed against them; emotional support; advice about their economic rights in relation to legal proceedings, in particular about the procedure for seeking damages and the right to access justice free of charge; and advice about the risks of secondary or repeat victimization, or intimidation or reprisals, and ways of preventing such risks. The offices are also responsible for coordinating the victim support services provided by various bodies, institutions and entities, as well as those provided by judges, courts and the Public Prosecution Service.

112. The operations of the victim assistance offices are governed by Royal Decree No. 1109/2015 of 11 December 2015.

113. Each province in Spain has at least one such office, staffed by a case processing officer and a psychologist. To help them carry out their functions, the authorities have increased the expenditure allocated to the psychological assistance services provided by the offices to crime victims, in cooperation with the General Council of Official Colleges of Psychologists. A protocol on hate crimes is currently being drafted for professionals working in the offices.

114. The Criminal Code provides that any person who is criminally responsible for an offence also bears civil liability for any damages relating to the acts in question (art. 116). Victims of hate crimes may therefore file civil proceedings – either jointly with or separately from the criminal proceedings – to seek the appropriate compensation for the harm suffered (Criminal Procedure Act, arts. 111 and 112).

115. Since 2014, the annual call for grant applications for general-interest programmes to receive funding out of the amounts designated in connection with personal income tax filings has included a specific line aimed at increasing support and guidance for victims of discrimination, hate crimes and intolerance. All such calls for applications have led to the award of grants for projects related to victims of racial or ethnic discrimination or hate crimes based on such discrimination. The funding provided to programmes in 2018 and 2019 totalled €131,961. This funding has also allowed organizations working to end discrimination, hate crimes and anti-Gypsyism to file strategic litigation in recent years, some of which has resulted in favourable rulings.

## Article 7 of the Convention

### Mass media (recommendation in paragraph 26)

116. With a view to overcoming stereotypes in the mass media and social media, measures have been taken both to identify the image and social perception of ethnic groups and to raise awareness of the need to avoid stereotyped images that may lead to rejection or hatred of these groups.

117. The main objective of the project “Hate Speech, Racism and Xenophobia: Alert and Coordinated Response Mechanisms”, known as ALRECO and approved by the European Commission in 2018 under a call for proposals issued by the Rights, Equality and Citizenship Programme, is to improve the capacities of State authorities to identify, monitor, analyse and evaluate hate speech on social media. The project involves the development of an algorithm, which institutions and civil society organizations can use freely, to detect hate speech expressing racism, xenophobia, Islamophobia and antisemitism, and the formulation of a common strategy against hate speech (<http://www.inclusion.gob.es/oberaxe/es/ejes/delitosodio/alreco/index.htm> and <http://alrecoresponse.eu/>).

118. Special mechanisms have been developed to combat hate speech on social media, such as the Action Plan to Combat Hate Crimes that was adopted by the State Secretariat for Security in 2019. It seeks to bring a new approach and momentum to the operations and response of State law enforcement agencies with respect to hate crimes and incidents and covers improvements to the training of law enforcement officers and the use of digital tools to counter hate crimes and hate speech on social media.

119. In addition, a report was prepared on adapting Recommendation (EU) 2018/334, on measures to remove illegal online content, to the situation in Spain, and the Spanish Monitoring Centre on Racism and Xenophobia took part in a monitoring effort spearheaded by the European Commission to report cases and systematically remove such content within 24 hours, thereby supporting the narrative of democratic values.

120. In September 2019, the Spanish Data Protection Agency launched a world-leading innovation by providing a means of removing particularly sensitive or violent Internet content, including any images reflecting discrimination on the basis of race. Once a complaint is received, it is processed in a time-sensitive manner. The Internet company hosting the sensitive data is given a legally binding order to remove the content immediately, and the possibility of initiating punitive proceedings against the person who disseminated the images without the victim’s consent is examined.

121. The Spanish Data Protection Agency is the only data protection authority in the world that is considered a trusted flagger by Internet companies (such as Google, Facebook and Twitter) within the framework of the code of conduct on countering illegal hate speech online. Furthermore, the National Office to Combat Hate Crimes, created in 2018 within the Ministry of the Interior, is also a trusted flagger for Twitter and, in addition, took part in the fifth evaluation of the European Commission's code of conduct on countering illegal hate speech online.

122. A pact on countering hate speech online is being put forward. The basis for the drafting of the pact can be found in the code of conduct on countering illegal hate speech online signed by the European Commission and several data hosting service providers in 2016 and in Commission Recommendation (EU) 2018/334. The pact is intended to be a tool for cooperation and coordination among the Spanish authorities responsible for enforcing laws against online hate crimes as well as authorities fighting online hate speech outside the context of criminal justice, and for coordination with civil society organizations and the Internet data hosting service providers involved.

123. In order to curb hate speech, awareness-raising campaigns have also been run using narratives that counter anti-Gitano discourse. For example:

- At the request of the Communication Working Group of the Council for the Elimination of Racial and Ethnic Discrimination, recommendations were issued on the portrayal of the Gitano community in the mass media, including recommendations specifically directed towards media professionals, media companies and public authorities, with the aim of ensuring their dissemination and application in each of these spheres of competence and work environments (<http://www.inmujer.gob.es/publicacioneselectronicas/documentacion/Documentos/DE1691.pdf>).
- The recommendations on the portrayal of the Gitano community in the mass media were launched in July 2017 at a ceremony during which representatives of the Government and the Audiovisual Council of Catalonia, as well as of the Gitano citizens' movement, discussed issues such as the need to foster sensitivity towards racial and ethnic diversity and to increase the number of Gitano role models in society and the promotion of self-regulation codes for the mass media on how information relating to the Gitano community is presented. The document, which is meant to be a reference guide for combating prejudices against and stereotypes of the Gitano community, was prepared in connection with the "No Prejudice" campaign led by the Federación Kamira, with the participation of Gitano civil society groups, activists and public bodies such as the Council for the Elimination of Racial and Ethnic Discrimination.
- The campaign "Gitano Lesson" (2018) reclaims the role played by the Gitano community in history; "Starting from Zero" (2017) tells the story of a young Gitana woman who represents all young people striving for equal opportunities; and "The Tattoo that Hurts Most" (2016) denounces society's rejection of the community and its painful consequences. All the campaigns have received support from the Ministry of Education and Vocational Training.

124. One of the steps taken to eradicate all types of acts of racial discrimination was the inclusion of hate crimes in the Criminal Code, which was substantially amended under Organic Act No. 1/2015 of 30 March 2015. The amendments specifically include as offences the conduct referred to in article 4 of the Convention. Penalties are established under article 510 (1) of the Criminal Code for "any person who publicly encourages, promotes or incites, directly or indirectly, hatred of or hostility, discrimination or violence against a group or a segment or member thereof for reasons of racism or antisemitism or on other grounds relating to the victim's ideology, religion or beliefs, family situation, ethnicity, race, nationality, national origin, sex, sexual orientation or identity, gender, illness or disability". In addition, the amendments increase the maximum penalties for the most serious acts (art. 510 (1)), provide for more severe penalties and specific measures – the destruction, deletion or disabling of files and the removal and blocking of content and web pages – in cases where hate crimes are committed through the Internet or other mass media, making the content

accessible to a large number of people (art. 510 (3) and (6)). Given the increasing incidence of hate crimes, the Attorney General's Office recently issued Circular No. 7/2019, on guidelines for interpreting the hate crimes defined in article 510 of the Criminal Code, with a view to establishing rules for the interpretation of the concepts included therein so as to help resolve the various issues that these offences raise in practice in judicial proceedings.

125. The Council for the Elimination of Racial and Ethnic Discrimination issued two recommendations, in May 2015 and April 2019, with the aim of preventing the use of discriminatory, racist or xenophobic discourse in electoral campaigns by urging political leaders and parties to show respect for ethnic and/or racial, cultural and religious minorities and immigrants in their speeches and public events.

### **III. Part Two: Other recommendations by the Committee**

126. With respect to the recommendation regarding ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Spain has consistently demonstrated that it is mindful of the need to safeguard the rights of foreign workers in the country. Spanish law provides comprehensive protection for the rights of migrants under the Constitution and the 2000 Act on the rights and freedoms of aliens in Spain and their social integration, and the implementing regulations of the Act. To date, the Convention has been ratified by only 47 States, none of which are members of the European Union. Any decision in this regard will be made in the context of coordination among the European Union member States.

127. On 25 September 2018, Spain acceded to the 1961 Convention on the Reduction of Statelessness.

128. With respect to the recommendation regarding ratification of the amendment to article 8 (6) of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111, the internal procedures necessary for the ratification are in progress.

129. Regarding the implementation of the Durban Declaration and Programme of Action, General Assembly resolution 68/237 proclaiming the International Decade for People of African Descent (2015–2024) and resolution 69/16 on the programme of activities for the Decade, various measures taken in connection with those texts have been mentioned in previous paragraphs of this report.

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