

# **Franet National Contribution to the Fundamental Rights Report 2022**

**SPAIN**

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## **Contents**

Franet country study: policy and legal highlights 2021 .....	2
Chapter 1. Equality and non-discrimination .....	4
Chapter 2. Racism, xenophobia and related intolerance .....	14
Chapter 3. Roma equality and inclusion .....	27
Chapter 4. Asylum, visas, migration, borders and integration .....	39
Chapter 5. Information society, privacy and data protection.....	48
Chapter 6. Rights of the child .....	68
Chapter 7. Access to justice.....	83
Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities .....	93

## Fragnet country study: policy and legal highlights 2021

<b>Issues in the fundamental rights institutional landscape</b>	<p><b>Proposal for establishing a National Commission for Prevention of and Protection against Domestic Violence:</b></p> <p>On 13 January 2021, the government presented a <a href="#">draft law to amend the Protection against Domestic Violence Act</a>. At institutional level, the draft suggests the setting up of a National Commission for Prevention of and Protection against Domestic Violence responsible for the co-ordination, monitoring and evaluation of domestic violence prevention policies and measures.</p>
<b>EU Charter of Fundamental Rights</b>	<p><b>Supreme Administrative Court's decision on discrimination in education:</b></p> <p>On 6 April 2021, the Supreme Administrative Court issued a <a href="#">decision</a> stating that the payment of allowances for the birth of a child only to parents who have a certain minimum level of completed education is discriminatory, including in view of Article 24 of the EU Charter of Fundamental Rights.</p>
<b>Equality and non-discrimination</b>	<p><b>Interpretation of the term "sex" used in the Constitution:</b></p> <p>On 26 October 2021, the <a href="#">Constitutional Court issued a decision</a> stating that the term "sex" used in the Constitution should be interpreted only in its binary biological meaning and has no psychological or social dimensions.</p>
<b>Racism, xenophobia &amp; Roma integration</b>	<p><b>Revised draft Roma integration strategy:</b></p> <p>On 29 March 2021, the government published for public consultation a revised version of the <a href="#">Draft National Strategy of the Republic of Bulgaria for Equality, Inclusion and Participation of Roma 2021-2030</a>. The revision of the draft became necessary due to the numerous comments and suggestions provided by different stakeholders during the previous round of consultations.</p>
<b>Asylum &amp; migration</b>	<p><b>New border monitoring report:</b></p> <p>In April 2021, the General Directorate Border Police of the Ministry of the Interior, UNHCR Bulgaria and the Bulgarian Helsinki Committee published their <a href="#">annual border monitoring report for the year 2020</a>. The report is published annually since 2010, when the three institutions signed a memorandum of understanding for mutual cooperation in the area of asylum and migration.</p>
<b>Data protection and digital society</b>	<p><b>Launch of the National Health Information System:</b></p> <p>this <a href="#">electronic system</a> offers a range of services, including access and verification of COVID-19 digital certificates, options for scheduling a COVID-19 vaccination appointment, and general information about the prevention and treatment of COVID-19 infection. The system is intended to serve as a clearing house for essential healthcare e-services.</p>
<b>Rights of the child</b>	<p><b>New study on violence against children:</b></p> <p>In May 2021, UNICEF Bulgaria published a <a href="#">study on the prevalence of different forms of violence against children</a>. The study shows that 47 % of children in Bulgaria have experienced any form of violence with emotional violence dominating, followed by physical violence, sexual abuse and neglect.</p>
<b>Access to justice,</b>	<p><b>Draft amendments to the domestic violence law:</b></p>

<b>including victims of crime</b>	<p>On 13 January 2021, a <a href="#">draft law to amend the Protection against Domestic Violence Act</a> was published for public consultation. The proposed changes include, among others, introduction of new protection measures, creation of a register of domestic violence cases and setting up of National Commission for Prevention of and Protection against Domestic Violence.</p>
<b>Convention on the Rights of Persons with Disability</b>	<p><b>New action plan for implementation of the final recommendations of the UN Committee on the rights of people with disabilities:</b></p> <p>On 15 February 2021, the government adopted an <a href="#">Action plan for the implementation of the final recommendations to the Republic of Bulgaria made by the UN Committee on the rights of people with disabilities (2021-2026)</a>. The document lists all recommendations, which have already been implemented, and suggests a plan for the implementation of those, which are either not implemented or in process of implementation.</p>

# Chapter 1. Equality and non-discrimination

## 1.1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against EU citizens based on their nationality and against LGBTI people

**On 5 February 2021**, a new **Law on equal treatment and non-discrimination** (*Ley 19/2020, de 30 de diciembre, de igualdad de trato y no discriminación*)<sup>1</sup> entered into force in the Catalan autonomous community (*Comunidad Autónoma de Cataluña*). This Law aims to guarantee the right to equal treatment and non-discrimination and eradicate any action or behaviour that may violate the dignity of people and/or their free development and expression. It deals with any forms of discrimination, such as: a) territorial or national origin and xenophobia; b) sex or gender, sexual orientation or identity, and any form of LGBTIphobia or misogyny; c) age; d) race, ethnicity, or skin colour, and any form of racism such as anti-Semitism or anti-Roma; e) language or cultural identity; f) ideology, political or other opinion or ethical convictions of a personal nature; g) religious convictions, and any manifestation of Islamophobia, Christianophobia or Judeophobia; h) social or economic condition, administrative situation, profession or condition of deprivation of liberty, and any manifestation of aporophobia or hatred of homeless people; i) physical, sensorial, intellectual, or mental disability or other types of functional diversity; j) alterations in health, serological status or genetic characteristics; k) physical appearance or clothing; l) any other characteristic, circumstance, or manifestation of the human condition, real or attributed, that are recognized by international law instruments.

**On 29 June 2021**, the **Council of Ministers presented**, together with the Ministries of Equality and Justice (*Ministerio de Igualdad y Ministerio de Justicia*), the **Draft Law for the real and effective equality of transgender people as well as for the guarantee of LGTBI rights** (*Anteproyecto de Ley para la Igualdad Real y Efectiva de las Personas Trans y para la Garantía de los Derechos de las personas LGTBI*). **On 27 November 2021**, the parliamentary proceedings began<sup>2</sup>. This law entails goals such as: guaranteeing and promoting equality for the LGTBI people, preventing and eliminating all forms of discrimination and establishing the required rectification of the registry regarding sex. It establishes principles of action for the public forces, regulates rights and duties of natural and legal persons, both public and private, and foresees specific measures aimed at the prevention, correction, and elimination of all forms of discrimination based on the reason for sexual orientation and identity, gender expression or

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<sup>1</sup>Spain, Catalan Regional Government (*Comunidad Autónoma de Cataluña*), [Law on equal treatment and non-discrimination](#) (*Ley 19/2020, de 30 de diciembre, de igualdad de trato y no discriminación*), 29 June 2021.

<sup>2</sup> Spain, Council of Minister (*Consejo de Ministros*), Presidency, Relations with the Parliament and Democratic Memory (*Presidencia, Relaciones con las Cortes y Memoria Democrática*), [inicia la tramitación del ANTEPROYECTO DE LEY para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI, a los efectos previstos en el artículo 26.4 de la Ley 50/1997, de 27 de noviembre, del Gobierno](#), press release, 29 de junio de 2021.

characteristics sexual relations. Its main goals are: a) Recognize the **right to real and effective equality** of trans people and guarantee the rights of LGTBI people; b) establish **criteria and general lines of action** for the public institution forces for the promotion of equal treatment and non-discrimination of LGTBI people; c) regulate the **principles of a set of public policies** which are fundamental to promote real and effective equality of people LGTBI people, d) establish the required mechanisms for **effective protection and reparation** against discrimination and violence due to LGTBIphobia; e) establish a **regime of infractions and sanctions** in the field of equal treatment and non-discrimination based on sexual orientation and identity, gender expression or sexual characteristics.

**On 27 June 2021, the Ministry of Equality** (*Ministerio de Igualdad*), established the **Council for the Participation of LGTBI People** (*Consejo de Participación de las Personas LGTBI*) through the Order IGD/577/2020<sup>3</sup>. This Council aims to institutionalize the existing collaborations and strengthen a permanent dialogue between Public Administrations and civil society organizations in LGTBI equality and non-discrimination. It also fosters the promotion of a regulatory package to achieve real and effective equality for trans-people and promote non-discriminatory behaviour based on sexual orientation, gender identity or expression, and/or sexual characteristics.

**On 30 June 2021, the Ministry of Culture and Sport** (*Ministerio de Cultura y Deporte*) promoted a [Draft Law on Sports](#) (*Anteproyecto de Ley del Deporte*). This Draft Law intends to include discrimination against the LGTBI people as two punishable conduct in the field of sport to combat any action against people because of their sexual orientation, sexual identity, or gender expression. Furthermore, it will imply the amendment of the [Law of 2007 against violence, sexism, racism, xenophobia and intolerance in sport](#) (*Ley 19/2007, de 11 de julio, contra la violencia, el racismo, la xenofobia y la intolerancia en el deporte*) to include sanctions for this type of discrimination.

**In terms of awareness campaigns, on 19 February 2021, the Superior Sports Council** (*Consejo Superior de Deportes, CSD*, in its Spanish acronym) launched an **awareness campaign**<sup>4</sup> highlighting the importance of equality, tolerance and respect in the sports field. This campaign also aimed at expressing rejection to discrimination and stigmatization for reasons of sex or gender. In a video published on social networks, under the hashtag #HacemosEquipo, several Spanish athletes made a call for inclusion and respect, emphasizing the importance of values associated with sport, such as justice, companionship, or diversity. **On 1 July 2021, the national gay beauty contest Mr Gay Pride España** presented its 2021 annual social campaign, focusing on Spanish urban towns with the hashtag [#ORGULLOENMIPUEBLO](#)<sup>5</sup>. This idea is that coming out of the closet in large

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<sup>3</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Order IGD/577/2020, of 24 June, which creates the Council for the Participation of Lesbian, Gay, Trans, Bisexual and Intersex People \(LGTBI\) and regulates its operation](#) (*Orden IGD/577/2020, de 24 de junio, por la que se crea el Consejo de Participación de las Personas lesbianas, gais, trans, bisexuales e intersexuales (LGTBI) y se regula su funcionamiento*), 27 June 2020.

<sup>4</sup> Spain, Superior Sports Council (*Consejo Superior de Deportes*), [“El CSD, comprometido en la lucha contra la LGTBI fobia en el deporte”](#), Press release, February 2021.

<sup>5</sup> Mr. Gay Pride España (2021) [#ORGULLOENMIPUEBLO campaign](#), 2021.

cities is easier than in small towns in inland Spain. It seeks to make the LGBTBI collective visible in those places where it is not yet fully normalized; and ensure diversity, respect, tolerance, and equality within Spanish society.

**On 6 July 2021**, the Council of Ministers (*Consejo de Ministros*) approved the "**Draft Law of Guarantees of Sexual Freedom**" (*Proyecto de Ley Orgánica de Garantía Integral de la Libertad Sexual*)<sup>6</sup>. This law was proposed by the Ministries of Equality and Justice (*Ministerio de Igualdad y Ministerio de Justicia*). Its **objective** was to comprehensively protect the right to sexual freedom and eradicate all forms of sexual violence. In addition, it provides the adoption and implementation of effective, global, and coordinated policies between the different competent Public Administrations. These policies are aimed at preventing and punishing sexual violence and establishing a specialized and comprehensive response for women, girls, and boys victims of all forms of sexual violence. This law also pretends to reinforce prevention and awareness measures and compensation and support mechanisms for the victims.

In terms of **discrimination, EU citizens and their family members** suffer it on the grounds of nationality. **On 26 October 2021**, the National Ombudsman entered a suggestion number: 21019807 and addressed it to the Ministry of Foreign Affairs, European Union and Cooperation. General Directorate of Spaniards Abroad and Consular Affairs (*Ministerio de Asuntos Exteriores, Unión Europea y Cooperación. Dirección General de Españoles en el Exterior y de Asuntos Consulares*). The objective was to revoke the resolution of the file for withdrawal of the visa in community regime requested by the interested party before the Consulate General of Spain in Nador, processing the same per the provisions for de facto couples in article 2bis of Royal Decree 240/2007. **On 26 October 2021**, the National Ombudsman entered a recommendation number: 21019807 and addressed it to the Ministry of Foreign Affairs, European Union and Cooperation. General Directorate of Spaniards Abroad and Consular Affairs (*Ministerio de Asuntos Exteriores, Unión Europea y Cooperación. Dirección General de Españoles en el Exterior y de Asuntos Consulares*). The objective was to instruct consular bodies, particularly Nador and Guayaquil, on the possibility of spouses of Spanish citizens, with union registered marriage obtaining a family visa for a union citizen if they meet the requirements in European countries legislation for de facto registered partnerships. All this taking into account, where appropriate, the best interests of the children of the marriage<sup>7</sup>.

**In June 2021**, the Government of the Canary Islands approved a law on social equality and non-discrimination on the grounds of gender identity, gender expression and sex characteristics (*ley 2/2021, de 7 de junio, de igualdad social y no discriminación por razón de identidad de género, expresión de género y características sexuales*)<sup>8</sup>. **The purpose** of this law

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<sup>6</sup> Spain, Council of Ministers (*Consejo de Ministros*), (2021), [Draf Law of Guarantees of Sexual Freedom](#) (*Proyecto de Ley Orgánica de Garantía Integral de la Libertad Sexual*), Press release, 6 July 2021.

<sup>777</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Partner visa of EU citizen. Ombudsman](#) (*Visado de cónyuge de ciudadano comunitario*), press reléase, National Ombudsman.

<sup>8</sup> Spain, Presidency of the Canarian Government (*Presidencia del Gobierno Canario*), [Law 2/2021, of 7 June, on social equality and non-discrimination on the grounds of gender identity, gender expression and](#)

was to regulate the principles, measures and procedures aimed to guarantee the rights such as the self-determination of people's gender identity and expression and to be treated by their gender identity and expression in public and private spheres, and, in particular, to be identified and access documentation following that identity.

**In March 2021, the European Commission requested that SPAIN eliminate discrimination on capital gains taxation<sup>9</sup>. Spain received a formal request to ensure equal treatment of capital gains from shares for taxpayers, residents in Norway, Iceland and Liechtenstein. Spanish legislation exempts from taxation capital gains derived from the transfer of shares under certain conditions for tax residents in Spain and the other EU Member States. However, tax residents in the EFTA States participating in the EEA cannot benefit from that exemption. Therefore, the European Commission considers that the Spanish legislation restricts the freedom of establishment and the free movement of capital ([Article 63](#) of [TFEU](#) and Article 40 of [the EEA Agreement](#)).**

In Spain, there is still **tax discrimination suffered by Spaniards or foreigners residing in non-EU countries with properties rented in Spain as they are obliged to pay taxes in Spain for the Non-Resident Income Tax<sup>10</sup>** (*Impuesto Renta no Residentes*, IRNR, in its Spanish acronym) on the full amount. The difference in treatment that unduly restricts the free movement of capital within the European Economic Area. It gives better tax treatment to residents in Spain who obtain income from renting housing than non-residents who receive the same income. However they cannot deduct any expense according to the article 24.1 IRNR Law<sup>11</sup>, and applying a rate of 24% (article 25.1.a) IRNR Law), while people residing in the EU or in the European Economic Area (EU plus Norway and Iceland) are taxed on the net income (according to article 24.6 IRNR Law can deduct from rents charged all types of expenses related to the property: amortization, IBI, repairs, community expenses, interest, etc.), and a tax rate of 19% is applied (article 25.1.a) IRNR). Article 24.1 of the Law on Non-Residents' Income Tax expressly stipulates that these citizens cannot apply the 60% reduction on income obtained from renting housing in Spain and that this reduction only applies to residents in Spain.

**In October 2021, Spain made access to the special tax regime of Law 49/2002 more flexible for foreign non-profit entities that are analogous or comparable to a Spanish entity, while giving legal certainty to cross-border philanthropy carried out by Spanish donors.**

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[sex characteristics](#) (*Ley 2/2021, de 7 de junio, de igualdad social y no discriminación por razón de identidad de género, expresión de género y características sexuales*), 17 June 2021

<sup>9</sup> European Commission, [March infringements package: key decisions](#), press release, 7 March 2019.

<sup>10</sup> Spain, Ministry of Finance (*Ministerio de Hacienda*), [Royal Legislative Decree 5/2004, of 5 March, approving the revised text of the Law on Income Tax for Non-Residents](#) (*Real Decreto Legislativo 5/2004, de 5 de marzo, por el que se aprueba el texto refundido de la Ley del Impuesto sobre la Renta de no Residentes*), 5 March 2004.

<sup>11</sup> Spain, Ministry of Finance (*Ministerio de Hacienda*), [Royal Legislative Decree 5/2004, of 5 March, approving the revised text of the Law on Income Tax for Non-Residents](#) (*Real Decreto Legislativo 5/2004, de 5 de marzo, por el que se aprueba el texto refundido de la Ley del Impuesto sobre la Renta de no Residentes*), 5 March 2004.



**Previously, in November 2015, the European Commission asked Spain to adapt its legislation, in particular the Law 49/2002<sup>12</sup>, of December 23, on the tax regime of non-profit entities and tax incentives for patronage and the implementing regulations, considering that Spain acted discriminatorily, restricting the free movement of capital. Article 2 of the Law 49/2002 was amended to broaden the scope of non-profit entities that may benefit from and apply the tax incentives provided for in that regulation, allowing foreign non-profit entities in a similar situation to do so as well.**

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against EU citizens on the grounds of nationality and against LGBTI people**

**In January 2021, the Council for the Elimination of Racial or Ethnic Discrimination** (*Consejo para la Eliminación de la Discriminación Racial o Étnica*, CEDRE, in its Spanish acronym) presented the report "Potential victims' perception of discrimination based on racial or ethnic origin in 2020" (*Percepción de la discriminación por origen racial o étnico por parte de sus potenciales víctimas en 2020*)<sup>13</sup>. One thousand six hundred interviews were carried out nationwide, and a mixed methodology was adopted. Information was gathered from eight population groups: Afro-Caribbeans and Afro-Latin-Americans (Afro-descendants), non-Mediterranean Africans, Indian Pakistanis, Eastern Europeans, Maghreb's, Asians, Andean-Latin-Americans and Roma. Among the major findings, 59% of respondents characterised the image they thought the majority population in Spain had of their group of origin as negative or derogatory. The degree of perceived racism was 4.59% out of 10 (the Roma population reached the highest degree: 5.71%). Discrimination in education increased from 13% in 2013 to 20% in 2020. Discrimination in access to housing stands at 31%, doubling about the 2013 data (16%). The most discriminated populations in this area are the non-Mediterranean African, people from the Maghreb and the Roma people.

The study also revealed intersectional discrimination, especially for women: 28% of those who had suffered discrimination based on racial origin, culture and/or religion had also suffered discrimination due to their gender.

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<sup>12</sup> Spain, Head of State (*Jefatura del Estado*), [Law 49/2002, of 23 December, on the tax regime of non-profit entities and tax incentives for patronage](#) (*Ley 49/2002, de 23 de diciembre, de régimen fiscal de las entidades sin fines lucrativos y de los incentivos fiscales al mecenazgo*), 25 December 2002; Spain, Head of State (*Jefatura del Estado*), [Law 14/2021, of October 11, which modifies Royal Decree-Law 17/2020, of May 5, which approves measures to support the cultural sector and of a tax nature to face the economic and social impact of COVID 2019](#) (*Ley 14/2021, de 11 de octubre, por la que se modifica el Real Decreto-ley 17/2020, de 5 de mayo, por el que se aprueban medidas de apoyo al sector cultural y de carácter tributario para hacer frente al impacto económico y social del COVID-2019*), 11 October 2021.

<sup>13</sup> Spain, Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la Eliminación de la Discriminación Racial o Étnica*), [2020 Potential victims' perception of discrimination based on racial or ethnic origin](#) (*Percepción de la discriminación por origen racial o étnico por parte de sus potenciales víctimas en 2020*), Madrid, Ministry of Equality.

Nevertheless, most of the indicators improved as compared to the previous years. Regarding treatment in the police area, a decrease from 28% in 2013 to 19% today is shown. The groups most affected in this area are the population of non-Mediterranean Africa, the Maghreb, the Roma people and the Indo-Pakistani. Regarding discrimination in the workplace, there was a decrease from 34% in 2013 to 26% in 2020. The population groups with the highest rates of employment discrimination are the non-Mediterranean African group with 41.7%, the Afro-Caribbean / Afro-Latino (Afro-descendant) with 33.8%, the Maghreb with 33.6%, and the Roma population with 30.1%.

Among other main conclusions of the report, showed a considerable increase in cases of racial discrimination at neighbourhood levels, aggravated by the Covid-19 pandemic. Moreover, it shows the degree of exclusion in Spain caused by the different forms of racism present in society, highlighting institutional racism.

**In January 2021, the State Federation of Lesbians, Gays, Trans and Bisexuals** (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*, FELGTB, in its Spanish acronym), published **Experience of Trans Women in their Medical Transition Process** (*Experiencia de las Mujeres Trans en su Proceso de Transición Médica*)<sup>14</sup>. **In terms of methodology**, it was a qualitative analysis that reflected data obtained after the analysis of the survey with a total of 94 responses. The method of obtaining information was using the snowball sampling technique, providing a self-administered standardized questionnaire. The collection period was from 20 July to 31 August 2020. A total of 6 interviews were carried out with women in their medical transition process with diverse profiles in which the age and place of residence factor have been taken into account. The sample is composed of women between the ages of 23 and 60 who underwent a medical transition. Each of them resides in different autonomous communities and all of them were Spanish nationals. The **conclusions stated** that the medical transition process is more common than changing name and sex in the civil registration. While 94.7% of the participating women carried out the medical transition, only half made the name change in the Civil Registry. In addition, self-perception of health is positive except for self-issues, where the percentages rise in anxiety, the most suffered by the respondents (25.5%), followed by sadness (21.3%), anguish (16%), and stress (14.9%). Finally, it highlighted the importance of inclusion in the accompaniment of social needs of trans-women as a fundamental part of their health.

**In February 2021, the Provincial Council of Gipuzkoa** (*Diputación Foral de Gipuzkoa*) presented an updated version of the awareness campaign titled the anti-rumour Strategy Zas!<sup>15</sup> together with **Basque Anti-Rumour Network Zas!** (*Red Vasca Antirrumores Zas!*). This strategy against RUMORS (antiRUMORES) was a social awareness strategy aimed at preventing discrimination, improving coexistence and taking advantage of the potential

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<sup>14</sup> State Federation of Lesbians, Gays, Trans and Bisexuals (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*) (2021) [Experience of Trans Women in their Medical Transition Process](#) (*Experiencia de las Mujeres Trans en su Proceso de Transición Médica*), Madrid 2021.

<sup>15</sup> Spain, Provincial Council of Gipuzkoa (*Diputación Foral de Gipuzkoa*) (2021), [anti-rumor Strategy Zas!](#), (*Estrategia Anti rumores Zas!*), February, 2021.

of cultural diversity by promoting a change in the perceptions, attitudes and behaviors of the general population. It aims to combat racist prejudices poured into social networks, which adopt an increasingly common hate speech. This new version is part of the new strategy and renewed website, initially launched as an Association in 2018. It is a network of social entities, individuals and public administrations that develop a plan of social awareness to prevent discrimination and xenophobia, take advantage of the potential of cultural diversity and influence the Basque society to create spaces for coexistence.

**In March 2021, the State Federation of Lesbians, Gays, Trans and Bisexuals** (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*, FELGTB, in its Spanish acronym), published the Research Report on [LGTB Women: Home, Families and Labor Market](#) (*Mujeres LGTB: Hogares, Familias y Mercado de Trabajo*)<sup>16</sup>. This research focuses on the current situation of lesbian, trans and bisexuals about the economic resources of their homes, family, labour market, and problems related to the filiation of their children. **In terms of methodology**, the fieldwork was carried out in February 2021, according to the objective set for the thematic year 2020: placing Lesbian, Trans, and Bisexual women at the centre of actions and speech. The sampling technique was the snowball sampling and 190 valid answers in total were obtained. **The main conclusions** referred to the access to the labour market; the main factors that mitigate equality are doubly reflected in the constitution of families made up of two women, both in rural and urban environments. Consequently, households made up of women suffer doubly the cruelties of the labour market—the difficulties existing in children filiation and the recognition of maternity of non-pregnant mothers in non-married female couples. Moreover, the research report emphasizes the current gender inequality context as the wage gap between men and women widens.

**In March 2021, the State Federation of Lesbians, Gays, Trans and Bisexuals** (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*, FELGTB, in its Spanish acronym), published **a report titled Visibility of people with HIV: Results report** (*Visibilidad de las personas con VIH: Informe de resultados*).<sup>17</sup> This document gathers information on LGTBI people living with HIV and information about the stigma and discrimination these people suffer in their health and the visibility of their serological status. It aimed to carry out an awareness campaign supporting LGTB people with HIV and fighting the internalized stigma in people with HIV and the associated discriminatory events suffered. Among the main conclusions highlighted are: one out of four people with HIV takes more than two months to tell someone, and almost half of the people surveyed did not share their diagnosis with their family or with their respective couple. In addition, only 12% of the people surveyed are visible in all areas of their life.

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<sup>16</sup> State Federation of Lesbians, Gays, Trans and Bisexuals (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*) (2021) [LGTB Women: Home, Families and Labor Market](#) (*Mujeres LGTB: Hogares, Familias y Mercado de Trabajo*), Madrid .

<sup>17</sup> State Federation of Lesbians, Gays, Trans and Bisexuals (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*) (2021), [Visibility of people with HIV: Results report](#) (*Visibilidad de las personas con VIH: Informe de resultados*), Madrid.

**In March 2021, the NGO Spanish Commission for Refugee Support** (*Comisión Española de Ayuda al Refugiado*, CEAR, in its Spanish acronym) published their study **“Fight against Discrimination in the Workplace based on Sexual Orientation and Gender Identity”** (*Lucha contra la Discriminación en el Ámbito Laboral por Razones de Orientación Sexual e Identidad de Género*)<sup>18</sup>. CEAR is a national wide Spanish NGO dated from 1979, to defend and promote human rights with special focus on the protection of refugees, stateless persons and migrants as well as other vulnerable groups at risk of social exclusion. The study was developed to give the LGBTI third-country nationals in Spain a residence and/or work permit. It was developed through **a qualitative methodology** combining documentary review, interviews, and discussion groups with 15 key expert informants, and different socioeconomic agents. It included participants representing both the diversity of the LGTBIQ + collective and the diversity of socioeconomic agents linked to the field of socio-labor insertion. In term of age there were 14 persons (31/45), 9 (18/30), 6 (46/55) and in term of sexual orientation, there were 12 heterosexual, 7 Gay, 7 Lesbian, 2 pansexual, 1 bisexual living in Madrid, Barcelona, Seville, Valencia and Bilbao. It explored the experiences of LGBTI migrants with the selection processes followed to access the labour market. It describes not only discriminatory experiences but situations that put them at a disadvantage. Finally, the study presents several action proposals to employ LGTBI migrants better; awareness and recognition of the main factors that increase risk exclusion; and dissemination of protective factors and /or future good practices to promote real employability of LGTBI migrants.

**In September 2021, Eraberean, the Network for Equal Treatment and Non-Discrimination of the Basque Government** (*Red para la Igualdad de Trato y No Discriminación del Gobierno Vasco*) published ["2020 Activity Report of the Eraberean Network"](#) (*Informe 2020 de actividad de la Red Eraberean*).<sup>19</sup> The document includes the activity carried out throughout the year 2020, a series of interviews with people assisted by the Network, and an analysis of the impact of the pandemic in terms of discrimination against LGTBI, Roma people and migrant groups. As far as the impact in different areas (health, education, employment, family, media and public administration) it was not difficult to make a link between the pandemic and inequality but also with discrimination. It concluded that there was an increased awareness of discrimination. The trend showed that since 2013 the people of diverse national or ethnic origin were more aware of what discriminatory behaviors imply. Thus, the perception of spontaneously perceived discrimination increased by 10 points to reach 30.7%. It was also identified certain changes in terms of where discrimination occurred such as confinement in homes with family members in hostile environments to LGTBI people, or the rise of hate speech and anti-Gypsy in social networks and media or the new obligation of online procedures with the public administration. Throughout the 2021 year, the Network's activity was based around two axes: prevention, training and awareness in the first place, and care, advice and support systems. In terms of dissemination and

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<sup>18</sup> CEAR (2021), Report Presentation [End Discrimination](#) (*Ponle Fin a la Discriminación*), Press release, Madrid, March 2021.

<sup>19</sup> Eraberean (2021) ["2020 Activity Report of the Eraberean Network"](#) (*Informe 2020 de actividad de la Red Eraberean*), September 2021.

communication, action on social networks became significant, mainly due to the confinement caused by the Covid-19 pandemic. Thus, one of the initiatives of the NGO **Spanish Commission for Refugee Support** (*Comisión Española de Ayuda al Refugiado*, CEAR, in its Spanish acronym) and its Basque Country's office [CEAR-Euskadi](#), titled Attention to Victims of Racial or Ethnic Discrimination ([Atención a Víctimas de Discriminación Racial o Étnica](#))<sup>20</sup>, stands out, whose main goal is to reinforce the counselling service to victims through broadcasts on WhatsApp and other social networks was pursued. In terms of assistance, support and consulting for people and groups potentially victims of discriminatory acts, the Network attended a total of 63 cases in 2020, with 30% being members of the LGTBI community.

According to the **Ministry of the Interior** (*Ministerio del Interior*) **2020 report on Hate Crimes from**<sup>21</sup>, prepared by the National Office for the Fight Against Hate Crimes (*Oficina Nacional de Lucha Contra los Delitos de Odio*), hate crimes committed against LGTBI based on sexual orientation and gender identity represent the third cause of all hate crimes. They have increased by 8.6 % compared to 2018.

**In July 2021, the University of Granada** published a research report on the [Current Situation of the LGTBI community in Spain. A legislative analysis about recognized rights and protection of victims of discrimination based on sexual orientation and/or gender identity or expression](#).<sup>22</sup> This research expresses how the last decades in Spain have meant an advance in the rights and legal protections of the LGTBI community. However, it is said how real and effective equality has not yet been achieved and work still needs to be done to achieve equality in all areas. The discrimination and intolerance that persists in society give rise to situations of inequality, especially in the workplace. It translates into attacks against LGTBI people due to their sexual orientation and/or gender identity in the most serious cases.

On the one hand, at the labour level, the LGTBI collective has a high level of unemployment. On the other hand, at the social level, attacks against the LGTBI community are the third most common among hate crimes. On the other hand, in the latter case of rural areas, attacks against the group are more frequent than thought. Therefore, the different national and regional laws currently in force require more effective and concrete measures.

**On 15 September 2021, the State Federation of Lesbians, Gays, Trans and Bisexuals** (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*, FELGTB, in its Spanish acronym) published the results of a [survey conducted on a sample of Trans youth and children from across the state territory and their families on non-formal education](#).<sup>23</sup> This survey was carried out among

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<sup>20</sup> CEAR (2021), Attention to Victims of Racial or Ethnic Discrimination ([Atención a Víctimas de Discriminación Racial o Étnica](#)). CEAR official Website.

<sup>21</sup> Spain, Ministry of the Interior (Ministerio del Interior) (2021), [Report on the evolution of hate crimes in Spain](#) (*Informe sobre la evolución de los delitos de odio en España*), Madrid, Ministry of the Interior.

<sup>22</sup> Córdoba, C. (2021), [Current situation of LGTBI community in Spain. A legislative analysis about recognized rights and protection of victims of discrimination based on sexual orientation and / or gender identity or expression](#) , Universidad de Granada.

<sup>23</sup> State Federation of Lesbians, Gays, Trans and Bisexuals (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*) (2021), [Survey conducted on a sample of Trans youth and children from across the state territory and their families on non-formal education](#), September 2021.

a sample that, although not representative (70 young people between 18 and 25 years old and 27 families). It revealed how 52% of trans-people suffered transphobia in non-formal education activities such as after-school activities or summer camps. The survey offers significant data on the obstacles trans people face: 63% of Trans people who participated in non-formal education activities reported that they never or rarely never were referred to as their true gender identity and/or name. For example, one out of four trans people didn't carry out activities in the non-formal education field, and 60% of them didn't participate for fear of rejection for being transgender, and 35% of the trans people surveyed who suffered transphobia didn't report or inform anyone about the situation.

**In September 2021, the State Federation of Lesbians, Gays, Trans and Bisexuals** (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*, FELGTB, in its Spanish acronym) published research titled **16 years of Law 13/2005. The current situation of families made up of LGTBI people: evolution and social and cultural perspective.**<sup>24</sup> The 15th anniversary of marriage equality was commemorated in 2020. It concluded that the urban-rural dichotomy appears once again in terms Geographical dynamics as LGBTI couples have a limited presence in rural areas. As far as the quantitative methodology, 357 people participated in this survey the 1 to 28 February 2021. Six people participated, representing six family models, consisting of cis men, cis women, and a couple of trans and cis women; and the collection of information was carried out through the online application of a standardized questionnaire with several blocks of questions: Socioeconomic and geographical identification: country of origin, educational level, the situation concerning the activity, sexual orientation and gender identity and age of the couple; and experiences on extended family, relationship in the work environment and educational environment of children; main challenges and difficulties for LGTBI families.

**In November 2021, the Observatory of Diversity in Audio-visual Media** (*Observatorio de la Diversidad en los Medios Audiovisuales*, ODA, in its Spanish acronym)<sup>25</sup> presented its second report on the image projected on LGBTIQ + people in audio-visual media. It analysed the presence of LGBTIQ+ characters in Spanish fiction, specifically in the series and films of the year 2020, and that of racial characters. The objective was to promote diverse and non-stereotyped images in the audio-visual media, which eradicate prejudices and discriminatory attitudes towards this group

**In November 2021, the Council for eliminating racial or ethnic discrimination published its 2020 Annual Report.**<sup>26</sup> As far as EU citizens, only 10 cases related were identified. Those cases were pertaining to citizens

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<sup>24</sup>Gonzalez L y Rodríguez, M. (2021), [16 years of Law 13/2005. Current situation of families made up of LGTBI people: evolution and social and cultural perspective](#) (*16 años de la Ley 13/2005. Situación actual de las familias constituidas por personas LGTBI: evolución y perspectiva social y cultural*), Madrid, FELGTBI+

<sup>25</sup> Observatory of Diversity in Audiovisual Media (*Observatorio de la Diversidad en los Medios*) (2021), 2020 Report ([Informe ODA. Análisis sobre la representación de la diversidad en la ficción española del 2020 en cine y televisión](#)) Madrid,

<sup>26</sup> Spain, Council for the elimination of racial or ethnic discrimination (*Consejo para la eliminación de la discriminación racial o étnica*) (2021), [2020 Annual Report](#) (*Memoria Anual 2020*), Madrid, Ministerio de Igualdad.

of Eastern Europe. Those data confirmed that when foreigners suffer different forms of racial or ethnic discrimination, it affects people who, despite having Spanish nationality, belong to ethnic or racial minority groups that are traditionally discriminated.

## Chapter 2. Racism, xenophobia and related intolerance

### 2.1. Findings and methodology of research, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

**In 2021, the Roma Secretariat Foundation** (*Fundación Secretariado Gitano*) published 'Anti-Roma hatred Speech and COVID-19 crisis<sup>27</sup> (*Discurso de odio antigitano y crisis de la COVID-19*). This study proposes an analysis of several stigmatization cases the Roma Secretariat Foundation detected during the COVID-19 crisis, both by the media and politicians. It included references to rumors and fake news that blamed Roma people for being responsible for the pandemic and spreading or breaking the confinement rules. This study analyzes its origin, spread, and impact it had on the Roma people. The conclusions regarding the impact on the Roma Community were interpreted at various levels: a) Personal: psychological impact, low self-esteem, internalized discrimination, trauma, stress, demotivation, anxiety, damage to personal dignity; b) Collective: the Roma community feels attacked as a collective, which leads to mistrust on the part of some Roma people towards institutions and the police, and to fear of non-Roma people (which is a factor in the under-reporting of cases of discrimination and hate crimes); c) Discrimination. Impact on coexistence and the exercising of rights: phenomena such as rumors, hoax messages, hate speech etc. affect social harmony and the safety of Roma people; Impact on childhood and an intersectional focus: we have seen that many of these cases are witnessed by young children, who have less ability to deal with and understand what is happening, leading to especially deep and significant trauma. **It was concluded that hate speech** could impede adequate interventions and exacerbate the problems of those subjected to this stigmatization.

**In January 2021, the Council for the Elimination of Racial or Ethnic Discrimination** (*Consejo para la Eliminación de la Discriminación Racial o Étnica*, CEDRE, in its Spanish acronym) presented the report "Potential victims' perception of discrimination based on racial or ethnic origin in 2020" (*Percepción de la discriminación por origen racial o étnico por parte de sus*

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<sup>27</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2021), '[anti-Roma hatred Speech and COVID-19 crisis](#)' (*Discurso de odio antigitano y crisis de la COVID-19*).

*potenciales víctimas en 2020*)<sup>28</sup>. One thousand six hundred twenty-four interviews were carried out nationwide, and a mixed methodology was adopted. Information was gathered from eight population groups: Afro-Caribbean's and Afro-Latin-Americans (Afro-descendants), non-Mediterranean Africans, Indian-Pakistanis, Eastern Europeans, Maghreb's, Asians, Andean-Latin-Americans and Roma. An increase in the East Asian group, from 14% to 35%, appeared to be related to COVID-19. At the beginning of the pandemic, this group was criminalized because of the virus' origins in Asia. COVID-19 also revealed an increase in cases of discrimination on housing and other aspects of Living Together. Among the major findings, 59% of respondents characterized the image they thought the majority population in Spain had of their group of origin as negative or derogatory. The degree of perceived racism was 4.59% out of 10 (the Roma population reached the highest degree: 5.71%). In terms of ethnic discrimination, racism and hate crime, the study revealed multiple and intersectional discrimination, especially for women: 28% of those who had suffered discrimination based on racial origin, culture and/or religion suffered discrimination due to their gender, too. Nevertheless, most of the indicators improved compared to the previous years; regarding the racist police profiling cases, a decrease from 28% in 2013 to 19% in 2020 was shown. **The groups most affected in this area of racist police profiling are the population of non-Mediterranean Africa, the Maghreb, the Roma people and the Indo-Pakistani.** Discriminatory treatment by the police fell sharply from 28% to 19%. Discriminatory experiences relate to police inspection and control and are less prevalent when filing complaints or paperwork. Men and young people were concluded that perceive the greatest degree of police discrimination. The most relevant areas of discrimination due to their ethnic origin were access to housing (31%), establishments or spaces open to the public (30%), and the workplace (26%). It concluded that the groups perceived to be the most discriminated due to skin color and physical features are non-Mediterranean Africa (82%) and Roma people (71%). A growing perception of Afro-phobia or racism against black people among people of non-Mediterranean African origin was noticed and not perceived with the same intensity by people of African descent (Afro-Caribbean or Afro-Latino).

**In January 2021, the Spanish General Secretariat of Penitentiary Institutions** (*Secretaría General de Instituciones Penitenciarias*) published the "Report on the study on hate crime: profile of people convicted of hate crimes to prison and alternative measures and penalties" (*Informe del estudio sobre delitos de odio: perfil de las personas condenadas por delitos de odio a prisión y a penas y medidas alternativas a la prisión*)<sup>29</sup>. Socio-demographic, criminal and psychological characteristics of convicted of hate crimes were analyzed and compared to a control group of 38 people convicted of other

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<sup>28</sup> Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la Eliminación de la Discriminación Racial o Étnica*), [Potential victims' perception of discrimination based on racial or ethnic origin in 2020](#) (*Percepción de la discriminación por origen racial o étnico por parte de sus potenciales víctimas en 2020*), Madrid, Ministry of Equality.

<sup>29</sup> Pérez Ramírez, M., Giménez-Salinas, A., Méndez, R.C., Suárez, A. y Chiclana, S., [Report on the study on hate crime: profile of people convicted of hate crimes to prison and alternative measures and penalties](#) (*Informe del estudio sobre delitos de odio: perfil de las personas condenadas por delitos de odio a prisión y a penas y medidas alternativas a la prisión*), Madrid, General Secretariat of Penitentiary Institutions, Ministry of Interior, 2021.



crime types. The way prejudices affect the aggressiveness of perpetrators of hate crimes, and possible typologies of offenders were also analyzed. The hate crimes offenders were found to have a family history of hatred and belong to organised groups with such ideology (extreme left-wing groups, Neo-Nazis, etc.). The hate crime offenders, violent only against their out-group, were more prone to take risks, more aggressive and had subtle prejudices to a greater extent.

The study results could be summarized as follows: the most common profile of people convicted of hate crimes. From the sociodemographic variables analyzed, it can be deduced that their youth characterizes the profile of these people: for being much younger than the general and incarcerated population, being mostly national, single and cohabiting with the family of origin, having a basic educational level, and lacking paid work and sufficient economic income. As for the risk factors of the sample analyzed here, there is a high presence of drug use (70%), but not very different from that of the prison population. The family history of ideology and the group of equals (usually criminal or predelinquent) constitute key elements. For example, people convicted of hate crimes tend to react more aggressively than ordinary criminals, noting that subtle prejudice makes them more reactively aggressive. For instance, at the time of committing the criminal act, 54.5% belonged to or related to an organized group with a clear ideology favoring hatred (for example, neo-Nazis, extreme left, football ultras, etc.). A minority (3%) had virtual or social media contact with such hate ideology groups. In addition, one in three people convicted of hate crimes wore or exhibited symbology related to it, such as tattoos (3%), costumes (6%) or anesthetic (24%) linked to these groups with an ideology favorable to hatred. The indicator applied was the history of the doctrine of prejudice: the history of negative beliefs and attitudes about the group that has been the object of the crime committed. Finally, it focuses on the profile of the offenders, not on the type of hate crimes offenders were convicted for or the ideologies linked to these subjects. Therefore, to what extent those hate crimes were racially and ethnically driven was not analysed either.

**From 18 December 2020 until 31 March 2021, the Spanish National Office against Hate Crimes (*Oficina Nacional de Lucha Contra los Delitos de Odio*) of the Ministry of Interior launched an online survey on hate crimes.** Later on, a final report<sup>30</sup> entitled Report on the study on hate crimes (*Informe de la encuesta sobre delitos de odio*) was published in June by the Ministry of Interior with the results for victims (n=437). Those who reported having suffered at least one hate crime over the five preceding years. 50.3% of respondents were men, 45.5% were women, and 3.7% were non-binary people. 20.14% of the sample referred to racist or xenophobic motivations. It should be noted that foreign nationals were underrepresented in the study since almost 90% of the sample had Spanish nationality, and more than 84% had been born in Spain. Among the most outstanding results, 31.8% of respondents thought that behaviors based on discriminatory grounds (racism, antisemitism, ethnicity, nationality, sexual orientation, gender, etc.) were not

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<sup>30</sup> Spain, Spanish National Office Against Hate Crimes (*Oficina Nacional de Lucha Contra los Delitos de Odio* (2021), [Report on the survey on hate crimes](#) (*Informe de la encuesta sobre delitos de odio*), Madrid, Ministry of Interior.

punishable under the Spanish Criminal Code. Almost 90% were to some extent worried about the possibility of becoming victims of hate crime again (49.4% responded "a lot"). More than 81% claimed they avoided going to certain places to avoid becoming victims of hate crimes or discriminatory incidents, and 30% of the participants reported having suffered discrimination related to COVID-19. 41.65% were victims of a hate crime more than once. Only 1 out of 10 victims reported the crime. **The workshop results** showed that 41.65% of the participants (n = 437) were victims of hate crimes in the last five years on more than one occasion. Moreover, one of the most relevant results of the survey is that despite having suffered hate crimes, 89.24% of those surveyed did not file a complaint against the criminal acts. Among the main reasons the victims did not report was the thought that the police would not take them seriously (37.95%). Other causes were the mistrust in the police (24.62%) because they believed that the police would not understand it (22.56%), fear of possible retaliation from the perpetrator (20%) or because they did not know it could be a crime (20%). Those data showed that the reason for not reporting is multifactorial. It **concluded** that the results reflected in this report would be used to prepare the second **Action Plan to combat hate crimes** (*Plan de Acción de lucha contra los delitos de odio*) of the Ministry of the Interior (*Ministerio del Interior*)<sup>31</sup>. All conclusions extracted aim to improve the prevention and reaction of the Forces and Security Bodies concerning hate crimes that occur in Spain. When writing this report, the second Action Plan to combat hate crimes did not reach the National Parliament; not a draft document is public yet. There were just public statements about the willingness to promote it. **On 6 May 2021**, the **National Ombudsman** (*Defensor del Pueblo*) presented its Annual Report<sup>32</sup> to the National Parliament. This report concluded that the global COVID-19 pandemic marked the 2020 year's work. The National Ombudsman (*Defensor del Pueblo*) expressed the signing of an Institutional Cooperation Agreement between the General Council of the Judiciary (*Consejo General del Poder Judicial*), the Office of the Attorney General of the State (*Fiscalía General del Estado*), and the Center for Legal Studies (*Centro de Estudios Jurídicos*) for the fight against racism and xenophobia - as well as LGBTIphobia and other forms of intolerance (*Acuerdo de cooperación institucional entre el Consejo General del Poder Judicial, la Fiscalía General del Estado, varios ministerios y el Centro de Estudios Jurídicos para la lucha contra el racismo y la xenofobia —así como la LGBTIfobia y otras formas de intolerancia*) - among which "anti-Roma", as expressed, must also be considered as a form of discrimination and serious expression of intolerance<sup>33</sup>. The agreement includes organizing training and awareness activities; collaboration in activities aimed at improving statistical computation; data collection on the number of complaints carried out and the type of criminal offences registered in the statistical system of criminality; and conducting academic research and publishing.

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<sup>31</sup> Spain, Ministry of Interior (*Ministerio del Interior*) [Action Plan to combat hate crimes](#) (*Plan de Acción de lucha contra los delitos de odio*)

<sup>32</sup>Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Annual Report 2020](#) (*Informe Anual 2020*), National Ombudsman.

<sup>33</sup>

Spain, (2018)

[https://www.inclusion.gob.es/oberaxe/ficheros/ejes/cooperacion/Acuerdo\\_insterinstitucional\\_original.pdf](https://www.inclusion.gob.es/oberaxe/ficheros/ejes/cooperacion/Acuerdo_insterinstitucional_original.pdf)

Certain actions were developed about threats and aggressions against unaccompanied foreign children living in a first reception center in Madrid. The national Ombudsman received several complaints from organizations of defense of children, they requested the intervention of the National Ombudsman (*Defensor del Pueblo*) to promote several measures to eradicate the proliferation of hate speech against these unaccompanied children.

**On 3 August 2021, the Secretary of State for Security of the Ministry of Interior** published its Annual Report on the Evolution of Hate Crimes in Spain (*Informe sobre la evolución de los delitos de odio en España*)<sup>34</sup>. According to **its results**, a total of 1,401 hate crimes and discriminatory incidents were recorded in Spain during 2020, 17.9% less than the previous year. 36.4% of the crimes corresponded to racism or xenophobia. Regarding victimizations, 40.3% corresponded to racism or xenophobia, equally affecting women (49.6%) and men (51.4%). However, those arrested or investigated as alleged perpetrators were mainly men (72.6%). In what refers to recorded hate crimes and discriminatory incidents committed through the Internet and social networks, racist or xenophobic motivations represented 19.6%, the second most relevant after ideological reasons (41.3%).

**On 21 September 2021**, it was published the findings from a survey on "Attitudes towards immigration and immigrants in Spain" (*Actitudes hacia la inmigración y los migrantes en España*)<sup>35</sup>, carried out by the **Institute for Advance Social Studies of the Spanish National Research Council** (*Instituto de Estudios Sociales del Consejo Superior de Investigaciones Científicas de España*, IESA-CSIC, in its Spanish acronym). The survey addressed the social acceptance of anti-immigrant rhetoric, perceptions and attitudes on immigration and their recent evolution. **The survey expresses** how the majority of the Spanish population share open and understanding attitudes towards International Migration, the appreciation that immigrant labor is complementary to autochthonous work. However, it is different regarding how the impact of immigration on access to public services and their financing is perceived. **The results express** the need for political pedagogy to be combined with a greater endowment of resources destined to alleviate poverty and social exclusion situations. In addition, **the results** show how the growing ideological polarization makes it difficult to optimize the debate towards efficient migration policies. The favorable positions (6-10 points) reach 42%, 50% and 55%, respectively, for the three indicators, (location, economy and culture) while the unfavorable ones agglutinated 27%, 25%, and 23%. Therefore, a positive assessment of immigration prevails, more pronounced with the economic and, above all, cultural effect concerning the general impact.

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<sup>34</sup> López Gutiérrez, J., Sánchez Jiménez, F., Fernández Villazala, T., Herrera Sánchez, D., Martínez Moreno, F., San Abelardo, M.Y., Rubio García, M., Gil Pérez, V., Santiago, A.M., Gómez Martín, M.Á. y Gómez Esteban, J., [Report on the Evolution of Hate Crimes in Spain](#) (*Informe sobre la evolución de los delitos de odio en España*), Madrid, Ministry of Interior, 2021.

<sup>35</sup> Institute for Advance Social Studies of the Spanish National Research Council (*Instituto de Estudios Sociales del Consejo Superior de Investigaciones Científicas de España*, IESA-CSIC (2021), ["Attitudes towards immigration and immigrants in Spain"](#) (*actitudes hacia la inmigración y los migrantes en España*), 2021.

**In 2021, the Spanish Observatory of Racism and Xenophobia** (*Observatorio Español del Racismo y Xenofobia*, OBERAXE, in its Spanish acronym, launched a new **Bulletin for monitoring hate speech on social networks** in a bi-monthly format<sup>36</sup>. It seeks to improve data collection and analysis on the incidence and characteristics of hate speech. Due to the emergence of the COVID-19 pandemic 20, specific monitoring on social networks to assess hate speech against the Asian population began. After this experience, it was decided to continue with a pilot project to conduct daily and systematic hate speech monitoring specific social platforms. **In terms of the data collected in 2021**, four bulletins were published so far covering the periods of 1 January 2021 to 28 February 2021, 1 March 2021 to 31 April 2021, 1 May 2021 to 30 June 2021, 1 July 2021 to 30 August 2021, 1 September 2021 to 30 October 2021 and at the end of the year the last one will be published (1 November to 31 December 2021). The previous bulletin will present the results of the online hate speech monitoring. The **Bulletin for monitoring hate speech on social networks (May 1 - June 30, 2021)**<sup>37</sup> expresses that the number of hate speech content identified and communicated to the platforms Facebook, Twitter, Youtube, Instagram and TikTok during this period was 557, which represents an increase of 22.4% compared to the previous bulletin (April 1 - May 31, 2021). From these 557 communications, 52 are linked to TikTok (27.3%), a social network where most communications were made, followed by Facebook with 146 (26.2%) and Twitter, with 108 (19.4%). Likewise, another 94 have been sent to Instagram (16.9%) and 57 (10.2%) to Youtube.

**Regarding the hate speech** content because of discrimination, anti-immigration cases remain stable concerning the previous bulletin (28.5%). The content against unaccompanied children (*Menores no acompañados*, MENAS, in its Spanish acronym) remains as the second reason for more common discrimination even though it showed a decrease by 4.9 points after the end of the electoral campaign in Madrid<sup>38</sup>, a period in which attacks against this group were accentuated. The xenophobic content for people of Maghreb showed a relevant increased tendency going from 7.9% in March-April to 15.3% in May-June. This substantial increase coincides with the entry into Ceuta of thousands of people of Maghreb origin. (*Section that will be updated before the last version of this report*).

**In 2021, Basque Government** (*Gobierno Vasco*) published a Report on Hate Cases in Euskadi 2019 (*Informe de Incidentes de Odio de Euskadi 2019*)<sup>39</sup>. It concluded that during 2019, there were 115 **hate crimes recorded, i.e. Basque Country** and these were distributed among 105 crimes (91.3%) and ten administrative offences (8.7%). Racist or xenophobic

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<sup>36</sup> Spain, [Bulletin for monitoring hate speech on social networks](#) (*Boletines De Monitorización Del Discurso De Odio*), Madrid, Observatorio Español del Racismo y la Xenofobia.

<sup>37</sup> Spanish Observatory of Racism and Xenophobia (*Observatorio Español del Racismo y la Xenofobia*) (2021) [Bulletin for monitoring hate speech on social networks. May 1 - June 30, 2021](#), Madrid, OBERAXE, 2021.

<sup>38</sup>El Mundo, [La Fiscalía investiga por un posible delito de odio el cartel electoral de Vox contra los menores inmigrantes](#), 21 April 2021.

<sup>39</sup> Spain, Basque Government (*Gobierno Vasco*), [Report on Hate Crimes in Euskadi 2019](#) (2020) (*Informe de Incidentes de Odio de Euskadi 2019*), Bilbao, Cátedra UNESCO de Derechos Humanos y Poderes Públicos, Universidad del País Vasco/Euskal Herriko Unibertsitatea.

offences accounted for 55 cases (52.4%), with a figure slightly lower than the one published the previous year, 7 cases less, accounting for an 11.29% reduction. Moreover, regarding hate speech, it accounted for 20 cases (19.05%) crimes against ideology and political orientation, for 18 cases (17.1%); and against sexual orientation and identity, 13 cases (12.4%). Furthermore, there were offences based on: functional diversity, concerning six matters; based on religious beliefs and practices, these being 7 cases; regarding aporophobia, there were 3 cases; and based on sex, there were 3 cases, which made up 18.1% of the recorded crimes. The 2019 report was the first to include the gender criteria independently.

**On August 2021**, the **NGO Observatory of Islamophobia in the Media** (*Observatorio de la Islamofobia en los Medios*) published the Statistics 2020<sup>40</sup> (*Estadísticas 2020*). The objective was to identify the Islamophobic content that the written media publishes, analyze its scope, and try to raise awareness concerning biases that appear in the journalistic environment, thus promoting good practices. In 2020, this exercise studied the digital versions of four newspapers (two of national coverage and one local and one regional media). **The statistical analysis results show a negative evolution of news free of Islamophobia, representing 61% of the total in the first quarter of the year and ending at 44% in the last record.** The percentage of passive Islamophobic news (referring to the information that does not directly affect the topic; however, it is still present in the media content) **remained constant throughout the year, standing at 20%.** **On 8 November 2021**, those data and statistics 2020 were compiled and analyzed in a Report published with the title 2020 Report: Proximity, Key to Better Inclusive Journalism 2021 (*Informe 2020: proximidad, clave para un mejor periodismo inclusivo 2021*)<sup>41</sup>

**In October**, the **NGO Movement for Peace** (*Movimiento por la Paz*) published the study "**African and Afro-descendant women in Spain: analysis of discrimination factors in access to health, education, employment, housing and social services**" (*Mujeres africanas y afrodescendientes en España: análisis de los factores de discriminación en el acceso a la salud, la educación, el empleo, la vivienda y los servicios sociales*)<sup>42</sup>. Funded by the Ministry of Inclusion, Social Security and Migration, the research gathers the experiences of discrimination of 320 women of 38 nationalities and the testimonies of 74 workers in the social field. It is carried out concerning the multiple forms of discrimination suffered by women of African descent in Spain. It reveals worrying results on the human rights situation of this group of women. Racial discrimination is mostly manifested in the workplace. Thus, 82% of the respondents consider that structural

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<sup>40</sup> NGO Observatory of Islamophobia in the Media (*Observatorio de la Islamofobia en los Medios*) (2021), [Statistics 2020](#) (*Estadísticas 2020*), August, 2021, Madrid, Observatorio de la Islamofobia en los Medios.

<sup>41</sup> Observatory of Islamophobia in the Media (*Observatorio de la Islamofobia en los Medios*) (2021), [2020 Report: Proximity, Key to Better Inclusive Journalism 2021 Informe 2020: proximidad, clave para un mejor periodismo inclusivo 2021](#), Madrid, IEMED.

<sup>42</sup> NGO Movement for Peace (Movimiento por la Paz) (2021), "[African and Afro-descendant women in Spain: analysis of discrimination factors in access to health, education, employment, housing and social services](#)" (*Mujeres africanas y afrodescendientes en España: análisis de los factores de discriminación en el acceso a la salud, la educación, el empleo, la vivienda y los servicios sociales*), Madrid, Ministerio de Inclusión, Seguridad Social y Migraciones.

racism constitutes a barrier to equal access to the labor market. To this are added the racism and stereotypes present in the areas of education, social services, health and housing. Surveys show, for example, that when they intend to rent a home, in 60% of cases, they face contractual abuses such as the sudden rise in price or the request for up to one year of bail.

**In November 2021**, The Forum for the Social Integration of Immigrants (*Foro para la Integración Social de los Inmigrantes*) published its 2020 report on the impact of the COVID-19 pandemic with the title "Situation of migrants and refugees in Spain: Effects of the state of alarm declared in the framework of the COVID-19 pandemic" (*Situación de las personas migrantes y refugiadas en España: Efectos del estado de alarma declarado en el marco de la pandemia de COVID-19*)<sup>43</sup>. It analyzes the effects on migrants and refugees of measures adopted by the Spanish Government within the framework of the state of alarm declared on March 14, 2020, and extended until June 21 of the same year to deal with the situation caused by the pandemic. It also considers the two states of alarm declared on October 9 and 25. It concluded that Covid-19 pandemic was a breeding ground for the resurgence of racist, xenophobic and aporophobic imaginaries and representations in Spanish society. At the same time, it motivated intercultural conflicts in neighborhoods and territories. The situation makes it essential to develop awareness-raising strategies aimed at all public opinion, targeted interventions, and the implementation of measures to avoid and reject hate speech emanating from political and social sectors.

## **2.2. Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive**

**On 2 February 2021, KAMIRA, the National Federation of Roma Women**, presented the results of the II Congress on hate and discrimination (*II Congreso sobre odio y discriminación*) organized during the 26, 27 and 28 of January 2021<sup>44</sup>. The Congress was held within the European Discrikamira project (initiated in 2018), promoted by KAMIRA in Spain, by Romani Onlus in Italy and by the Helsinki Deaconess Institute in Finland. Discrikamira consists of a program funded by the Directorate General of Justice of the European Commission whose purpose is to promote the Roma population, especially the fight against discrimination and the achievement of effective equality. In the II Congress on hate and intolerance, the power of the media over the development or restraint of hate speech was pointed out, mentioning the impact of fake news causing a lot of damage as they manage to mark the media plan. It was recommended to contextualize the information,

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<sup>43</sup> Spain, Forum for the Social Integration of Immigrants (*Foro para la Integración Social de los Inmigrantes*) (2021), [Situation of migrants and refugees in Spain: Effects of the state of alarm declared in the framework of the COVID-19 pandemic](#) (*Situación de las personas migrantes y refugiadas en España: Efectos del estado de alarma declarado en el marco de la pandemia de COVID-19*), Madrid,

<sup>44</sup> KAMIRA (2021), [II Congress on hate and discrimination](#) (Balance del II Congreso sobre odio y discriminación), January 2021.

incorporate the gender perspective and be careful with the headlines as the path towards ethical journalism. The difficulties faced by hate crimes' victims, the frequent lack of awareness of what happens to them, and the need for society to identify the greater effectiveness of complaints were highlighted.

**In March 2021**, a workshop took place in Spain within the framework of project EStAR (Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support)<sup>45</sup>. The OSCE Office organized it **for Democratic Institutions and Human Rights** (ODIHR) and the **Spanish National Office against Hate Crimes** (*Oficina Nacional de Lucha Contra los Delitos de Odio*). It **aimed to** assess national victim support structures and services and identify their gaps and shortcomings to improve assistance to victims.

**On 18 March 2021**, it was presented the "Protocol to Combat Illegal Hate Speech Online" (*Protocolo para Combatir el Discurso de Odio Ilegal en Línea*)<sup>46</sup> coordinated by the **Spanish Observatory on Racism and Xenophobia** (*Observatorio Español del Racismo y la Xenofobia*, OBERAXE, in its Spanish acronym). The document's objective was to become a guide for the cooperation and collaboration between institutional stakeholders from civil society and web hosting services providers towards the prevention, elimination, and fight against illegal hate speech online. It was developed within the framework of the 2018 Institutional Cooperation Agreement to fight against racism, xenophobia, LGBTIphobia and other forms of intolerance (*Acuerdo interinstitucional para cooperar en la lucha contra el racismo, la xenofobia, la LGTBIfobia y otras formas de intolerancia*)<sup>47</sup>. A working group was created for the implementation of the Protocol. **The State Attorney General's Office** (*Fiscalía General del Estado*), through the Computer Crime Unit (*Unidad de Criminalidad Informática*), assumed a **leading role in the fight against hate speech online** as a Focal Point of the competent authorities for communicating with data hosting service providers through the Internet. This role facilitates the notification of illegal content through an agile procedure and guarantees blocking, withdrawal, or access restrictions. **The Protocol was signed** by the State Attorney General's Office (*Fiscalía General del Estado*), the General Council of the Judiciary (*Consejo General del Poder Judicial*), the State Secretariats for Justice, Security, Education, Sports, Equality, Social Rights and Migration (*Secretarías de Estado para la Justicia, Seguridad, Educación Deporte, Igualdad, Derechos Sociales y Migración*) and the Center for Legal Studies (*Centro de Estudios Jurídicos*), as well as civil society organizations - Forum for the Social Integration of Immigrants (*Foro para la Integración social de los Inmigrantes*), State Council of the Roma People (*Consejo Estatal del Pueblo Gitano*), Council of Victims of Hate Crimes and Discrimination (*Consejo de Víctimas de Delitos de Odio y Discriminación*), Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la Eliminación de la Discriminación Racial o Étnica*), Spanish Federation of Lesbians, Gays, Transsexuals and Bisexuals

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<sup>45</sup> Spain, project EStAR [Enhancing Stakeholder Awareness and Resources for Hate Crime Victim Support](#)

<sup>46</sup> State Attorney General's Office (*Fiscalía General del Estado*) (2021) [Protocol to Combat Illegal Hate Speech Online](#) (*Protocolo para Combatir el Discurso de Odio Ilegal en Línea*), 2021.

<sup>47</sup> Spain, Ministerio del Interior (*Ministry of Interior*) (2021), [workshop from the Monitoring Commission of the Institutional Cooperation Agreement to fight against racism, xenophobia, LGBTIphobia and other forms of intolerance](#) (*Acuerdo interinstitucional para cooperar en la lucha contra el racismo, la xenofobia, la LGTBIfobia y otras formas de intolerancia*), Press release, 29 June 2021.

(Federación Estatal de Lesbianas, Gais, Trans y Bisexuales), Childhood Platform (*Plataforma Infancia*) and Third Sector Platform (*Plataforma Tercer Sector*) -, and by data hosting service providers, through the Spanish Association of Digital Economy (*Asociación Española de la Economía Digital*), in which companies such as YouTube, Facebook, Instagram, Twitter or Microsoft are integrated.

**On 3 June 2021, the Council for the Elimination of Racial or Ethnic Discrimination** (*Consejo para la Eliminación de la Discriminación Racial o Étnica*, CEDRE, in its Spanish acronym) published a set of recommendations of the Council for the Elimination of Racial or Ethnic Discrimination, result of the murder of Younes Bilal and other racist attacks that occurred in the region of Murcia. (*Recomendación del Consejo para la Eliminación de la Discriminación Racial o Étnica a raíz del asesinato de Younes Bilal y otras agresiones racistas ocurridas en la región de Murcia*)<sup>48</sup>. Following the murder of a Moroccan man on June 13, 2021, and the stabbings suffered by two people of migrant origin, both in the Autonomous Community of Murcia. Those crimes were racially motivated according to the ONGD Platform for Development of the Murcia Region<sup>49</sup>, which described it as racist and not an isolated case, but the result of hate speech. The case arose when an ex-military man shot him in a bar after initiating a discussion based on the Moroccan origin of the victim and their friends, those accused of murder aggravated by racist reasons. The document sets out **a list of recommendations to face and avoid those types of** cases such as 1) clarifying the facts and determining if there have been racist motivations, as well as, where appropriate, prosecuting their perpetrators; This may be achieved through a thorough and rigorous investigation of the facts carried out by the Judicial Authorities and by Prosecutors specialized in hate crimes; 2) A strong public condemnation of public representatives, authorities and political parties of the region; 3) A firm commitment to responsibility in statements made by Public Authorities, politicians, media and other agents who generate public opinion; 4) A commitment from the educational authorities of Murcia and the rest of the Autonomous Communities of the State to introduce and promote anti-racist content in classrooms, and 5) Continuing to encourage the reporting of discriminatory acts and hate crimes that migrants and people with diverse origin suffer.

**On 28 July 2021, the Ministry of Interior** (*Ministerio del Interior*) stated that the National Office for the Fight against Hate Crimes (*Oficina Nacional de Lucha Contra los Delitos de Odio*)<sup>50</sup> would support the police units that investigate cases of special concern. An instruction was issued by the Ministry so that those responsible for the National Office for the Fight against Hate

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<sup>48</sup> Spain, Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la Eliminación de la Discriminación Racial o Étnica*) (2021), [Recommendations of the Council for the Elimination of Racial or Ethnic Discrimination to as a result of the murder of Younes Bilal and other racist attacks that occurred in the region of Murcia.](#) (*Recomendación del Consejo para la Eliminación de la Discriminación Racial o Étnica a raíz del asesinato de Younes Bilal y otras agresiones racistas ocurridas en la región de Murcia*), June 2021.

<sup>49</sup> ONGD Coordinator for the Development of the Murcia Region (*Coordinadora de ONGD para el Desarrollo de la Región de Murcia*), [El Racismo Mata en la Región de Murcia](#), 17 June 2021.

<sup>50</sup> Spain, Ministry of Interior (*Ministerio del Interior*) (2021), [The National Office for the Fight Against Hate Crimes supports police units in hate crimes investigations](#) (*Oficina Nacional de Lucha Contra los Delitos de Odio*), Press release, July 2021.



Crimes (*Oficina Nacional de Lucha Contra los Delitos de Odio*)<sup>51</sup> can carry out a direct and specific follow-up of those cases of hate crimes. This instruction is done due to the social alarm that hate crimes represent, the complexity of the fact under investigation, and the seriousness of possible crimes committed.

**On 23 June 2021**, a formal declaration against hate crimes was approved and published by the **Plenary of the Forum for the Social Integration of Immigrants** (*Pleno del Foro para la Integración Social de los Inmigrantes*)<sup>52</sup>. It expresses the enormous concern caused by the growth of racist and xenophobic messages against migrants. It describes their deep concern about the growing rise of hate speech and racist attitudes, discriminatory and xenophobic that put social cohesion, democratic values, and intercultural coexistence at risk. It is mentioned how hate crimes impact the group with which the victim identifies. It reassures that violence is not exerted on the victim under individual motivation but rather because it symbolizes or represents. These criminal acts threaten social cohesion and peaceful coexistence and endanger society.

**On 10 September 2021**, the Spanish Government declared that the **Ministry of Interior** (*Ministerio del Interior*) would create specific groups against hate crimes.<sup>53</sup> These particular groups would be made within the General Information Commissariat (*Comisaría General de Información*), in the provincial Information Brigades of the National Police, and the Information Headquarters of the Civil Guard (*Jefatura de Información de la Guardia Civil*) and peripheral units. This was one of the measures approved by the Monitoring Commission of the Action Plan to Fight Hate Crimes (*Comisión de Seguimiento del Plan de Acción de Lucha contra los Delitos de Odio*), created in 2019<sup>54</sup>. The eight priority lines of action which are expected to be included in the new National Action Plan to Fight Hate Crimes plan (2022-2024) were also analyzed. It oversaw the coordination support with the State Security Forces and Bodies (*Fuerzas y Cuerpos de Seguridad del Estado*, FFCCSE, in its Spanish acronym) regarding hate crimes and incidents.

Assistance and support for victims will constitute the central axis of this **second Action plan to Fight Hate Crimes**. The coordination mechanisms between the State Security Forces and Bodies (*Fuerzas y Cuerpos de Seguridad del Estado*, FFCCSE, in its Spanish acronym) with regional and local police will also be strengthened. Crime prevention will focus on developing risk assessment tools, a procedure already applied in the VioGén system of Comprehensive Monitoring in cases of Gender Violence (*VioGén de*

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<sup>51</sup> Ministry of Interior (*Ministerio del Interior*) (2021), [The National Office for the Fight Against Hate Crimes supports police units in hate crimes investigations](#) (*Oficina Nacional de Lucha Contra los Delitos de Odio*), Press release, July 2021.

<sup>52</sup> Spain, Ministry of Plenary of the Forum for the Social Integration of Immigrants (*Pleno del Foro para la Integración Social de los Inmigrantes*) (2021), [Approved Declaration on hate crimes](#) (*Declaración aprobada contra delitos de odio*), June 2021.

<sup>53</sup> Spain, Head of State (*Jefatura de Estado*) (2021), [the Ministry of Interior will create groups against hate crimes](#). (*Interior creará grupos de delitos de odio dentro de las unidades de información de la Policía Nacional y de la Guardia Civil*), Press release, September 2021.

<sup>54</sup> Spain, Ministry of Interior (*Ministerio del Interior*) (2021) [Monitoring Commission of the Action Plan to Fight Hate Crimes](#) (*Comisión de Seguimiento del Plan de Acción de Lucha contra los Delitos de Odio*), 2019.

*Seguimiento Integral en los casos de Violencia de Género*). The Monitoring Commission of the Action Plan to Fight Hate Crimes (*Comisión de Seguimiento del Plan de Acción de Lucha contra los Delitos de Odio*) approved the increase as well in personal resources of the National Office for the Fight against Hate Crimes, (*Oficina Nacional de Lucha Contra los Delitos de Odio*), created in 2018. The follow-up Commission of this Action Plan is chaired by the Director of the Coordination and Studies Cabinet (*Director del Gabinete de Coordinación y Estudios*) and composed of staff of the National Office for the Fight against Hate Crimes (*Oficina Nacional de Lucha contra los Delitos de Odio*) and composed by member staff of the National Coordinators of the Plan in the fields of the Civil Guard (Guardia Civil) and the National Police, as well as representatives of associations representative of each area of "hate crimes". The Delegated Prosecutor's Office for the Criminal Protection of Equality and Against Discrimination (*Fiscalía Delegada para la Tutela Penal de la Igualdad y contra la Discriminación*) is invited Monitoring Commission. The Monitoring Committee meets regularly once a semester to assess the scope of compliance with the Plan. The Monitoring Commission submits its Reports to the Secretary of State for Security, monitoring and evaluating Plan.

**On 13 December 2021**, the Ministry of the Interior<sup>55</sup> announced that it will promote the creation of the figure of "reliable communicators" (*comunicantes fiables*) within its strategy to fight against hate speech on social networks. The measure defined as necessary for the implementation of the **"Protocol to Combat Illegal Hate Speech Online"** (*Protocolo para Combatir el Discurso de Odio Ilegal en Línea*)<sup>56</sup> published in **March 2021**.

**At the regional level, on February 2021, the Provincial Council of Gipuzkoa** (*Diputación Foral de Gipuzkoa*) presented an updated version of the awareness campaign titled the anti-rumor Strategy Zasl,<sup>57</sup> together with Basque Anti-Rumor Network Zasl (*Red Vasca Antirrumores Zasl*). This strategy aims to combat racist prejudices poured into social networks, which adopt an increasingly common hate speech. This new version is part of the new strategy and renewed website, established as an Association in 2018. It consists of a network of social entities, individuals, and public administrations that develop a plan of social awareness to prevent discrimination and xenophobia, take advantage of the potential of cultural diversity and influence the Basque society to create spaces for coexistence.

**In August 2021, the City Council of Barcelona** (*Ayuntamiento de Barcelona*)<sup>58</sup> became the first Spanish local public administration to impose a sanction based on "direct discrimination in access to housing based on the origin" (*discriminación directa en el acceso a la vivienda por razón de Origen*), for not renting the flat to someone because of racist reasons. The events took

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<sup>55</sup> Spain, Ministry of the Interior (*Ministerio del Interior*), [El Acuerdo contra la intolerancia promoverá la figura de los comunicantes fiables para combatir el discurso de odio en redes sociales](#), 13 December 2021.

<sup>56</sup> State Attorney General's Office (*Fiscalía General del Estado*) (2021) [Protocol to Combat Illegal Hate Speech Online](#) (*Protocolo para Combatir el Discurso de Odio Ilegal en Línea*), 2021.

<sup>57</sup> Spain, Provincial Council of Gipuzkoa (*Diputación Foral de Gipuzkoa*) (2021), [anti-rumor Strategy Zasl](#), (*Estrategia Anti rumores Zasl*), February, 2021.

<sup>58</sup> Spain, City Council of Barcelona (*Ayuntamiento de Barcelona*) (2021), [Economic Sanction for direct discrimination in access to housing based on origin](#). Press release, August 2021.

place in early 2020 and were reported to the Discipline and Anti-Harassment Unit of the Municipal Institute of Housing and Rehabilitation (*Unidad de Disciplina y Antiacoso del Instituto Municipal de Vivienda y Rehabilitación*, IMHAB in its Spanish acronym). This infringement was based on a breach of [Law 18/2007 on the Right to Housing](#) (*Ley 18/2007 del Derecho a la Vivienda*)<sup>59</sup>. **City Council sanctioned the owner of the apartment and the company who sold the flat**, with a fine of 45,000 euros. During the first quarter of 2021, Catalan Regional Office for Non-Discrimination (*Oficina para la No Discriminación*, OND, in its Spanish acronym)<sup>60</sup> opened a total of 13 files based on violations of the right to housing. The Regional Office for Non-Discrimination (*Oficina para la No Discriminación*, OND, in its Spanish acronym) often receives the filed complaints. It then transfers the cases to the Discipline and Anti-Harassment Unit of the Municipal Institute of Housing and Rehabilitation (*Unidad de Disciplina y Antiacoso del Instituto Municipal de Vivienda y Rehabilitación*, IMHAB, in its Spanish acronym). To study and analyze them in more detail and develop the entire administrative process of the sanctioning file.

**In November 2021**, the **NGO SOS Racisme** launched **an app to "prevent police abuse" on racial identifications in Catalonia**. It can be used in Catalonia to "avoid police abuse" during racial identifications. Simultaneously, the campaign Stop stopping me (*Parar-me*) was launched again to make visible and contain the labels of the police by racial profiling.

**On 17 December 2021**, the **Council for the Elimination of Racial or Ethnic Discrimination** (*Consejo para la Eliminación de la Discriminación Racial o Étnica*, CEDRE, in its Spanish acronym) published [recommendations](#) on the promotion of the denunciation of situations of racism, racial discrimination, xenophobia, anti-Semitism, anti-Gypsyism, anti-Afro racism and other related forms of intolerance and the special protection of victims in vulnerable situations (*Recomendación del CEDRE sobre fomento de la denuncia de situaciones de racismo, discriminación racial, xenofobia, antisemitismo, antigitanismo, racismo antiafro y otras formas conexas de intolerancia y especial protección de víctimas en situación de vulnerabilidad*)<sup>61</sup>. The CEDRE expresses concern about the situation experienced by people in vulnerable situations when victims of hate crimes with racist or xenophobic motivation. It mentioned that several research is confirmed by the experience of the Victim Assistance and Guidance Service provided by the CEDRE, that there is a high rate of under-reporting.

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<sup>59</sup> Spain, Catalonia Autonomous Community (*Comunidad Autónoma de Cataluña*), [Law 18/2007 on the Right to Housing](#) (*Ley 18/2007 del Derecho a la Vivienda*), 27 February 2008.

<sup>60</sup> Spain, Office for Non-Discrimination (*Oficina para la No Discriminación*), Barcelona City Hall (*Ajuntament de Barcelona*), 2021.

<sup>61</sup> Spain, Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la Eliminación de la Discriminación Racial o Étnica*) (2021), [Recommendation on the promotion of the denunciation of situations of racism, racial discrimination, xenophobia, anti-Semitism, anti-Gypsyism, anti-Afro racism and other related forms of intolerance and special protection of victims in vulnerable situations](#) (*Recomendación del CEDRE sobre fomento de la denuncia de situaciones de racismo, discriminación racial, xenofobia, antisemitismo, antigitanismo, racismo antiafro y otras formas conexas de intolerancia y especial protección de víctimas en situación de vulnerabilidad*), 17 December 2021.

## Chapter 3. Roma equality and inclusion

### 3.1 Policy developments in regards to the application of the EU Roma strategic Framework for equality, inclusion and participation for 2020-2030

<p>Please put down the name of the national Roma framework/Roma strategy/integrated set of policy measures and the link</p>	<p>The Spanish Government in <b>November 2021</b> released the new <a href="#">National Strategy for Equality, Inclusion and Participation of the Roma people 2021-2030</a> (<i>Estrategia Nacional para la Igualdad, la Inclusión y la Participación del Pueblo Gitano 2021-2030</i>)<sup>62</sup>. It set up the priority political guidelines and the roadmap to be followed in the next ten years. It seeks a substantial improvement in all the indicators that show the enormous inequality still existing in Spanish society. It is structured in 3 axes, nine strategic lines and 29 specific objectives: The first axis is social inclusion; the second one is equal opportunities and non-discrimination; the third one is participation and empowerment. Its implementation will be carried out through two Operational plans (2021-2026) and (2027 to 2030). At the end of the first operational plan, a mid-term evaluation of the Strategy will be carried out to see its impact on the Roma population and a final assessment in 2030.</p>
<p>Please add a hyperlink if the Strategy is publicly available.</p>	<p><a href="https://www.mdsocialesa2030.gob.es/derechos-sociales/poblacion-gitana/docs/estrategia_nacional/Estrategia_nacional_21_30/estrategia_aprobada_com.pdf">https://www.mdsocialesa2030.gob.es/derechos-sociales/poblacion-gitana/docs/estrategia_nacional/Estrategia_nacional_21_30/estrategia_aprobada_com.pdf</a></p>
<p>Did an evaluation of the previous Roma inclusion strategy take place? If yes, please provide a reference</p>	<p>Previously as background information: two <a href="#">partial assessments of the National Strategy for Roma inclusion in Spain 2012-2020</a><sup>63</sup> covered 2012-2016 and 2017-2018.</p>

<sup>62</sup> Spain, Council of Ministers (*Consejo de Ministros*) (2021), [National Roma Strategy for Equality, Inclusion and Participation 2021-2030](#) (*Estrategia Nacional para la Igualdad, la Inclusión y la Participación del Pueblo Gitano*), Madrid.

<sup>63</sup> Spain, Council of Ministers (*Consejo de Ministros*) (2012), [National Roma Strategy for Equality, Inclusion and Participation](#) (*Estrategia Nacional para la Igualdad, la Inclusión y la Participación de la Población Gitana*), Madrid.

	<p>Every year from 2009 up to 2019, there was an <a href="#">annual evaluation of the National Plan</a>.</p> <p>Not yet published the final evaluation as it just concluded in 2020.</p>
Does the Strategy use the (headline) indicators as suggested in the new portfolio of indicators?	Yes. Section 5.1 pg. 88 to 95
Was Roma civil society involved in the development of the Strategy? Please provide examples?	<p>Yes. Preparing the Strategy was carried out through meetings and consultations, submission of drafts and receipt of contributions.</p> <p>Different ministries of the National Public Administration related to the other areas of work addressed, such as social inclusion, participated.</p> <p>In addition, all the Spanish autonomous communities, the Spanish Federation of Municipalities and <a href="#">Provinces</a> (<i>Federación Española de Municipios y Provincias</i>), and all the civil society organizations represented in the <a href="#">State Council of the Roma People</a> (<i>Consejo Estatal del Pueblo Gitano</i>) were involved.</p>
Were NHRIs and equality bodies involved in the strategy development? Please provide an example?	Yes, through the National Ministry in charge of equality issues and every regional directorate in charge.
Does the new strategy link to the operational programmes for the new EU funding period 2021-2027?	Yes. It will be mainly addressed by the European Social Fund (FSE+) and the FEDER (under section 3.2 Funding of the Strategy ( <i>Financiación de la Estrategia</i> ), pgs 77 to 79 of the <a href="#">National Strategy for Equality, Inclusion and Participation of the Roma people 2021-2030</a> .

### 3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers inclusion

**In February 2021, KAMIRA, the National Federation of Roma Women,** organized [II Congress on hate and discrimination](#) (*Balance del II Congreso*

sobre odio y discriminación)<sup>64</sup>. The Congress was held within the framework of the [Discrikamira project](#), promoted from Spain by KAMIRA, from Italy by Romni Onlus and from Finland by the Helsinki Deaconess Institute. Discrikamira consists of a program funded by the Directorate General of Justice of the European Commission whose purpose is to promote the Roma population, especially the fight against discrimination and the achievement of effective equality. In the II Congress on hate and bigotry, the power of the media over the development or restraint of hate speech was pointed out, mentioning the impact of fake news causing a lot of damage as they manage to mark the media plan. It was recommended to contextualize the information, incorporate the gender perspective and be careful with the headlines as the path towards ethical journalism. The difficulties faced by hate crimes' victims, the frequent lack of awareness of what happens to them, and the need for society to identify the greater effectiveness of complaints were highlighted.

**On 23 February 2021, the European Commission against Racism and Intolerance (ECRI) (Comisión Europea contra el Racismo y la Intolerancia)** published the report [ECRI Conclusions on the Implementation of the Recommendations in respect of Spain subject to Interim Follow-up](#)<sup>65</sup>. ECRI asked Spain for more measures to avoid school segregation and early drop-out of Roma students and regrets that concrete steps to increase the proportion of Roma children who complete compulsory school have not yet been adopted. ECRI also recalls that no funding was allocated to this topic. It also points out that no new statistical data that assesses the impact of government policies have been available since 2018. ECRI mainly focused on two issues: the need for a Law on Equal Treatment and the right to education. There were certain improvements after the ECRI report, such as a new [Law for Equal Treatment and Non-Discrimination \(Ley 19/2020, de 30 de diciembre, de igualdad de trato y no discriminación\)](#). **The Catalan regional Government approved this, which** entered into force on 5 June 2021 (for further information, please refer to Chapter 1).

**In March 2021, it was published Notes for the elaboration of a Strategy for Settlements and Neighbourhoods in Highly Vulnerable Situations with a Human Rights approach"** (*Notas para la elaboración de una Estrategia para Asentamientos y Barrios en Situación de Alta Vulnerabilidad con enfoque de Derechos Humanos*)<sup>66</sup>. This text was elaborated by Accem, Cáritas Española, COCEDER, Cruz Roja Española, Fundación Atenea, Grupo Gid, Fundación CEPAIM, Fundación Secretariado Gitano and EAPN-España and within the Social, Employment and Rural Inclusion Group of the NGOs' State Council of Social Action (*Grupo de Inclusión Social, Empleo y Rural del Consejo Estatal de ONGs de Acción Social*) , in collaboration with the General

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<sup>64</sup> KAMIRA (2021), [II Congress on hate and discrimination](#) (*Balance del II Congreso sobre odio y discriminación*), Madrid, KAMIRA.

<sup>65</sup> European Commission against Racism and Intolerance (ECRI),(2021), [ECRI Conclusions on the Implementation of the Recommendations in respect of Spain subject to Interim Follow-up](#), 23 February 2021.

<sup>66</sup> NGO State Council for Social Action (*Consejo Estatal de ONGs de Acción Social*), (2021), [Notes for the elaboration of a Strategy for Settlements and Neighborhoods in Highly Vulnerable Situations with a Human Rights approach](#) (*Propuesta para impulsar el diseño de una Estrategia de Intervención para Asentamientos y Barrios en Situación de Alta Vulnerabilidad con enfoque de Derechos Humanos*), March 2021.

Directorate of Family Diversity and Social Services of the Ministry of Social Rights and 2030 Agenda (*Dirección General de Diversidad Familiar y Servicios Sociales del Ministerio de Derechos Sociales y Agenda 2030*). The text provides for a contextualization of how Covid-19 meant an aggravation of already existing realities: the existence of settlements and neighbourhoods in situations of high vulnerability, inhabited by thousands of people in diverse situations, nationalities and cultural origins; and families with children to take care of, who see many of their human rights violated and suffer various systemic problems of poverty, exclusion, discrimination. The main goal of the text was to promote the design of a strategy which will help serve as an instrument of political coordination and as a resource mobilization that will further foster the required actions needed to eradicate all conditions of high vulnerability in settlements and neighbourhoods all over the next decade.

**On 22 April 2021, the Ministry of Education and Professional Training** (*Ministerio de Educación y Formación Profesional*) published "**Didactic materials on Roma people for Primary Education**" (*Materiales didácticos sobre el pueblo gitano para Educación Primaria*)<sup>67</sup>. Such a document offers the educational community resources and materials that facilitate the incorporation of contents of Roma history and culture in their teaching work. It consists of three practical and versatile proposals for didactic materials that address Roma content framing them in three specific primary school subjects. First, the inclusion of Roma history and culture in the School Curriculum responds to the belief that school must be a priority for transmitting the values of coexistence and respect of an intercultural society.

**On 28 April 2021, the Commission on Social Rights and Comprehensive Disability Policies**<sup>68</sup> (*Comisión de Derechos Sociales y Políticas Integrales de la Discapacidad*) approved the creation of a [Subcommittee to study a State Pact against Anti-Roma and the Inclusion of Roma People](#) (*Subcomisión para el estudio de un Pacto de Estado contra el Antigitanismo y la Inclusión del Pueblo Gitano*). The proposal for the subcommittee was promoted by the Socialist Parliamentary Groups (*Grupos Parlamentarios Socialista*), Confederation of United We Can (*Confederación de Unidas Podemos*), Galicia in Common (*Galicia en Común*), and Citizens (*Ciudadanos*).

**On 27 April 2021, the Spanish Government approved the [Recovery, Transformation and Resilience Plan](#)**<sup>69</sup> (*Plan de Recuperación, Transformación y Resiliencia*). This plan introduced opportunities for the inclusion of groups at risk of social exclusion, such as immigrants, Roma people or any other social group at stake. **The Plan objectives** address vulnerable groups who suffer discrimination based on religion, ethnicity, or social class. It aims to promote and increase the percentages on the access to employment of certain groups of the population that experience difficulties,

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<sup>67</sup> Spain, Ministry of Education (*Ministerio de Educación*) (2021), "[Didactic materials on Roma people for Primary Education](#)" (*Materiales didácticos sobre el pueblo gitano para Educación Primaria*),

<sup>68</sup> Congress of Deputies (*Congreso de los Diputados*) (2021) [Subcommittee to study a State Pact against Anti-Roma and the Inclusion of Roma People](#), (*Subcomisión para el estudio de un Pacto de Estado contra el Antigitanismo y la Inclusión del Pueblo Gitano*), Madrid.

<sup>69</sup> Spanish Government (*Gobierno de España*) (2021) [Recovery, Transformation and Resilience Plan](#) (*Plan de Recuperación, Transformación y Resiliencia*), Madrid.

such as young people, women after giving birth, Roma women, people with disabilities, people at a social exclusion risk, homeless people, and women victims of gender violence. Moreover, accessibility to early educational services become a priority, mainly focusing on neighbourhoods where families with low academic and income levels live, single-parent families and minority groups, Roma population or migrant families. Doing so impacts promoting equality and social inclusion and contributes, in the medium term, to equal opportunities for girls and boys.

**At a regional level, on 30 April 2021**, the Procurator of the Common of Castile and Leon (*Común de Castilla y León*) published a [Resolution regarding school segregation](#)<sup>70</sup>. The Resolution contains a specific section addressing the fact that students in situations of socio-educational vulnerability belonging to the Roma community deserve special consideration. It is essential to continue working on improving the schooling of Roma students, especially in compulsory education. It pursues a quality, inclusive and demanding educational system that guarantees equal opportunities and allows and makes sure every student has the tools and requirements available to develop the maximum of their potential. It is in line with the **Program of Strategic Actions with Roma People in Castile and Leon 2021-2030** (*Programa de Actuaciones Estratégicas con la Población Gitana en Castilla y León 2021-2030*)<sup>71</sup> **launched in April 2021, including 73 new measures and 40 million euros of investment for the inclusion of the Roma community**. The Castile and Leon Regional Government (*Junta de Castilla y León*) was a pioneer in 2018 when the [2030 Program](#)<sup>72</sup> was launched, an initiative that addresses the difficult task of preventing and eliminating school segregation. The **2021-2030 Strategic** goal was the promotion of measures aimed at improving the quality of life of the Roma population living in poverty and a social exclusion environment. It seeks to achieve their full social and economic inclusion. This program was organized around six main spheres: social services, education, employment, housing, health, and participation and equal treatment. In each sphere, specific measures were established to achieve the main objective, such as gaining access to decent housing, achieving a certain academic level, and obtaining a quality job. All measures are intended to be performed while Roma people continue to be recognized by the bulk of their community as valid role models.

**In April 2021**, the researcher and current Congress deputy Ismael Cortés published **"Dreams and Shadows on Roma People"** (*Sueños y sombras sobre los gitanos*)<sup>73</sup>. This publication constitutes the first book in Spanish on Anti-Roma hate speech and argues that the multiple forms of discrimination against the Roma people: exclusion, marginality and poverty, are possible

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<sup>70</sup> Council of the Presidency of the Castile and Leon Board (*Consejería de la Presidencia de la Junta de Castilla y León*) (2021) [School Segregation in Castile and Leon / Resolution](#) (*Segregación escolar en Castilla y León / Resolución*).

<sup>71</sup> Spain, Castile and Leon Regional Government, (*Junta de Castilla y León*) (2021) [Program of Strategic Actions with Roma People in Castile and Leon 2021-2030](#) (*Programa de Actuaciones Estratégicas con la Población Gitana en Castilla y León 2021-2030*),

<sup>72</sup>Spain, Castile and Leon Regional Government, (*Junta de Castilla y León*) (2018) [2030 Program](#) (*Programa 2030*),

<sup>73</sup> Ismael Cortés, (2021), ["Dreams and Shadows on Roma People"](#) (*Sueños y sombras sobre los gitanos*), 2021.



thanks to a symbolic system of ethnic-racial hierarchy: anti-Roma. From a historical, institutional and media dimension, the various mechanisms that allow the discrimination of Roma people in the Spanish State and the elements that would enable a possible end to this discrimination are reviewed.

**On 6 May 2021**, the **National Ombudsman** (*Defensor del Pueblo*) presented its [Annual Report](#)<sup>74</sup> to the National Parliament. This report concluded that the global COVID-19 pandemic marked the 2020 year's work. The National Ombudsman (*Defensor del Pueblo*) expressed the signing of an Institutional Cooperation Agreement between the General Council of the Judiciary (*Consejo General del Poder Judicial*), the Office of the Attorney General of the State (*Fiscalía General del Estado*), and the Center for Legal Studies (*Centro de Estudios Jurídicos*) for the fight against racism and xenophobia - as well as LGBTIphobia and other forms of intolerance - among which "anti-Roma", as expressed, must also be considered as a form of discrimination and serious expression of prejudice. The agreement includes organizing training and awareness activities; collaboration in activities aimed at improving statistical computation; data collection on the number of complaints carried out and the type of criminal offences registered in the statistical system of criminality; and conducting academic research and publishing.

**On 15 June 2021**, a trial for a crime of anti-Roma hatred speech was held in the Ourense No. 1 Criminal Court. The case referred to a user of the Internet forum *Burbuja.info* accused of publishing a series of messages dehumanizing and calling for the eradication of the Roma community. The **Roma Secretariat Foundation**<sup>75</sup> (*Fundación Secretariado Gitano*) entered a file claiming it was a crime falling under **Article 510.1 of the Penal Code**. The facts of the case referred to a total of six messages of extreme anti-Roma hatred speech found as publications published in various comments of the forum, in which the user referred to the Roma community as "scum" or "the culmination of this humanity" and called for "extermination", "killing" or "genocide" of Roma people. Having the accused acknowledge and hold responsibility for his actions, the judgment specified a fine of 540 euros and one year in prison, which will be suspended if the message's author attends anti-discrimination courses to overcome his anti-Roma attitudes.

**On 21 June 2021**, the **Roma Secretariat Foundation** (*Fundación Secretariado Gitano*) signed a **collaboration**<sup>76</sup> with [EMCC Spain](#), the official representative in Spain of the European Mentoring and Coaching Council ([EMMC](#)). Through this partnership, seven coaching and mentoring professionals will work together with seven young Roma people in their transition to employment, strengthening their self-confidence and improving their communication skills. Following the main goal of EMMC Spain, which is to develop, promote and set the expectation of best practices in mentoring,

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<sup>74</sup>Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Annual Report 2020](#) (*Informe Anual 2020*), Madrid, .

<sup>75</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2021) [Trial against a user of the Burbuja.info forum for a crime of anti-Roma hatred speech](#), Press release, 15 June 2021.

<sup>76</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*), (2021), [EMMC begins collaboration with the Access Program \(Acceder\) of the Roma Secretariat Foundation](#).

coaching and supervision for the benefit of society. This training initiative is part of the [EmpleandoDigital +](#) initiative that seeks to improve the employability of the most vulnerable people, favouring digital tools and bringing them closer to the technological world. An initiative held in collaboration with the Red Cross and the Accenture Foundation has the European Social Fund funding.

**On 24 June 2021**, the **Roma Secretariat Foundation**, FSG in its Spanish acronym (*Fundación Secretariado Gitano*) published a study the **Anti-Roma Hate Speech and the COVID-19 Crisis**<sup>77</sup> (*Discurso de odio antigitano y crisis de la COVID-19*). This study consists of a qualitative analysis of six episodes of anti-Roma hate speech that arose due to the pandemic, many of which were reported by the Hate Crimes Prosecutor's Office (*Fiscalías de Delitos de Odio*).

**On 20 July 2021**, the Spanish Government approved the **[Draft Law on Democratic Memory](#)** (*Proyecto de Ley de Memoria Democrática*)<sup>78</sup>. The Council of Ministers does preview the establishment of a working commission on **Memory and Reconciliation with the Roma People in Spain**, which shall and will oversee preparing a report on the measures to apply the principles of truth, justice, reparation and non-repetition **concerning the historical situation of the Roma people in Spain**.

**On 5 July 2021**, the **National Agency for Quality Assessment and Accreditation** (*Agencia Nacional de Evaluación de la Calidad y Acreditación*) published a Resolution confirming an **[Agreement with the Dosta Association](#)** (*Convenio con la Asociación Dosta*)<sup>79</sup>. The main goal of such agreement is the collaboration for the development of actions, proposals, and programs that aim to improve the inclusion of Roma students in the Spanish university system as a feature of quality and excellence for the Spanish universities. It aims to promote inclusive universities aligned with the Sustainable Development Goals (SDGs), especially Goal 4, which aims to ensure inclusive, equitable, and quality education and promote lifelong learning opportunities for all.

**On 14 July 2021**, the **Roma Secretariat Foundation**, (*Fundación Secretariado Gitano*) published its **Annual Report 2020**<sup>80</sup> (*Informe Anual 2020*). In 2020, the Foundation focused on social promotion, sustainability, social participation and the fight for Rights. The report expresses how the FSG contributed to improving the lives of more than 34,000 people and redirected part of the activity to address the most urgent situations generated by Covid-19. Among the main contributions, it is important to highlight the

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<sup>77</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2021), [Anti-Roma Hate Speech and the COVID-19 Crisis](#) (*Discurso de odio antigitano y crisis de la COVID-19*).

<sup>78</sup> Spain, Spanish Government (*Gobierno de España*) (2021) [Draft Law on Democratic Memory](#) (*Proyecto de Ley de Memoria Democrática*), Madrid.

<sup>79</sup> Spain, Spanish Government (*Gobierno de España*) (2021), [Resolution from the National Agency for Quality Assessment and Accreditation on the Agreement with the Dosta Association](#) (*Resolución de la Agencia Nacional de Evaluación de la Calidad y Acreditación, por la que se publica el Convenio con la Asociación Dosta, para promover la inclusión social de la etnia gitana en las universidades españolas*), Madrid.

<sup>80</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2021), [Annual Report 2020](#), 14 July 2021.

reinforcement of school education and formative programs, the awareness, educational and psychological support generated and the political incidence favouring more Rights for the Roma community.

**In August 2021, a Roma woman presented a claim against Spain on the Strasbourg Court**<sup>81</sup> for denying her the widow's pension. She was married by the traditional rite in pre-constitutional times. The Spanish authorities do not recognize her right to receive the widow's pension due to not registering their marriage. The Roma Secretariat Foundation (*Fundación Secretariado Gitano*) decided to support this claim in the European Court of Human Rights. Specifically, the Strasbourg Court considers that a violation of the prohibition of racial discrimination (Article 14 ECHR) has been produced together with the right to respect for the property of art. 1 of the First Additional Protocol. The claim was similar to [case law](#) in 2009; the Foundation had obtained a lawsuit from the European Court where Spain was condemned for discriminating against another Roma woman. In the current claim presented on the Strasbourg Court, it is insisted that the denial of the widow's pension is a clear example of indirect discrimination, as it is a blind application of a legal requirement, without considering the personal circumstances of this Roma woman. Likewise, it's intersectional discrimination. The ethnic origin comes into play, but the status as a woman and the care roles exercised throughout all their lives, their limited educational level, and their situation of socioeconomic vulnerability.

**On 25 October 2021,** the University of Leon holds the course **"Interculturality, education and equality. Specialization course on minorities intervention: Roma Community"** (*Interculturalidad, educación e igualdad. Especialización en la intervención con minorías: la comunidad rom*)<sup>82</sup>. This specialization course lasts until 12 November 2021 and is directed to the university community, students from the Education branch, Social Services' professionals and the general public. It presents as main learning goals: observing, analysing, and breaking prejudices and stereotypes; studying intrasocial relationships with different groups; promoting the knowledge of historical and cultural elements of the Roma community; analysing professional practices about this group; and obtaining practical tools that will facilitate the work of professionals in the support sphere for families.

**On 19 November 2021,** it was published an article titled **COVID-19 and Roma Community: Approaches in the Spanish Press**<sup>83</sup> (*COVID-19 y comunidad gitana: Enfoques en la prensa Española*) paper. The main goal of this study was to know how the media approached the link between COVID-19 with the Roma community in Spain. The methodology used is characterized by both discourse use and content analysis as the fundamental

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<sup>81</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2021, [Roma woman presents a claim against Spain on the Strasbourg Court for denying her the widow's pension](#), Actualidad, 2 August 2021.

<sup>82</sup> Universidad de León, (2021), ["Interculturality, education and equality. Specialization course on minorities intervention: Roma Community"](#) (*"Interculturalidad, educación e igualdad. Especialización en la intervención con minorías: la comunidad rom"*), October 2021.

<sup>83</sup> Muyor, J.; Segura, A., (2021), [COVID-19 and Roma Community: Focus on the Spanish Press](#) (*COVID-19 y comunidad gitana: Enfoques en la prensa Española*), Revista de Ciencias Sociales, Venezuela, University of Zulia.

research techniques. The main results reflect that the stereotypical attributions of the Roma community, as being an out-group with low social status, precarious, conflictive, criminal, and dangerous characteristics, have intensified in the context of COVID-19. On the other hand, new attributions that represent the Roma community as "transmitters of COVID-19" reinforce an image as a population that threatens the country's public health. It concluded by warning that the social representations of the community in the Spanish press favoured the recreation of conflict scenarios, stigmatization, and rejection.

## Chapter 4. Asylum, visas, migration, borders and integration

### 4.1 Number of beneficiaries of international protection whose protection status was revoked in 2021

Please indicate in the table below the number of those beneficiaries of international protection whose protection status was **revoked** in 2021:

Country	Cessation of refugee status		Cessation of subsidiary protection	
	Number of refugee status revoked	Main reasons	Number of subsidiary protection status revoked	Main reasons
SPAIN	None (info confirmed by the national authorities on the 15 <sup>th</sup> September 2021)	N/A	None (info confirmed by the national authorities on the 15 <sup>th</sup> September 2021)	N/A

## 4.2 National border monitoring mechanisms

Please provide information about national border monitoring mechanisms, if any, by filling in the table below:

COUNTRY	Legal source providing for border monitoring	Organization (s) responsible for monitoring	Is the monitoring body at the same time the National Preventative Mechanism? (Y/N)	Are reports publicly available? [if yes, please add hyperlink]	Number of monitoring operations in 2021	Does the EU fund monitoring (at least partially)? If so, under which modalities?
SPAIN	Spain, <a href="#">Spanish Constitution</a> <sup>84</sup> Articles 15 and 17 Spain, <a href="#">Organic Law 3/1981, of 6 April, on the Ombudsman</a> ( <i>Ley Orgánica 3/1981, de 6 de abril, del Defensor del</i>	National Ombudsman ( <i>Defensor del Pueblo</i> ), through the National Mechanism for the Prevention of Torture.	YES	Yes, there is an official annual report. In June 2020, the <a href="#">National Ombudsman</a> ( <i>Defensor del Pueblo</i> ) published its <a href="#">Annual Report 2020: National Prevention Mechanism</a> ( <i>Informe Anual 2020. Mecanismo Nacional de</i>	Formal request sent to the National Ombudsman Office. We are still awaiting a formal response. 2021 Official Data not published yet.	NO

<sup>84</sup> Spain, National Parliament (*Cortes Generales*), [Spanish Constitution](#) (*Constitución Española*), 29 December 1978.

	<p><a href="#">Pueblo</a>), <a href="#">6 April 1981</a>. Spain, <a href="#">Rules of Procedure for the Organization and Functioning of the National Ombudsman</a> (<i>Reglamento de Organización y Funcionamiento del Defensor del Pueblo</i>), <a href="#">6 April 1983</a>. Spain, <a href="#">Organic Law 1/1979, of 26 September, General Penitentiary</a> (<i>Ley Orgánica 1/1979, de 26 de septiembre, General Penitenciaria</i>), 26 September 1979. Spain, <a href="#">Law of Criminal Procedure</a>, <a href="#">promulgated by Royal Decree of</a></p>	<p>May also collect all those documents and reports that it deems necessary from the Spanish authorities, and these must provide all the required collaboration .</p> <p>It supervises Juvenile Offenders detention Centres; Centres for Border control with police facilities at airports, ports, land borders; and Centres for</p>		<p><i>Prevención</i>)<sup>85</sup>. <a href="#">All previous ones</a> could be accessed through the official webpage.</p> <p>As far as <b>actions and formal communications related to the border monitoring activities</b> of the Ombudsman in 2021:</p> <p><b>On 22 July 2021</b>, the National Ombudsman entered complaint number: <a href="#">21018405</a> and addressed it to the Ministry of the Interior (<i>Ministerio del Interior</i>). It related to the <b>authorisation for the entry into the national territory of children given the humanitarian circumstances</b> involved in the case. For the moment is awaiting for response.</p> <p><b>On 13 August 2021</b>, the National Ombudsman entered complaint number: 21018405 and addressed it to the Ministry of the Interior (<i>Ministerio del Interior</i>). It related to the</p>		
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<sup>85</sup> Spain, National Ombudsman's Office (*Oficina del Defensor el Pueblo*), 2021, [Annual Report 2020](#) (*Informe Anual 2020*), Madrid.

	<p><a href="#">14 September 1882</a> (<i>Ley de Enjuiciamiento Criminal, promulgada por Real Decreto de 14 de septiembre de 1882</i>), 14 September 1882. <a href="#">Ley Orgánica 6/1984, de 24 de mayo, reguladora del Procedimiento de Habeas Corpus</a></p> <p>Spain, <a href="#">Organic Law 10/1995 of the Criminal Code</a> (<i>Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal</i>), 23 November 1995.</p> <p>Spain, <a href="#">Organic Law 4/1997, of 4 August, which regulates the use of video cameras by the Security Forces and Bodies in public places</a></p>	<p>the Internment of Foreigners (<i>Centros de Internamiento de Extranjeros</i>, CIE, in its Spanish acronym).</p>		<p><a href="#">return without the procedure of unaccompanied foreign children in Ceuta.</a> <b>The national ombudsman</b> reminded of his legal duty to comply with provisions of article 35.7 of Organic Law 4/2000 on Rights and Freedoms of Foreigners in Spain, <b>requested a report on the family circumstances of the children of diplomatic representation of their country of origin before the decision of initiation of a procedure on his repatriation.</b> For the moment is awaiting for response.</p> <p><b>On 13 August 2021</b>, the National Ombudsman entered a <b>recommendation</b> number: 19022429 and addressed it to the Minister of the Interior. Directorate-General of the Police (<i>Ministerio del Interior. Dirección General de la Policía</i>). It was related to <a href="#">Applications for international protection at border posts</a>. It pursues to facilitate direct communication channels between the Vice-directorate-</p>		
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	<p>(<i>Ley Orgánica 4/1997, de 4 de agosto, por la que se regula la utilización de videocámaras por las Fuerzas y Cuerpos de Seguridad en lugares públicos</i>), 4 August 1997.</p> <p>Spain, <a href="#">Organic Law 4/2000 of 11 January 2000 on rights and liberties of aliens in Spain and their social integration, 12 January 2000</a> (<i>Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social</i>), 11 January 2000.</p>			<p>General for International Protection (<i>Subdirección General de Protección Internacional</i>) and the Asylum and Refugee Office and the lawyers involved in applications for international protection at border posts. Recommendations seek transmission of a copy of the resolutions relapsed in the procedure, once notified to the person concerned, in a fast and effective it will facilitate the knowledge of their content for the preparation of a possible request for re-examination, given the shortness of the time limits set by Article 21 of the Asylum Act. For the moment, he is awaiting a response.</p> <p><b>On 8 October 2021</b>, the National Ombudsman entered a complaint number: <a href="#">21019832</a> and addressed it to the Minister of the Interior. Directorate-General of the Police (<i>Ministerio del Interior. Dirección General de la</i></p>		
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	<p>Spain, <a href="#">Organic Law 5/2000, of 12 January, regulating the criminal responsibility of children</a> (<i>Ley Orgánica 5/2000, de 12 de enero, reguladora de la responsabilidad penal de los menores</i>), 12 January 2000.</p> <p>Spain, <a href="#">Organic Law 12 /2007, of 22 October, of the Disciplinary Regime of the Civil Guard</a> <a href="#">Organic Law 4/2010 of 20 May, of the Disciplinary Regime of the National Police Corps</a> (<i>Ley Orgánica 12 /2007, de 22 de octubre, del Régimen</i></p>			<p><i>Policía</i>). The objective was to urgently revoke the administrative expulsion file initiated against the interested party for violation of article 53.1 .a) after going to the National Police to report a situation of gender-based violence. For the moment is awaiting for response.</p>		
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	<p><i>Disciplinario de la Guardia Civil</i>), 20 May 2010.</p> <p>Several Orders/Instructions of the Secretary of State for Security of the Ministry of the Interior (<i>Instrucciones de la Secretaría de Estado de Seguridad del Ministerio del Interior</i>): <a href="#">7/1996</a> about the practice of the integral nude during the police searches, 5/2005; <a href="#">19/2005</a> referred to the practice of the proceedings of personal registration by the security forces and bodies.</p>					
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	<p>; <a href="#">12/2007</a> on the conduct required of state security forces and bodies to guarantee the rights of persons detained or in police custody.</p> <p>; <a href="#">12/2009</a> concerning the book of registration and custody of detainees; 13/2014; <a href="#">11/2015</a> design and construction of detention areas; <a href="#">4/2018</a> for the protocol for action in the areas of custody of detainees of the state security forces and bodies.</p>					
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## Chapter 5. Information society, privacy and data protection

### 5.1 Legal and policy developments or measures that have been implemented related to data protection and private life with regards to security issues

**On 21 January 2021, the Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*, AEPD in its Spanish acronym) launched a [Digital Pact](#) (*Pacto Digital*)<sup>86</sup>. This Pact is launched with the leading business organizations, foundations, media associations and audiovisual groups. The need to bet on models that make data protection compatible with innovation, ethics and business competitiveness is reflected in three documents: letter of adhesion, commitment to responsibility in the digital field, and Decalogue of good privacy practices for the media and organizations dissemination channels.

**On 28 January 2021, Royal Decree 43/2021 of January 26 (through which the Royal Decree-Law 12/2018 of September 7 is developed) was published on the security of networks and information systems**<sup>87</sup> (*Real Decreto 43/2021, de 26 de enero, por el que se desarrolla el Real Decreto-ley 12/2018, de 7 de septiembre, de seguridad de las redes y sistemas de información*). It consists of a new strategic and institutional framework for online security and cyber incident management. It is clarified that Operators of electronic communication networks and services and providers of trusted electronic services that were not designated as critical operators under [Law 8/2011, of 28 April, establishing measures for the protection of infrastructures](#)<sup>88</sup> are exempt. Digital service providers, in the case of micro or small businesses.

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<sup>86</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2021) [Digital Pact](#) (*Pacto Digital*), Madrid, Spanish Data Protection Agency.

<sup>87</sup> Spain, Ministry of the Presidency, Relations with the Courts and Democratic Memory (*Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática*), [Royal Decree 43/2021, of January 26 \(through which the Royal Decree-Law 12/2018 of September 7 is developed\) on security of networks and information systems](#) (*Real Decreto 43/2021, de 26 de enero, por el que se desarrolla el Real Decreto-ley 12/2018, de 7 de septiembre, de seguridad de las redes y sistemas de información*), 26 January 2021.

<sup>88</sup> Spain, Head of State (*Jefatura del Estado*), [Law 8/2011, of 28 April, establishing measures for the protection of infrastructures](#) (*Ley 8/2011, de 28 de abril, por la que se establecen medidas para la protección de las infraestructuras críticas*), 28 April 2021.

**On 25 May 2021, the Spanish Government** (*Consejo de Ministros*) agreed to launch a package of **urgent actions on cybersecurity**<sup>89</sup>. The **main goal** was to strengthen the defence capabilities against cyber threats to the public sector and the entities that supply technologies and services to such industries. The Agreement included adopting a **Cyber security Shock Plan**, updating the National Security Scheme, and promoting measures to increase the level of cyber security of technology providers in the State public sector. These actions seek to reinforce the capacity to prevent, detect, protect from cyber threats. In addition, it ensures that the digital transformation is accompanied by organizational measures and security techniques being proportional to the risks, which favours confidence in the use of digital technologies by economic actors and citizens.

**On 11 February 2021, the Spanish Government** presented in the National Parliament (*Congreso de los Diputados*) its [Draft Organic Law on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions \(121/000046\)](#) <sup>90</sup>(*Proyecto de Ley Orgánica de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales. (121/000046)*).

**On 16 June 2021**, it did enter into force the [Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions](#)<sup>91</sup>(*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*). **The purpose of the norm** was to regulate the exchange of information to facilitate both police and criminal judicial cooperation, aiming to transpose into the Spanish legal system the Directive (EU) 2016/680, of April 27, 2016. Another particularity refers to the data retention and review periods. It establishes a maximum retention period, generally 20 years, and implements a system that allows the controller to review, limit or delete the set of personal data contained in each of its processing activities, at most every three years. Furthermore, this Law clarifies that biometric data (such as fingerprints or facial images) will be considered a special category of data only if their treatment uniquely identifies a natural person. It defines which will be the competent authorities:

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<sup>89</sup> Spain, Government Presidency (*Presidencia del Gobierno*), [Referencia del Consejo de Ministros. ACUERDO sobre actuaciones urgentes en materia de ciberseguridad. Press release](#), 25 May 2021.

<sup>90</sup> Spain, National Parliament (*Congreso de los Diputados*), [Draft Organic Law on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions. \(121/000046\)](#) (*Proyecto de Ley Orgánica de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales. (121/000046)*), 11 February 2021.

<sup>91</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions](#) (*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*), 16 June 2021.

the judicial authorities of the criminal jurisdictional order and the Public Prosecutor's Office (*Ministerio Público*); The Penitentiary Administrations (*Administraciones Penitenciarias*); The Deputy Directorate of Customs Surveillance (*Subdirección de Vigilancia Aduanera*); The Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offenses (*Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias*); and the Commission for the Surveillance of Terrorism Financing Activities (*Comisión de Vigilancia de las Actividades de Financiamiento del Terrorismo*).

**On 1 June 2021, the Internet User Safety Office** (*Oficina de Seguridad del Internauta*, OSI, in its Spanish acronym) launched a campaign titled '[Take care of your privacy](#)'<sup>92</sup> (*cuida tu privacidad*). This awareness-raising campaign is aimed at learning how to use the privacy and security controls of Google services. Its objective was to learn how to configure the privacy and security of a Google account and strengthen security and privacy on the Internet knowing all the mechanisms at the user's fingertips through the different Google tools.

**On 28 June 2021, the National Institute of Cybersecurity** (*Instituto Nacional de Ciberseguridad*, INCIBE, in its Spanish acronym) launched a new awareness program called '[Senior Experience](#)'<sup>93</sup> (*Experiencia Senior*). It seeks to promote and enhance users' digital skills over 60 years of age with specific training materials, which would allow them to acquire the necessary basic notions to work with confidence when browsing on the Internet, helping them enjoy the Internet and technology safely. The program consists of 8 courses, each featuring an introductory video and different articles and info graphics.

**On 8 April 2021, the Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) delivered the '[2020 Data Protection Awards](#)' (*Premios Protección de Datos 2020*)<sup>94</sup> to the most prominent people and entities in promoting this right. Subsequently, **on 29 July 2021, the Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) announced the '[Data Protection Awards 2021](#)' (*Premios Protección de Datos 2021*)<sup>95</sup> to distinguish the best practices in promoting this right. The awards were given in six categories: a) Proactivity and good practices to comply with the RGPD, previously mentioned, and the Organic Law on Protection of Personal Data and guarantee of digital rights (*Ley Orgánica de Protección de Datos Personales y garantía de los derechos digitales*, LOPDGDD, in its Spanish acronym); b) Good educational practices for the safe use of the Internet by children and adolescents. **On 16 June**

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<sup>92</sup> Internet User Safety Office (*Oficina de Seguridad del Internauta*) (2021), '[Take care of your privacy](#)' (*Cuida tu privacidad*), Official Website, Internet User Safety Office.

<sup>93</sup> Spain, National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad*) (2021), '["Experiencia Senior" nos ayudará a que todos podamos disfrutar de Internet y las tecnologías de forma segura](#)', Press release, 28 June 2021.

<sup>94</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2021) '[2020 Data Protection Awards](#)' (*Premios Protección de Datos 2020*), 8 April 2021.

<sup>95</sup> Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) '[Premios de la Agencia Española de Protección de Datos](#)', Press release, 29 July 2021.

**2021, the Spanish Government** published the [Organic Law 7/2021 on protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal penalties](#) (*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*)<sup>96</sup> which is object of transposition of [Directive \(EU\) 2016/680 of the European Parliament and of the Council of 27 April 2016](#) (*Directiva (UE) 2016/680 del Parlamento Europeo y del Consejo, de 27 de abril de 2016*)<sup>97</sup>. This [Organic Law of 26 May](#) main objective was data processing by the competent authorities to respect the fundamental rights of the interested parties. All by the following articles: [Article 8.1 of the Charter of Fundamental Rights of the European Union](#) and [Article 16.1 of the Treaty on the functioning of the European Union](#): both expressing "Everyone has the right to the protection of their data " (*Toda persona tiene derecho a la protección de los datos de carácter personal que le concierne*) as well with [Article 18.4 of the Spanish Constitution](#), which expresses "The law will limit the use of technology to guarantee the dignity intimacy of the citizen and their family and full exercise of their rights" (*La ley limitará el uso de la informática para garantizar el honor y la intimidad personal y familiar de los ciudadanos y el pleno ejercicio de sus derechos*).

**On 30 July 2021, the Spanish Data Protection Agency** (*Agencia Española de Protección de Datos, AEPD*, in its Spanish acronym) was aware of the proliferation of various public initiatives that generalized the use of the COVID-19 Vaccination Certificate as a requirement to access multiple establishments. The Spanish Data Protection Agency requested information to the Canary Islands and Galicia (*Departamentos de Sanidad de la Comunidad Autónoma de las Islas Canarias y de Galicia*) to verify the legality of the personal data being processed<sup>98</sup>. The Agency referred to the need to have an appropriate legal basis that conforms to the principles of efficacy, necessity, and proportionality specifying one's health situation with COVID-19. Therefore, it is recommended that it be taken into account the existence of other protection measures which might better avoid discriminatory effects and establish adequate guarantees.

**On 2 November 2021, the Spanish Data Protection Agency** published an **Order 1/2021, of 2 November, of the Spanish Agency for Data Protection, which establishes the guidelines regarding the advisory function of the**

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<sup>96</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 7/2021 on protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal penalties](#) (*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*), 16 June 2021.

<sup>97</sup> European Parliament and Council (2016) [Directive \(EU\) 2016/680 of the European Parliament and of the Council of 27 April 2016](#).

<sup>98</sup> Spain, "[La AEPD requiere a varias CCAA información sobre el uso del certificado de vacunación para acceder a establecimientos](#)", Press release, 30 July 2021.



**agency**<sup>99</sup>, relating to the protection of natural persons concerning the processing of personal data and the free movement of such data. It responds to Royal Decree 389/2021 that approves the Spanish Agency for Data Protection<sup>100</sup> statute its organization and functions to the new model of protection of personal data. In this way, it is adapted to the provisions of the Regulation mentioned above (EU) 2016/679, eliminating the following bodies: the Director of the Spanish Agency for Data Protection, the General Registry of Data Protection and the Data Inspection.

### 5.1 Artificial intelligence and big data

Please fill in the table below with any AI initiatives you may identify in your country – based on the examples provided below:

MS	Actor*	Type* *	Description	Are Human Rights issues mentioned? (please clarify briefly which ones and how these rights are mentioned in the initiative)	Reference
ES	Government/ Parliamentary	report/ study	<b>The Spanish Data Protection Agency</b> ( <i>Agencia Española de Protección de Datos</i> ) published a Report on the <a href="#">Requirements for Data Audits use that include AI</a> . ( <i>Requisitos</i> )	Yes (with a specific reference to fundamental rights such as data protection and gender)	Spain, Spanish Data Protection Agency ( <i>Agencia Española de Protección de</i>

<sup>99</sup> Spain, **Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*, [Instruction 1/2021, of 2 November, of the Spanish Agency for Data Protection, establishing guidelines regarding the advisory function of the Agency, in accordance with Regulation \(EU\) 2016/679, of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and the free movement of such data, Organic Law 3/2018, of 5 December, on the Protection of Personal Data and guarantee of digital rights, and the Statute of the Spanish Agency for Data Protection, approved by Royal Decree 389/2021](#) (*Instrucción 1/2021, de 2 de noviembre, de la Agencia Española de Protección de Datos, por la que se establecen directrices respecto de la función consultiva de la Agencia, de conformidad con el Reglamento (UE) 2016/679, del Parlamento Europeo y del Consejo de 27 de abril de 2016, relativo a la protección de las personas físicas en lo que respecta al tratamiento de datos personales y la libre circulación de esos datos, la Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales, y el Estatuto de la Agencia Española de Protección de Datos, aprobado por el Real Decreto 389/2021, de 1 de junio*).

<sup>100</sup> Spain, (*Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática*), Real Decreto 389/2021, de 1 de junio, por el que se aprueba el Estatuto de la Agencia Española de Protección de Datos), 2 June 2021.

			<p><i>para Auditorías de Tratamientos que incluyan IA</i>). It offers data protection objective guidelines and criteria that should be incorporated into the audits' data use, including components based on Artificial Intelligence (AI).</p> <p>It addresses the impact that AI-based treatments could have on the rights and freedoms of citizens. It also highlighted the need to establish mature development models in the systems in which they were used.</p> <p>The Guide is addressed to: people in charge of auditing data uses that include AI; developers who want to offer guarantees on their products and solutions; professionals working as Data Protection Delegates; and to the audit unit in charge of evaluating the mentioned treatments.</p>	<p><b>Data protection:</b> it must be possible to demonstrate that the methodology used in the incorporation or development of the Artificial Intelligence component complies with the principles and the obligations related to Data use and data protection.</p> <p><b>Gender:</b> It includes the need to check the precision of the Artificial Intelligence component concerning certain attributes or verify that introduce biases. It states that an element does not discriminate based on gender, although the gender variable is not used during the training of the component. Information on people's gender of who make up the database must be collected to verify if the part behaves in one or the other way depending on the value</p>	<p><i>Datos</i>) (2021), <a href="#">Requirements Guide for Audits of Data use that include AI</a> (<i>Guía Requisitos para auditorías de tratamientos de datos personales que incluyan Inteligencia Artificial</i>), Madrid, Spanish Data Protection Agency.</p>
<b>ES</b>	Government/ Parliamentary	report/ study	<p><b>The Spanish Data Protection Agency</b> (<i>Agencia Española de Protección de Datos</i>) published <a href="#">Basic Roadmap on RGPD and LOPDGDD</a> (<i>Hoja de Ruta Básica RGPD Y LOPDGDD</i>). This document provides information on the project "<a href="#">sandbox</a>" on digital transformation of the financial system.</p> <p>It expresses Data protection considerations for access requests to the "Financial Sandbox", a controlled testing</p>	<p>Yes (with a specific reference to fundamental rights such as data protection)</p> <p>Security measures for the protection of rights and freedoms; and references to the management of personal data breaches.</p>	<p>Spain, Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>) (2021), <a href="#">Basic Roadmap on RGPD and LOPDGDD</a> (<i>Hoja de Ruta Básica RGPD Y LOPDGDD</i>), 30 June 2021.</p>

			space, provided for in <a href="#">Law 7/2020, of November 13, for the digital transformation of the financial system</a> <sup>101</sup> ( <i>Ley 7/2020, de 13 de noviembre, para la transformación digital del 14dolesc financiero</i> ).		
<b>ES</b>	Government/ Parliamentary	report/ study	<p><b>The Spanish Data Protection Agency</b> (<i>Agencia Española de Protección de Datos</i>) published the <a href="#">Notification Guide on personal data breaches</a> (<i>Guía para la notificación de brechas de datos personales</i>).</p> <p><b>Its objective</b> was to guide those responsible for treating personal data in compliance with their notification obligations to the Competent Authorities, in charge of controlling personal data breaches and notifying in the cases where people were affected by those data breaches.</p> <p>It updates the previous guide published by the AEPD in June 2018.</p> <p>It seeks to allow effectively and efficiently the ultimate objectives of the notification of personal data breaches. Those data breaches could effectively protect the rights and freedoms of data subjects,</p>	<p>Yes (with a specific reference to fundamental rights such as discrimination, gender and data protection)</p> <p><b>Discrimination:</b> It refers to the consideration 85 of the General Regulation of Data Protection (<i>Reglamento General De Protección de Datos</i>, RGPD, in its Spanish acronym), which indicates that personal data breaches can entail discrimination.</p> <p><b>Gender aggravates</b> when a personal data breach is carried out on personal data belonging to a particularly vulnerable group. Those vulnerable groups could be: children and adolescents, and gender violence survivors, stalking survivors or survivors from any other similar situation.</p> <p>This aspect is particularly important in breaches that affect confidentiality, and/or when the data the circumstances of the</p>	Spain, Spanish Data Protection Agency ( <i>Agencia Española de Protección de Datos</i> ) (2021), <a href="#">Notification Guide on personal data breaches</a> ( <i>Guía para la notificación de brechas de datos personales</i> ), Madrid, Spanish Data Protection Agency.

<sup>101</sup> Spain, Head of State (*Jefatura del Estado*) (2020), [Law 7/2020, of November 13, for the digital transformation of the financial system](#) (*Ley 7/2020, de 13 de noviembre, para la transformación digital del sistema financiero*), 13 November 2020.

			<p>create a more resilient environment based on the knowledge of vulnerabilities in treatments, and guarantee legal certainty by providing those responsible for means to demonstrate diligence.</p> <p>It also makes the interpretation of the <a href="#">General Data Protection Regulation</a> (<i>Reglamento General de Protección de Datos</i>, RGPD, in its Spanish acronym) easier by guiding those responsible for treating personal data where people might be affected by data security breaches.</p> <p>This new version includes the experience obtained in the first years of applying the obligations established on articles 33 and 34 of the RGPD.</p>	<p>personal data breach allows identifying the people as belonging to mentioned groups</p>	
<b>ES</b>	Government/ Parliamentary	other 15doles c	<p><b>The Andalusia Regional Government</b> (<i>Junta de Andalucía</i>) decided to use big data to design a map of opportunities for the internationalization of Andalusia companies. The so-called <a href="#">Big Data Strategy. Internationalization of the Andalusia Economy 2021-2027</a> (<i>Estrategia de Internacionalización de la Economía Andaluza 2021-2027</i>) invests 618 million euros to increase the internationalization of the Andalusia economy and companies.</p> <p>This Strategy seeks objectives such as: generate quality employment and strengthening the position of Andalusia to</p>	<p>Yes</p> <p>(with a specific reference to fundamental rights such as gender equality)</p> <p>Gender: it includes a quantitative indicator related to the number of new jobs/employment support linked to the foreign sector by the Andalusia exporting companies benefiting from the Strategy.</p>	<p>Andalusia Regional Government, Ministry of the Presidency, Public Administration and Interior (<i>Junta de Andalucía, Consejería de la Presidencia, Administración Pública e Interior</i>) (2021), <a href="#">Big Data Strategy. Internationalization</a></p>

			attract foreign investment, making available maps of internationalization opportunities for small and medium businesses, and detecting new commercial relationships.		of the Andalusia Economy 2021-2027 ( <i>Estrategia de Internacionalización de la Economía Andaluza 2021-2027</i> ), Sevilla, Andalusian Regional Government.
ES	Government/Parliamentary	other 16doles c	<p><b>On 26 June 2021, the Spanish Government</b> launched a program titled <a href="#">R&amp;D missions in Artificial Intelligence 2021</a> (<i>Misiones de I+D en Inteligencia Artificial 2021</i>) to finance business projects concerning Artificial Intelligence (AI) in specific strategic sectors.</p> <p>This program aimed to promote the development of AI in the productive industry, the economy, and the data society.</p> <p>This initiative was part of the <a href="#">Spanish Digital Agenda 2025</a> (<i>España Digital 2025</i>), the <a href="#">National Strategy of Digital Intelligence</a> (<i>Estrategia Nacional de Inteligencia Digital</i>).</p> <p>It was included in Reform 1 of Component 16 of the Recovery, Transformation and Resilience Plan (<i>Reforma 1 del Componente 16 del Plan de Recuperación,</i></p>	<p>Yes</p> <p>(with a specific reference to fundamental rights such as gender equality and data protection)</p> <p><b>Gender:</b> justify the impact of gender and the digital divide.</p> <p><b>Data protection;</b> the initiatives and projects funded must prove compliance with Regulation (EU) 2016/679, General Data Protection (RGPD) for products and services that include Artificial Intelligence components</p>	<p>Spain, Ministry of Science and Innovation (<i>Ministerio de Asuntos Económicos y Transformación Digital</i>), (2021), <a href="#">Spanish Science, Technology and Innovation Strategy 2021-2027</a> (<i>Estrategia Española de Ciencia, Tecnología e Innovación 2021-2027</i>), Madrid, Ministry of Science and Innovation.</p> <p><a href="#">R&amp;D missions in Artificial Intelligence</a></p>

		<p><i>Transformación y Resiliencia</i>) for which it will be financed with European funds.<sup>102</sup></p> <p>Through this program, several projects presented in the Cooperation modality will be funded. For these projects to be financed, they will need to participate in a consortium of at least one large company, a knowledge dissemination organization and five SMEs.</p> <p>The funds will be allocated to low technological maturity projects (industrial research projects) and medium technical maturity (experimental development). In any case, projects must have a budget between 10 and 20 million euros and a maximum duration period up to 31 December 2024.</p> <p>The five strategic sectors in which projects must be framed are agriculture, health, environment, employment and energy of the XXI century.</p>		<p><a href="#">2021</a> (<i>Misiones de I+D en Inteligencia Artificial 2021</i>) Madrid, Ministry of Science and Innovation.</p>
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<sup>102</sup> Spain, Ministry of Economic Affairs and Digital Transformation (*Ministerio de Asuntos Económicos y Transformación Digital*), Order establishing the regulatory bases for granting aid in the field of artificial intelligence, for the digital transformation of society and the economy, within the framework of the Spain Digital 2025 Agenda and the National Artificial Intelligence Strategy (*Orden ETD/668/2021, de 25 de junio, por la que se establecen las bases reguladoras de la concesión de ayudas en el ámbito de la inteligencia artificial, para la transformación digital de la sociedad y la economía, en el marco de la Agenda España Digital 2025 y la Estrategia Nacional de Inteligencia Artificial, y se convoca la concesión de ayudas para financiar proyectos del Programa Misiones de I+D en Inteligencia Artificial 2021, en el marco de la Agenda España Digital 2025 y de la Estrategia Nacional de Inteligencia Artificial*), 26 June 2021.

<p><b>ES</b></p>	<p>Government/ Parliamentary</p>	<p>report/ study</p>	<p><b>In January 2021, the Spanish Social and Economic Council</b> (<i>Consejo Económico y Social España</i>) published the report on <a href="#">"Digitalization of the Economy"</a> (<i>Digitalización de la Economía</i>).</p> <p>This updated report (previous one published in 2017) analysed the increasing evolution of digitalization in recent years and how it impacted the national economy and the national employment creation.</p> <p>It also presents the main challenges digital breaches still mean in our current society and, on the other hand, the amount of development and new sectorial opportunities it has created. It also provides an examination of the <a href="#">National Digitalization Strategy 2025</a> (<i>España Digital 2025</i>) and reinforces investment in R+D public spending priority.</p>	<p>Yes (with a specific reference to fundamental rights such as gender, discrimination and data protection)</p> <p><b>Gender:</b> To reduce the gender gap in terms of digital competencies.</p> <p><b>Discrimination, ethics and Data protection:</b> Artificial intelligence can lead to biased selections and result in a lack of protection of fundamental rights, which is giving rise to important debates on the ethical dimension of artificial intelligence and on the need to apply measures that avoid biases or discriminations derived from its application and that can be harmful to the rights of citizens in the area it requires a regulatory framework which provides sufficient legal certainty and which, in particular, respects the data protection regulation.</p>	<p>Spain, Spanish Social and Economic Council (<i>Consejo Económico y Social España</i>) (2021) <a href="#">"Digitalization of the Economy"</a> (<i>Digitalización de la Economía</i>), Madrid, Spanish Social and Economic Council.</p>
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<p><b>ES</b></p>	<p>Academia</p>	<p>report/ study</p>	<p><b>On 3 June 2021</b>, it was published an article <a href="#">"Artificial Intelligence, Administrative Law and Personal Data Protection. In Between Person 's Dignity and Administrative Efficiency"</a> (<i>Inteligencia Artificial, derecho administrativo y protección de datos personales. Entre la dignidad de la persona y la eficacia administrativa</i>).</p> <p>It examines how technological advances and the increasing modernisation processes of the different public administrations allowed to show the need for a <b>legal system</b> to combat the scope of society digitalization's impulse.</p> <p>It also explains how Administrative Law has been accentuated through all the digital progress, highlighting the legal protection of personal data as one of its main challenges.</p>	<p>Yes (with a specific reference to fundamental rights such as data protection, ethics and gender)</p> <p><b>Data protection:</b> It concluded that to speak of technological development requires, necessarily, to refer to the concepts of privacy and protection of personal data. This right is the cornerstone of the social and democratic State of Law with the challenge of evolution.</p> <p><b>Ethics:</b> it is necessary to be alert and monitor both the ethical legitimacy of the processing of personal data and its unexpected effects. It is also important to pay special attention, among many other issues, to the adoption of relevant measures to minimize gender biases, thereby avoiding the establishment of new sources of inequality between women and men in the face of digital development.</p> <p><b>Gender:</b> includes a section titled 'Ethics and Law' (<i>Ética y derecho</i>) intended to guarantee gender equality in the digital world.</p>	<p>University of Salamanca, IUS ET Domínguez Álvarez, J. SCIENTIA, Vol. 7, Nº 1, pp. 304 – 326, (2021) <a href="#">"Artificial Intelligence, Administrative Law and Domínguez Álvarez, J.L. (2021). Personal Data Protection. In Between Person's Dignity and Administrative Efficiency"</a>, vol. 7 n. 1 (2021): el jurista en la era digital: inteligencia artificial, robótica, tecnologías anexas y bioderecho, Salamanca.</p>
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<p><b>ES</b></p>	<p>Academia</p>	<p>report/ study</p>	<p><b>On 7 May 2021</b>, it was published an article <a href="#">“Big Data and Artificial Intelligence: An approach to the ethical and legal challenges of its implementation in tax administrations”</a> (<i>Big data e inteligencia artificial: una aproximación a los desafíos éticos y jurídicos de su implementación en las administraciones 20dolescents</i>).</p> <p>Its purpose was to identify and analyse ethical and legal challenges that arise from disruptive technologies by public administrations institutions associated with artificial intelligence. It especially referred to those cases where it tackles the prosecution of tax fraud.</p> <p>The article identified several risks which are involved in the interaction between artificial intelligence and citizens’ rights.</p> <p>Those risks could be “accidental” damages which may be caused to the rights and guarantees of the taxpayer, in particular, those relating to the processing of personal data; and the biases and discriminations that can be caused by the use of algorithms trained in big data systems, among others.</p> <p>The paper also calls for the much-needed transparency and accountability associated with automated decision-making by the tax administration.</p>	<p>Yes (with a specific reference to fundamental rights such as discrimination, data protection and ethics)</p> <p><b>Discrimination:</b> one of the greatest risks and uncertainties that the use of artificial intelligence in the hands of a tax administration holds is the commission of errors in automated decision-making and the introduction of strategic algorithmic biases and discrimination when violating individual rights of taxpayers recognized in current regulations, whose practical implications are not yet sufficiently explored, for example, automated decision-making based on incomplete – and therefore unreliable or wrong – data that cyber-attacks, biases and discrimination could manipulate.</p> <p><b>Data protection:</b> it is necessary to take into account that the use and processing of personal data in public administrations through the implementation of artificial intelligence, involves different risks compared to those derived from a treatment that can be carried out by any other responsible and that emanate from the volume of affected subjects, the extent of the data collected, of the impossibility, in</p>	<p>Rodriguez Peña, N. L., (2021), “Big Data and Artificial Intelligence: An approach to the ethical and legal challenges of its implementation in tax administrations”, SCIENTIA. Vol. 7, Nº 1, pp. 62-84, Salamanca University.</p>
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				<p>many cases, of opposing the processing, and of the inherent power or asymmetry that exists in the relations between the public administration and the citizens or interested parties of whom the data are processed.</p> <p><b>Ethics:</b> it is pointed out that a reliable artificial intelligence must be based on three components: legality, ethics and robustness.</p>	
<b>ES</b>	Academia	report/ study	<p><b>On 25 March 2021</b>, an article entitled Artificial Intelligence (and Public Administration) analysed the Spanish national strategy. It addresses the following questions: How are the main international organizations framing AI ethically and legally? What is the framework of priorities of the AI policy endorsed by the Government of Spain in connection with the European Union? What is the perception about AI by IT managers (CIOs) in ministries? The results indicate some key issues in designing policies and strategies to use AI in different politico-administrative contexts.</p> <p>The ways of future work are diverse. First, it is necessary to consider the multidisciplinary nature of algorithms and</p>	<p>Yes, with fundamental rights as a whole and with a specific reference such as discrimination, data protection and ethics)</p> <p>Impact of the use of AI from a human rights perspective. The remedies linked to the establishment of accountability mechanisms obligation of member states to facilitate the implementation of human rights standards in the private sector; and accountability for potential human rights violations that may occur when implementing AI systems; AI models and algorithm governance call into question many of the ethical balances of our societies and, de facto, pose problems related to bias and discrimination, as well as fundamental freedoms and privacy of personal data-</p>	<p>Criado, J.I. (2021), <a href="#">Artificial Intelligence (and Public Administration)</a>, Madrid, Eunomía, Revista en Cultura de la Legalidad.</p>

			<p>AI once their adoption and use are generalized. Therefore, it is critical to incorporate in its design and application diverse perspectives from the social, behavioural and economic sciences, but also the legal and ethical world, to build instruments that benefit society as a whole and that question their real implications in the lives of people and organizations. Additionally, it is increasingly important to have evidence on the effects that algorithmic models and AI systems are causing in the organizations and people who interact with them. Finally, public administrations become key actors in the development of AI in our societies, not only because they are responsible for defining national agendas and catalysing actions and resources but also as areas of application of technology.</p>		
<b>ES</b>	Academia & Government/	Other 22doles c	<p><b>On 13 July 2021, the Valencia Regional Government</b> (<i>Generalitat Valenciana</i>) and the University of Alicante developed a project based on big data and artificial intelligence.</p> <p>The initiative seeks to predict the evolution of COVID-19 in an infected person and allows personalized health care by taking into account the patient's previous pathologies and symptoms.</p>	No specific reference to fundamental rights	<p>Generalitat Valencia and University of Alicante (2021), "<a href="#">La Generalitat y la Universidad de Alicante desarrollan un proyecto con Inteligencia Artificial para mejorar la atención a pacientes COVID-19</a>", Press</p>

			<p>The project had an effectiveness of around 80% and was financed by the <i>Generalitat</i> with a budget of 100,000 euros.</p> <p>Its main <b>purpose</b> was to integrate, process, and clean the medical big data sources and build models based on artificial intelligence. The development of a platform has been developed. It accesses patients' medical records, aiming to extract information on previous pathologies, received treatments and tests carried with the main goal of detecting Covid-19.</p> <p>More than 3,000 variables belonging to 6,000 patients were included and analysed in the algorithm. This development not only pretends to be implemented in hospitals of Valencia. Therefore, its implementation in hospitals of Spain will be studied.</p>		23dolesc, 13 July 2021.
<b>ES</b>	Academia & Government/	Other 23doles c	<p>The <b>Salamanca University</b> (<i>Universidad de Salamanca</i>, USAL, in its Spanish acronym) <b>received 1.1 million euros through the program titled <a href="#">R&amp;D missions in Artificial Intelligence 2021</a></b> (<i>Misiones de I+D en Inteligencia Artificial 2021</i>), launched on 26 June 2021 by the Spanish Government. It facilitated its participation in two IA projects: "AgrarIA"-Artificial Intelligence Applied to the Value Chain of Agricultural Production 2050</p>	No specific reference to fundamental rights	Spain, Government of Spain. Ministry of Economic Affairs and Digital Transformation ( <i>Gobierno de España. Ministerio de Asuntos Económicos y Transformación Digital</i> ) <a href="#">AI Missions</a>

			( <i>Inteligencia Artificial Aplicada a la Cadena de Valor de la Producción Agraria 2050</i> ); and "IA4TES": Artificial Intelligence for the Sustainable Energy Transition ( <i>Inteligencia Artificial para la Transición Energética Sostenible</i> ) with a financing of 750,000 euros and 350,000 euros, respectively.		(2021) Misiones IA (2021), 24dolesc website.
ES	Independent State Institution	Other projects	<b>On 9 September 2021, 'Red.es'</b> , a public business entity attached to the Ministry of Economic Affairs and Digital Transformation ( <i>Ministerio de Asuntos Económicos y Transformación Digital</i> ) through the State Secretariat for Digitalization and Artificial Intelligence ( <i>Secretaría de Estado de Digitalización e Inteligencia Artificial</i> ), opened the application period for the <a href="#">Call for aid 2021 intended for research and development projects in Artificial intelligence and other digital technologies and their integration in the value chains</a> ( <i>Convocatoria de ayudas 2021 destinadas a proyectos de investigación y 24dolescent en inteligencia artificial y otras tecnologías digitales y su integración en las cadenas de valor</i> ) for research and development projects in artificial intelligence (AI) and other digital technologies, and their integration into value chains.	Yes (with a specific reference to fundamental rights such as gender)  <b>Gender:</b> the gender equality measures of the applicant and the project shall be assessed.	Spain, Ministry of Economic Affairs and Digital Transformation ( <i>Ministerio de Asuntos Económicos y Transformación Digital</i> ) (2021), <a href="#">Call for aid 2021 intended for research and development projects in Artificial intelligence and other digital technologies and their integration in the value chains</a> ( <i>Convocatoria de ayudas 2021 destinadas a proyectos de investigación y desarrollo en inteligencia artificial</i> )

		<p>The Call had a dual purpose: On the one hand, promoting scientific research, technological development, and innovation in Artificial intelligence; and, on the other, promoting technological development for the incorporation of artificial intelligence in the production processes of value chains.</p> <p>This funding Call was promoted under the <a href="#">Recovery, Transformation and Resilience Plan</a> (<i>Plan de Recuperación, Transformación y Resiliencia</i>). It was established under the <a href="#">Digital Spain 2025</a> (<i>España Digital 2025</i>) and the <a href="#">National Artificial Intelligence Strategy</a> (<i>Estrategia Nacional de Inteligencia Artificial</i>).</p> <p>The funding Call had a Budget of 105 million and allocated 55 million euros for projects aimed at experimental development related to digital technologies such as artificial intelligence; massive data and information processing technologies; natural language processing; cybersecurity; biometrics and digital identity; blockchain; robotics; virtual and augmented reality; special effects and simulation; and 3D printing and additive manufacturing; among others.</p> <p>The minimum budget for eligible industrial research projects was 500,000 euros, while the maximum would be 10 million euros. In</p>		<p><i>y otras tecnologías digitales y su integración en las cadenas de valor</i>), 9 September 2021.</p>
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			the case of experimental development projects, the minimum will be 300,000 euros and the maximum 5 million euros.		
<b>ES</b>	Business	Other projects	<p>Several Spanish large enterprises (Repsol, Gestamp, Navantia, Técnicas Reunidas, Telefónica and Microsoft) decided <b>to promote a strategic consortium of national scope</b>, with a European vocation that will integrate other companies and sectors.</p> <p>It was a tractor project to promote the use of data and artificial intelligence (AI) in Spanish industrial companies, with the support and experience of pioneering organizations in this field, such as the Basque Artificial Intelligence Centre (BAIC)</p> <p>It seeks to boost employability, reducing the existing training gap in the disciplines called STEM (science, technology, engineering and mathematics), generating new highly qualified jobs and facilitating the attraction and retention of technological talent in Spain.</p>	No specific reference to fundamental rights	<p>Repsol, <a href="#">Seis grandes empresas crean el primer consorcio de inteligencia artificial de la industria en España</a>, press 26dolesc, 15 June 2021.</p>
<b>ES</b>	Business	Other projects	<p>Microsoft established in Barcelona a hub focused on AI models to improve the user experience on the web. It is one of its eight global R&amp;D centres in artificial intelligence to improve the user experience and attract talent from all European countries.</p>	No specific reference to fundamental rights	<p>Microsoft Corporation, <a href="#">Microsoft creates an R&amp;D hub in Spain focused on Artificial Intelligence models to improve user</a></p>

					<a href="#">experience</a> , press release, 13 September 2021.
<b>ES</b>	NGO/Other Non-Profit	Other projects	<p>The Alicante University and the Alicante Office of the Spanish Red Cross signed a collaboration agreement to apply Artificial Intelligence to solidarity projects.</p> <p>It will include volunteering, staff or beneficiaries of the different projects. Thus, they explored the possibility of applying disruptive technologies in their processes.</p> <p>It is valued to apply Artificial Intelligence algorithms to make predictions about the users' needs of their programs.</p>	The core values of the Red Cross organization will guarantee the implementation of any of those actions in line with the human rights principles.	Spain, Alicante University ( <i>Universidad de Alicante</i> ), <a href="#">El Parque Científico de la UA firma un convenio con Cruz Roja para aplicar Inteligencia Artificial a proyectos solidarios. Actualidad Universitaria</a> , press release, 22 July 2021.
<b>ES</b>	Government/Parliamentary	other 27doles c	The official vaccinations certificates began to be issued in Spain on the 7 <sup>th</sup> of June 2021 to be issued and recognized as the EU digital COVID Certificate. Citizens living in Spain must request it in their Autonomous Community. Additionally, the Ministry of Health issues vaccination certificates, only electronically.	No specific reference to fundamental rights.	Spain, <a href="#">Map of the status of the issuance of the EU Digital COVID Certificate in Autonomous Communities</a> ( <i>Mapa del estado de la expedición del Certificado COVID Digital de la UE en Comunidades Autónomas</i> ),



## Chapter 6. Rights of the child

### 6.1 Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence

<b>Measures to address the specific vulnerabilities of children living in poverty</b>	<p><b>On 3 February 2021, the Spanish Government presented the “<a href="#">Zero Child Poverty Country Alliance</a>” (<i>Alianza País Pobreza Infantil Cero</i>)<sup>103</sup>. The High Commissioner launched the fight against Child Poverty (<i>Alto Comisionado para la lucha contra la pobreza 28dolescen</i>) with more than 75 partners. <b>Its objective</b> is to change the path of child poverty in Spain through a deep and strong collaboration between the Administration, companies, foundations and the third sector. The initiative was established around two goals: <b>guaranteeing an inclusive and quality education and creating healthy, positive and safe environments</b>. Several <b>challenges were identified</b>: promoting educational achievement, empowering talent, breaking the digital division, guaranteeing a balanced physical, psychological, and social health, promoting a safe environment, and protecting and encouraging participation based on equity.</b></p> <p>Four lines of work were established to achieve these objectives: coordination between alliance actors, social awareness of this problem, quality training, and mobilization of public and private resources.</p> <p><b>On 17 February 2021, Red.es</b>, a public business entity attached to the Ministry of Economic Affairs and Digital Transformation (<i>Ministerio de Asuntos Económicos y Transformación Digital</i>), authorized “<a href="#">Educational Spot at Home</a>” (<i>Puesto Educativo en el Hogar</i>) for the autonomous communities of Andalusia, Cantabria, La Rioja and the Murcia Region, developed under the “<a href="#">Educa en Digital</a>” program<sup>104</sup>. This “<a href="#">Educa en Digital</a>” program was approved by the National Parliament (<i>Cortes Generales</i>) on 16 June 2020 and aimed to supply reliable and quality equipment so that they can be provided to students enabling them to access education with digital media, both at home and in the educational centre itself. In addition, the program is aimed at supplying tools, and curricular resources facilitating digital education,</p>
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<sup>103</sup> Spain, High Commissioner against Child Poverty (*Alto Comisionado contra la Pobreza Infantil*) (2021), [Zero Child Poverty Country Alliance](#) (*Alianza País Pobreza Infantil Cero*), High Commissioner against Child Poverty Official Website.

<sup>104</sup> Press release, 17 February 2021.; [El Gobierno lanza el programa Educa en Digital para impulsar la transformación tecnológica de la Educación en España](#), 16 June 2020.

	<p>both face-to-face, at the centre, and from home, and offers training for teachers to provide the educational community with digital resources. The global budget for this action in these autonomous communities' amounts to € 109.3 M.</p> <p>The Spanish government approved in December 2020 the <a href="#">General State Budget Law 2021</a> (<i>Ley de Presupuestos Generales del Estado</i>).<sup>105</sup> It included <b>3,000 million euros for the Minimum Living Income</b> (<i>Ingreso Mínimo Vital</i>). Over <b>half of the beneficiaries will be children and adolescents</b>. Through both National State Budget and the Minimum Living Income, it seeks to increase by 60% the establishment of programs to combat child poverty, up to 164 million euros; to allocate 340 million euros to educational reinforcement actions, and to invest 776 million euros in Vocational Training and 401 million euros in education for children between 0 to 3 years.</p> <p>This funding Call was promoted under the <a href="#">Recovery, Transformation and Resilience Plan</a> (<i>Plan de Recuperación, Transformación y Resiliencia</i>), to dedicate more than 670 million euros within the Recovery, Transformation and Resilience Plan and the creation of public education places 0-3 until 2023. The Council of Ministers has authorized the distribution of two hundred million euros among the autonomous communities to create 21,000 new public places for early childhood education aimed at schooling children from 0-3 years old. This item, included in the Transformation and Resilience Recovery Plan, will be completed in 2022 and 2023 to reach a total investment of 670.1 million euros, which will allow the creation of more than 65,000 free public places.<sup>106</sup></p> <p><b>In December 2021, the Law 19/2021, of December 20, which proves the minimum vital income</b> (<i>Ley 19/2021, de 20 de diciembre, por la que se establece el ingreso mínimo vital</i>)<sup>107</sup> was approved to enter into effect on 1 January 2022. It included the creation of the Child Support</p>
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<sup>105</sup> Spain, Head of State (*Jefatura del Estado*) (2021), [Law 11/2020, of December 30, on General State Budgets for the year 2021](#) (*Ley 11/2020, de 30 de diciembre, de Presupuestos Generales del Estado para el año 2021*), 1 January 2021.

<sup>106</sup> Spain, Spanish Government (*Gobierno de España*), [El Gobierno favorece la creación de 65.000 plazas públicas y gratuitas para escolarizar a niños de 0 a 3 años](#), press reléase, 16 November 2021.

<sup>107</sup> Spain, Head of State (*Jefatura del Estado*), [Law 19/2021, of December 20, which establishes the minimum vital income](#) (*Ley 19/2021, de 20 de diciembre, por la que se establece el ingreso mínimo vital*), 20 December 2021<sup>107</sup>

	<p>Supplement (<i>Complemento de Ayuda para la Infancia</i>) that will amount between 50 and 100 euros per month to help children and low-income families.</p> <p>The Interprofessional Minimum Salary (<i>salario mínimo interprofesional</i>, SMI, in its Spanish acronym) was set at 32.17 euros/day or 965 euros/month, depending on if the salary is fixed by days or by months. As in effects from <a href="#">Royal Decree 817/2021, of September 28, which sets the minimum wage for 2021</a> (<i>Real Decreto 817/2021, de 28 de septiembre, por el que se fija el salario mínimo para 2021</i>)<sup>108</sup>.</p> <p><b>On 8 April 2021</b>, the results of the solidarity campaign "<a href="#">Feeding our future</a>" (<i>Alimentando nuestro 30doles</i>)<sup>109</sup> were introduced by the Secretary of State for Transport, Mobility and Urban Agenda (<i>Secretaría de Estado de Transportes, Movilidad y Agenda Urbana</i>). <a href="#">Ineco</a> carried out this solidarity campaign collaborating with the NGOs SOS Children's Villages, the Spanish Red Cross and Educo. It aimed at supporting the most vulnerable families. Such action allowed <a href="#">Ineco</a> (<i>Ingeniería y Economía del Transporte</i>, INECO, in its Spanish acronym, a Spanish private company specializing in civil engineering) to provide <b>5,011 snacks for children well as financially helping for another 5,011 meals</b>, to improve <b>childhood nutrition</b>. This financial aid is added to the already existing projects to combat child poverty of those NGOs to reverse the vulnerability of Spanish families aggravated by the consequences of the Covid-19 pandemic. The initiative is part of the solidarity project <a href="#">CompromiSOS</a>, with which <a href="#">Ineco</a> supports various actions throughout Spain.</p> <p><b>On 7 April 2021</b>, the <b>Caixa Foundation</b> (<i>Fundación la Caixa</i>) launched a funding call for the <a href="#">Fight against child poverty and social exclusion</a><sup>110</sup> (<i>Lucha contra la pobreza 30dolescen y la 30dolescen social</i>). Its main <b>objectives</b> were: <b>ending the cycle of child poverty and promoting projects that facilitate social inclusion processes of people in vulnerable situations, thus enhancing their capabilities and promoting equal opportunities</b>. The main areas of action were: social and educational development of children and adolescents in</p>
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<sup>108</sup> Spain, Ministry of Labour and Social Economy (*Ministerio de Trabajo y Economía Social*), [Royal Decree 817/2021, of September 28, which sets the minimum interprofessional salary for 2021](#) (*Real Decreto 817/2021, de 28 de septiembre, por el que se fija el salario mínimo interprofesional para 2021*), 29 September 2021.

<sup>109</sup> Secretary of State for Transport, Mobility and Urban Agenda (*Secretaría de Estado de Transportes, Movilidad y Agenda Urbana*), (2021) "[Feeding our future](#)" ("*Alimentando nuestro futuro*").

<sup>110</sup> Caixa Foundation ([Fundación la Caixa](#)) (2021), [Fight against child poverty and social exclusion](#) (*Lucha contra la pobreza infantil y la exclusión social*), Official Website, Caixa Foundation.

	<p>vulnerable situations; and social inclusion of people at risk of poverty and exclusion.</p> <p><b>In December 2021, Save the Children</b> published an analysis of mental health and suicide in childhood and adolescence titled Growing healthy (<i>Crecer saludablemente</i>). It concluded that children living in low-income households were four times (13 per cent) more likely to suffer from mental or behavioral disorders than those in high-income households. The Covid-19 pandemic tripled the number of mental disorders among children and adolescents. Online interviews at national level were conducted with 2,046 adults and with children between 4 and 16 years old. In terms of age, 87% of the sample corresponds to adults between 35 and 55 years old. The report shows the incidence of these problems is three times higher (10%) in unemployed families than among children and adolescents living in families that were employed (3%) after the COVID-19 crisis. Also, in the poorest households is concentrated a greater proportion of migrant childhood with a higher incidence of mental and/or behavioral disorders<sup>111</sup>.</p>
<p><b>Measures to protect children from violence (including online abuse)</b></p>	<p><b>On 6 May 2021, the National Ombudsman</b> (<i>Defensor del Pueblo</i>) published its <a href="#">Annual Report</a><sup>112</sup>, which concluded that the global Covid-19 pandemic marked the 2020 year's work. The report expressed concern with the lack of collaboration of the Provincial Directorate of Education (<i>Dirección Provincial de Educación</i>) in Melilla, a group of children born or residing in the Melilla autonomous city without school enrolment for years. Throughout 2020, <b>the National Ombudsman</b> (<i>Defensor del Pueblo</i>) stated that various actions were initiated and made suggestions to the General Directorate of Educational Planning and Management of the Ministry of Education and Vocational Training (<i>Dirección General de Planificación y Gestión Educativa del Ministerio de Educación y Formación Profesional</i>).</p> <p><b>On 4 June 2021</b>, it was approved the <a href="#">Organic Law 8/2021 on comprehensive protection of children and adolescents against violence</a> (<i>Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia</i> <sup>113</sup>. It's known</p>

<sup>111</sup>Save the Children Spain (2021), [Growing healthy](#) (*Crecer saludablemente*), Madrid, Save the Children España.

<sup>112</sup>Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Annual Report 2020](#) (*Informe Anual 2020*), 6 May 2021.

<sup>113</sup> Spain, Head of State (*Jefatura del Estado*) (2021), [Organic Law 8/2021 on comprehensive protection of children and adolescents against violence](#) (*Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia*), 4 June 2021.

as the **“Rhodes Law”**, and it completes the **incorporation of the Directive 2011/93/UE into the Spanish Law**, tackling the fight against sexual abuse, sexual exploitation, and child pornography. Its **main purpose** is to comprehensively combat violence against children and adolescents, focusing on prevention and education. In addition, it has well-established measures for early detection, assistance, and reintegration of the victim’s violated rights.

It regulates the **duty to communicate** situations of violence. Doing so establishes a generic responsibility for all citizens to immediately notify the authorities of any existing signs of violence against children or adolescents.

**It reinforces children’s right to be informed and heard and** the importance of electronic means of communication. It foresees that the Public Administration will provide the required standards so that the children or adolescents who were victims of violence or who witnessed a situation of violence will be fully able to communicate such information safely and easily

The Law regulates **awareness, prevention, and early detection of violence against children**. It includes the obligation of the General State Administration to have a Strategy for the eradication of violence against children and adolescents. The competent Public Administration shall establish **prevention plans and programs** to eradicate violence against children and adolescents, identify risk groups, and early detection measures. **In addition, the Spanish Government had the mandate to create specialized courts focusing on prevention, with the deployment of initiatives, from training professionals who work with children and establishing protocols in schools, sports centres, and children centres.**

The Law also regulates the competencies of Embassies and Consular Offices concerning **protecting the interests of Spanish children abroad**. It also regulates the functions of the Spanish Agency for Data Protection (*Agencia Española de Protección de Datos*, AEPD in its Spanish acronym). In addition, it must guarantee an accessible and secure channel for reporting illegal content on the Internet when it seriously undermines the right to personal data protection.

Regarding **children centres**, it established the obligation to apply action guidelines. These protocols must contain specific actions to prevent and intervene in possible cases of abuse, sexual exploitation, and human trafficking.

	<p><b>A Central Registry of information on violence against children and adolescents</b> will be established.</p> <p>Other developments established by the new Law were: <b>the prioritization of housing solutions in the face of evictions of families, in which one of its members is a child; monitoring public opinion data on violence against children and adolescents through periodic surveys; updating the references to the <a href="#">Unified Registry of Child Abuse</a> (<i>Registro Unificado de Casos de Sospecha de Maltrato Infantil</i>, RUMI, in its Spanish acronym).</b></p> <p>Other developments introduced <b>referred to the ending impunity for serious crimes against children, extending the time limit for child abuse crimes, including sexual assaults from 18 to 35 years old.</b></p> <p><b>In January 2021</b>, the <b>NGO Save the Children</b> published "<a href="#">Barnahus: under the same roof, a resource to protect child victims of violence in the Valencian Community.</a>"</p> <p><i>(Barnahus: bajo el mismo techo. Un recurso para proteger a niños y niñas víctimas de la violencia en la Comunitat Valenciana)</i>.<sup>114</sup></p> <p>This report expresses the proposal to implement this model first established in Iceland. Consisting of a child-friendly space where social, health, educational, police and judicial services were integrated under the same roof in a coordinated and integrated way, providing social and judicial care for children victims of sexual violence.</p> <p><b>From 1 October 2021 to 31 December 2021</b> (50 hours in total), <b>the first university specialization course was launched, "<a href="#">Child Protection Delegate and/or Adolescence in Sports and Leisure contexts</a>"</b><sup>115</sup> <b>by the</b> <a href="#">Valladolid Miguel de Cervantes European University</a> (<i>Universidad Europea Miguel de Cervantes</i>, UEMC, in its Spanish acronym) in collaboration with the Castilian and Leones Association for the Defence of Children and Youth (<i>Asociación Castellano y Leonesa para la Defensa de la Infancia y la Juventud</i>). In response to the <b>need to create the figure of a Delegate of Protection</b> within the sports and/or leisure sectors as 33dolesce</p>
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<sup>114</sup> Save the Children (2021), (*Barnahus: bajo el mismo techo. Un recurso para proteger a niños y niñas víctimas de la violencia en la Comunitat Valenciana*), January 2021.

<sup>115</sup> Miguel de Cervantes European University (*Universidad Europea Miguel de Cervantes*) (2021), "[University specialization course on Child Protection Delegate and / or Adolescence in Sports and Leisure contexts](#)" (*Curso Universitario de Especialización en Delegado/a de Protección en Infancia y/o Adolescencia en Contextos Deportivos y de Ocio*), Miguel de Cervantes European University's Official Website.

by the [Organic Law on Childhood and Adolescent Integrated Protection against Violence](#) (*Ley Orgánica de Protección Integral a la Infancia y la Adolescencia frente a la violencia*, LOPIVI, in its Spanish acronym). The **Delegate of protection** will be the person to whom children and adolescents may express their social welfare and safety concerns. In addition, this figure will ensure compliance with the protocols established for protecting children and adolescents, and he must report all cases in which a situation of violence was detected.

**On 6 and 7 July 2021**, the Murcia Association in support of battered children (*Asociación murciana de apoyo a la infancia maltratada*, AMAIM, in its Spanish acronym) held two **conferences** on "[Dialogues of Good Practices in Childhood and Adolescence](#)" <sup>116</sup> (*Diálogos de Buenas Prácticas en la Infancia y Adolescencia*). These conferences were organized in collaboration with the [Federation of Associations for the Prevention of Child Abuse](#) (*Federación de Asociaciones para la Prevención del Maltrato Infantil*, [FAPMI-ECPAT](#), in its Spanish acronym) and with the financial support of the Ministry of Social Rights and 2030 Agenda. (*Ministerio de Derechos Sociales y Agenda 2030*).

**In April and May 2021**, the **Castilian-Leones Association for the Defence of Children and Youth**<sup>117</sup> (*Asociación castellano leonesa para la defensa de la infancia y la juventud*, REA, in its Spanish acronym) held four different free online learning experiences. The training tackled various issues such as 1) Bullying, 2) Interview skills in risk situations for children and adolescents, 3) IV Edition of Child Abuse Course (*IV Edición Curso Maltrato Infantil*), and 4) Responsible Use of the Internet and Social Networks.

**On 17 August 2021**, the **National Ombudsman** (*Defensor del Pueblo*) published a specific monographic on [Children and Adolescents on the Annual Report 2020](#) (*Los niños y los 34 adolescents en el informe anual del Defensor del Pueblo 2020*).<sup>118</sup> An important chapter of this report is the one dedicated to education. In this field, the pandemic showed a stagnation of the function of a social elevator that education was performing, exposing the limiting character within which it acts. Many families

<sup>116</sup> AMAIM (2021), [Conferences on "Dialogues of Good Practices in Childhood and Adolescence"](#) (*Jornadas de «Diálogos de Buenas Prácticas en la Infancia y Adolescencia»*), July, 2021.

<sup>117</sup> REA (2021), REA Trainings April and May 2021 ([Formaciones REA Abril y Mayo 2021](#)), April and May 2021.

<sup>118</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Children and Adolescents on the Annual Report 2020](#) (*Los niños y los adolescentes en el informe anual del Defensor del Pueblo 2020*), Madrid, National Ombudsman.

	<p>suffered as they did not have sufficient resources to obtain the means that allow their children access under equal conditions. In many cases, this situation originated. An inequality gap , and the need to improve measures that facilitate the reconciliation of family and work-life was also highlighted.</p> <p><b>In November 2021, the Children Observatory in Andalusia</b> (<i>Observatorio de la Infancia en Andalucía</i>, OIA, in its Spanish acronym) <b>published its 2021 Report</b><sup>119</sup>. <b>It concluded that</b> 28.5% of people under 18 are at risk of poverty or social exclusion, 451,474 children and adolescents in 2020. This year girls have a risk of poverty or social exclusion (with the relative poverty line of Andalusia) 3 percentage points higher than boys. If the relative poverty line of Spain is used, the risk of poverty or social exclusion reaches 37.4% of the Andalusian underage population. In addition, 45.1% of single-parent households with at least one dependent son or daughter are at risk of poverty or social exclusion (Andalusia poverty line) in 2020, a risk 22 percentage points higher than that of households composed of two adults with at least one dependent son or daughter in the Autonomous Community.</p>
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## 6.2 Legal and policy developments or measures relating to criminal proceedings

<b>Legislative changes</b>	<p><b>On 4 June 2021, the <a href="#">Organic Law 8/2021 on comprehensive protection of children and adolescents against violence</a></b> (<i>Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia</i>)<sup>120</sup> was approved. It referred to guaranteeing children and adolescents' rights in criminal proceedings. The regulation of preventive measures of a criminal and civil nature that may be adopted during the criminal process, which may affect children, was modified. In addition, an exception was established to the general regime of dispensation from the duty to notify, when determining the obligation to report the spouse and close relatives of the person who committed a criminal act in the case of a serious</p>
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<sup>119</sup> Rodríguez García de Cortázar, A. (2021), [Report 2021 of the Children Observatory in Andalusia](#), Sevilla, Consejería de Igualdad, Políticas Sociales y Conciliación.

<sup>120</sup> Spain, Head of State (*Jefatura del Estado*) (2021), [Organic Law 8/2021 on comprehensive protection of children and adolescents against violence](#) (*Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia*), 4 June 2021.



	<p>crime committed against a child or an adolescent, to protect them in criminal proceedings.</p> <p>Another modification introduced by the <a href="#">Organic Law 8/2021 on comprehensive protection of children and adolescents against violence</a> was the previous Central Registry of Sex Offenders regulated by <a href="#">Royal Decree 1110/2015</a> (<i>Real Decreto 1110/2015</i>), renamed as the Central Registry of Sex Offenders and Human Trafficking (<i>Registro central de Delincuentes Sexuales y Trata de Seres Humanos</i>) with the same objective and functions.</p> <p>This <a href="#">Organic Law 8/2021 on comprehensive protection of children and adolescents against violence</a> (<i>Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia</i>)<sup>121</sup> established in its <b>Article 57 a new regulation related to the Central Registry</b>. It included a specified requirement regarding the access and exercise of any profession, trades and activities that involve regular contact with children, such as not having been convicted for any crime against sexual freedom and indemnity typified in title VIII Crimes against sexual freedom and indemnity (<i>Delitos contra la libertad e indemnidad sexuales</i> of the <a href="#">Organic Law 10/1995 of the Criminal Code</a> (<i>Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal</i>), as well as for any crime of human trafficking, typified in title VII bis on human trafficking (<i>De la trata de seres humanos</i>) of the Criminal Code. It is also established under <b>Article 60 of this Law 8/2021 that the criminal records</b> that appear as cancelled will not be taken into account.</p> <p><b>As far as issues affecting the Criminal Responsibility of Children</b>, It modified the Eleventh Final Provision of LO 8/2021 LO 5/2000, of January 12, regulating the criminal responsibility of children concerning the rights of victims and injured persons (art. 4 LO 5/2000)<sup>122</sup> and surveillance and security measures (art. 59 LO 5/2000).</p> <p>Article 17bis <b>establishes that people under fourteen years of age in conflict with the law</b> are criminally unimpeachable according to article 3 of the <a href="#">Organic Law 5/2000 on the criminal responsibility of children</a> (<i>Ley Orgánica 5/2000, de 12 de enero, reguladora de la responsabilidad Criminal de los menores</i>). This article will be</p>
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<sup>121</sup> [Organic Law 8/2021 on comprehensive protection of children and adolescents against violence](#) (*Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia*)

<sup>122</sup> Spain, Ministry of Justice (*Ministerio de Justicia*), [Organic Law 5/2000, of 12 January, regulating the criminal responsibility of children](#) (*Ley Orgánica 5/2000, de 12 de enero, reguladora de la responsabilidad penal de los menores*), 12 January 2000.

	<p>included in a <b>monitoring plan</b> carried out by the competent local authorities of every autonomous community. They, in addition, are in charge of assessing their social situation and whether the violent act could constitute a crime against sexual freedom, indemnity, or gender violence. If so, the monitoring plan must include a training module on gender equality.</p> <p><b>In July 2021</b>, a Decree was approved that modified article 76.2 of the Regulations for Organic Law 5/2000. It clarified the <b>need for communication to the children's legal defence of all agreements imposing sanctions on the children interned</b>, without prejudice to the rest of the communications currently being carried out in an obligatory manner.</p>
<p><b>Policy developments</b></p>	<p><b>In February 2021</b>, it was signed an agreement between the Ministry of Tourism, Regeneration and Justice together with the Ministry of Education and Sport (<i>Consejería de Turismo, Regeneración y Justicia junto a la Consejería de Educación y Deporte</i>) to guarantee access to education for young people included in the juvenile justice system and inmates in the Juvenile Offender Detention Centers (<i>Centros de Internamiento de Menores Infractores, CIMI</i>, in its Spanish acronym).<sup>123</sup> It guarantees schooling of children who meet a measure in the resources of Juvenile Justice, both in one of the 16 CIMI of the Andalusia region and in an open prison regime, especially those who are referred to an educational group. It undertook to provide the spaces, equipment, schedules and support staff necessary to develop the teaching activity with the centre's students and computer equipment and the required connectivity in the internment centres.</p> <p><b>In September 2021</b>, the National Statistics Institute (<i>Instituto Nacional de Estadística, INE</i>, in its Spanish acronym) published the <a href="#">Statistics Report on Convictions: Adults / Statistics on Convictions: Children (ECA / ECM in its Spanish acronym) 2020</a>, (<i>Estadística de Condenados: Adultos / Estadística de</i></p>

<sup>123</sup> Spain, Andalusian Government (Junta de Andalucía), [Justicia y Educación renuevan el convenio para garantizar la escolarización de los menores infractores](#), press release, 3 February 2021.

	<p><i>Condenados: Menores (ECA/ECM) Año 2020</i>).<sup>124</sup> Among the main relevant data, it was recorded that in 2020, 11.238 children (14 to 17 years old) were sentenced by a final judgment (20, 4% less than in 2019), being male 80.8% of convicted children 19.2%, and female. Moreover, <b>390 children were convicted of sexual offences in 2020</b>, a 6, 3% less than the previous year, being 98.1% male and 1.3% female. It analysed and pointed out that the convicted children committed 477 crimes of a sexual nature, 13% less than in 2019.</p> <p><b>In September 2021</b>, it was published the <b><u>2021 Public Prosecutor's Office Annual Report. 2020 Financial year</u></b> (<i>Memoria de la Fiscalía General del Estado 2021. Ejercicio 2020</i>)<sup>125</sup>. It mentions an increase of 12% of the qualifications for crimes against sexual freedom in which the victims were children. Regarding gender-based violence, it was no impact on the rise in the murders of children and other persons belonging to the affective bond of women.</p> <p>It also recorded the increase in sexist ideas of sexual violence among children and adolescents, <b>with a rise of 12% with underage victims and 20% concerning 2018 concerning sexual abuse committed by children and adolescents</b>. Sexual abuse by children increased drastically in 2019, with more than 1,300 cases (in 2018, 20% less).</p> <p><b>In November 2021, the Justice and education departments of the Andalusia regional government</b> launched the X edition of a crime prevention program. It aimed to reach second-year ESO students to raise awareness about the consequences of committing crimes once they already have criminal responsibility. In 2021, the activities were developed in seven Secondary Schools</p>
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<sup>124</sup> INE. “[Estadística de Condenados: Adultos / Estadística de Condenados: Menores \(ECA / ECM\) Año 2020](#)”, Press release, 15 September 2021.

<sup>125</sup> Spain, Ministry of Justice (*Ministerio de Justicia*) (2021), [Public Prosecutor's Office Annual Report 2020](#) (*Memoria de la Fiscalía General del Estado 2021*), Chapter VI, pp 922-963, Madrid, Ministry of Justice.

	<p>located in Jaen capital. Since it was launched, it reached almost 5,000 students, 4,850 who went through this program.<sup>126</sup>.</p> <p><b>In November 2021, it was presented in Extremadura Region, a new edition of the Ambulatory program for Juvenile Offenders with Addictive Behaviors and their families</b> (<i>Programa Ambulatorio para Menores Infractores con Conductas adictivas y sus familias</i>, PAMICAF PROGRAM, in its Spanish acronym). It seeks an educational-therapeutic intervention with juvenile offenders with problems of addictive behaviours with/without substance or related behaviours, who comply with judicial measures in an open environment, extrajudicial measures or weekend stay in the centre. In 2021 the novelty was the strengthening family intervention expanding care for children with judicial actions in an open prison regime. It is a joint action of the Technical Secretariat of Drug Dependencies of the SES (<i>Secretaria Técnica de Drogodependencias del SES</i>), General Directorate of SS, Children and Families of the Ministry of Health and Social Services of the Junta de Extremadura (<i>Dirección General de SS, Infancia y Familias de la Consejería de Sanidad y Servicios Sociales de la Junta de Extremadura</i>), Diocesan Caritas of Mérida-Badajoz and the Badajoz Children Public Prosecutor's Office of.<sup>127</sup>.</p>
<p><b>Other measures or initiatives</b></p>	<p>The <b>National Ombudsman</b> (<i>Defensor del Pueblo</i>), in its <a href="#">Annual Report 2020</a>, published in 2021, recorded seven visits made in 2020 to centres for juvenile offenders. Several recommendations were sent by the <b>National Ombudsman</b> (<i>Defensor del Pueblo</i>) to the Ministry of the Justice (<i>Ministerio de Justicia</i>). To abolish mechanical restraints to all juvenile detention centres throughout Spain (<i>centros de internamiento de menores infractores</i>, CIMI, in its Spanish acronym). It was concluded that there were alternatives to restraint to face a situation of tension or violence in juvenile centres. This concern was transferred to the Ministry of Justice, and the Ministry reported</p>

<sup>127</sup> [Programa PAMICAF | Drogas Extremadura](#)

	<p>that it had established a multidisciplinary working group to study the reform of mechanical restraints.</p> <p><b>In June 2021</b>, the <a href="#">National Ombudsman</a> (<i>Defensor del Pueblo</i>) published its <a href="#">Annual Report 2020: National Prevention Mechanism</a> (<i>Informe Anual 2020. Mecanismo Nacional de Prevención</i>)<sup>128</sup>. After supervising several places of liberty deprivation throughout Spain, it stated that the <b>National Ombudsman</b> (<i>Defensor del Pueblo</i>) demanded the Ministry of Justice repeal the legislation that <b>enables the use of mechanical restraints in detention centres for juvenile offenders</b> throughout the national territory. In its report also verified the deficient facts annotation in the detainees' registry book and custody file of, the book of children and the disabled people at risk, and in the form of Instruction 4/2018 of the Secretary of State for Security (<i>Secretaría de Estado de Seguridad</i>), which approved the "Protocol of action in the custody areas of detainees of the State security forces and bodies" (<i>Protocolo de actuación en las áreas de custodia de detenidos de las fuerzas y cuerpos de seguridad del Estado</i>).</p> <p><b>In May 2021</b>, it was published a study <b>on the educational model of Juvenile Justice Centers in Spain</b>, carried out between 2018 and 2019, based on the previous results obtained in the framework of broader research on the professionalization of social educators.<sup>129</sup></p> <p>The results show that the conceptualization of the category "children offender" was accompanied by a series of unfavourable attributes – inscribed in the scientific, legal, and political and media fields that build a certain stereotyped image of young people. These perception schemes guide an intervention model that emphasizes the negative characteristics that accompany the</p>
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<sup>128</sup> Spain, National Ombudsman's Office (*Oficina del Defensor el Pueblo*), 2021, [Annual Report 2020](#) (*Informe Anual 2020*), Madrid.

<sup>129</sup> [Venceslao, M., Rosa María Marí Ytarte](#) (2021), [Educational intervention in juvenile justice centers, an approach to its speeches and practices](#), *Pedagogía social: revista interuniversitaria*, Nº. 38, 2021, págs. 181-193.

	<p>category. For example, the conclusions referred that said “brands” work, both in programs and in practice, as “labels” that hinder the possibility of guiding an educational action open to new social paths for these young people.</p> <p><b>On 17 September 2021, the final conference of the RE-JUST project took place: <a href="#">European project RE-JUST “Towards a more responsive and victim-centered approach of the criminal justice system”</a> (<i>Proyecto europeo RE-JUST “Hacia un enfoque del sistema de justicia Criminal más receptivo y centrado en las víctimas</i>)<sup>130</sup>. The <a href="#">Social Consultancy Dinamia</a> (consultoría social Dinamia) was the Spanish partner of this project that began in 2020 but was running until September 2021. It <b>analyzed the situation of crime victims in the judicial processes of the participating countries: Spain, Romania, Bulgaria, Germany, and Finland</b>. The project aimed to promote the development of a criminal justice system that better supported the needs of victims. The project analyzed ideas and examples so that the criminal justice system's development is victim-centred and knowledgeable about trauma. The <b>main areas covered</b> included structural matters such as legislation and procedures and how to provide victims with information about their rights until understanding what trauma is, how it manifests itself, and how members of the criminal justice system may deal with it.</b></p> <p><b>In November 2021, Save the Children published a report titled <b>Sexual Abuse of Children in Spain</b><sup>131</sup>, containing a <b>description of the profile of the abuser</b>. Relatives or acquaintances About 84% of abusers are known, 6 to a greater or lesser degree, by children. Among the most common</b></p>
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<sup>130</sup> Social Consultancy Dinamia (*consultoría social Dinamia*) (2021), [European project RE-JUST “Towards a more responsive and victim-centered approach of the criminal justice system”](#) (*Proyecto europeo RE-JUST “Hacia un enfoque del sistema de justicia penal más receptivo y centrado en las víctimas*), Madrid, 2021.

<sup>131</sup> Save the Children, [Sexual Abuse of Children In Spain](#) (Los\_abusos\_sexuales\_hacia\_la\_infancia en España), Madrid, Save the Children.

	<p>spaces, the family environment stands out with almost half (49.5%) of the cases analyzed where some of the most frequent abuser profiles are: the father (24.9% of the total family environment and 12.3% of the total), another unidentified family member (19.7% of the family environment and 9.7% of the total), the partner of the typically male mother (18.8% of the family environment and 9.3% of the total), the grandparent (12.2% of the family environment and 6% of the total) or the uncle (6.6% within the family environment and 3.2% of the total).</p> <p><b>Known aggressors</b> outside the family environment (34.5% of cases), 9.7% of the victim's friends or companions stand out, (19.8% of the total cases of the environment outside the family), in 8.6% of the cases are known to the family, (17.5% of the total cases from the foreign environment) and educators with 6% (12.3% of the environment outside the family).</p> <p>The <b>Madrid regional government will invest in 2022 about 40 million euros in the intervention and care of children and young offenders</b>, who comply with judicial measures in the six detentions centres managed by the Agency for the Reeducation and Reintegration of Juvenile Offenders (<i>Agencia Para la Reeducacion y Reinsercion del Menor Infractor</i>, ARMI, in its Spanish acronym). It meant an increase of the budget allocation by 3.55% compared to 2021. Out of the total number of inmates, 87.7% are men and 12.3% are women; in terms of nationality, 61.07% were Spanish, compared to 38.93% of foreigners<sup>132</sup>.</p> <p><b>In December 2021</b>, it was published an <a href="#">Analysis of the resocialization and delinquent recidivism of minors in the SRPA: Study of the children correctional institution The Redentor and the CEPSA (2007-2018)</a> (<i>Análisis de la resocialización y reincidencia delictual de</i></p>
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<sup>132</sup>Spain, Madrid Regional Government (*Comunidad de Madrid*), [Law 4/2021, 23 december of the General Budget of the Autonomous Community of Madrid for 2022](#) (*Ley 4/2021, de 23 de diciembre, de Presupuestos Generales de la Comunidad de Madrid para 2022*), 23 December 2021.

## Chapter 7. Access to justice

### 7.1 Legal and policy developments or measures relevant to the implementation of the Victims' Rights Directive and the EU strategy for Victims' Rights 2020-2025

**On 25 February 2021**, the European Court of Justice sanctioned Spain to the European Commission of a lump sum of 15,000,000 euros. **In July 2018**, the European Commission opened an infringement procedure against Spain for not having communicated the approval of the regulation that allows data sharing in police and judicial processes (Directive (EU) 2016/680 **on the protection of personal data in the framework for the prevention and detection of criminal offences**). **In July 2018**, the European Commission asked the European Court of Justice to declare that Spain failed to comply with the obligations concerning the **Directive (EU) 2016/680**. Each of the Member States should have adopted this before 6 May 2018. A year later, **in July 2019**, the European Commission brought the case before the European Court of Justice as the Commission declared that Spain persisted in its non-compliance. **In March 2019**, upon the expiration of the period set by the Commission, Spain communicated to the European Commission Spain indicated that the administrative procedure for adopting the transposition measures of the Directive was ongoing and should conclude at the end of March 2020. The delay in transposition was derived from the political context and the need to transpose the Directive employing an organic law. **On 25 March 2019**, the European Court of Justice noted that Spain did not take the necessary measures to ensure the transposition of the Directive, nor had it communicated these measures to the Commission failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure (Article 258 TFEU). **On 6 May 2020**, the Spanish Government did or communicated the necessary measures to guarantee the transposition of this communicative Directive into Spanish law. **In terms Law implications of this case**, it was the first judgment in which the European Court of Justice imposed the two types of financial penalties at the same time according to Article 260 (3) of the Treaty

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<sup>133</sup> Montaña Mora, A., & García Hincapié, L. (2021), Analysis of the resocialization and delinquent recidivism of children in the SRPA: Study of the children correctional (*Análisis de la resocialización y reincidencia delictiva de menores en el SRPA: Estudio de la correccional de menores*), El Redentor y el CESPA (2007-2018). *Misión Jurídica*, 14(21).



on the Functioning of the European Union (TFEU). If the declared non-compliance persists on the date the judgment is issued, a daily penalty of 89,000 euros from that date (February 2021) until the end of the stated non-compliance. This infringement lasted for two years.

**On 11 February 2021**, the Government presented a Draft Organic Law, which on 27 May 2021, was published as the [Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions](#)<sup>134</sup> (*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*).

**On 26 March 2021**, it did enter into force the Law 1/2021, of 24 March, on urgent measures in the field of protection and assistance to victims of gender violence (*Ley 1/2021, de 24 de marzo, de medidas urgentes en materia de protección y asistencia a las víctimas de violencia de género*)<sup>135</sup>. This law adopts a set of measures to maintain and adapt protection services, establishing organisational measures to guarantee their proper functioning. In addition, it fosters the adaptation of the provision modalities of such services to the exceptional circumstances caused by Covid-19. In addition, it facilitates that comprehensive care is guaranteed for victims of human trafficking for sexual exploitation. This law enables **the financing of services** launched by every autonomous community to face the needs in gender-based violence derived from the declaration of the state of alarm in 2020 because of the Covid-19 health crisis. This law also establishes urgent measures to guarantee access to public services and resources for women and children victims of gender-based violence. Finally, this Law favours the implementation of the 2017 [State Pact against allocated](#) (*Pacto de Estado contra la Violencia de Género*)<sup>136</sup> by all Spanish autonomous communities.

**On 20 July 2021, the State General Public Prosecutor** (*Fiscalía General del Estado*) issued the [Decree approving the 2021-2022 Action Plan" in the development and execution of the Fiscal Career Equality Plan](#). (*Decreto por el que se aprueba el Plan de Acción 2021-2022 en desarrollo y ejecución del*

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<sup>134</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and the execution of criminal sanctions](#) (*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*), 16 June 2021.

<sup>135</sup> Spain, Head of State (*Jefatura de Estado*), [Law 1/2021 of urgent measures in the matter of protection and assistance to the victims of gender violence](#) (*Ley 1/2021, de 24 de marzo, de medidas urgentes en materia de protección y asistencia a las víctimas de violencia de género*), 24 March 2021.

<sup>136</sup> Spain, Ministry of the presidency relations with the Courts and Equality (*Ministerio de la Presidencia relaciones con las Cortes e igualdad*), [State Pact against Gender Violence](#) (*Pacto de Estado contra la Violencia de Género*), December 2017.

*Plan de Igualdad de la Carrera Fiscal*).<sup>137</sup> This Action Plan prioritises achieving real and effective equality between women and men, both in their access and the development of their public prosecutor professional Careers. This Action Plan covered a set of measures to implement the conditions to achieve effective equality through the [Protocol of Action against harassment within the Public Prosecutor Office](#) (*Protocolo de Actuación frente al Acoso y Violencia en el Trabajo, al Acoso Sexual, Al Acoso por Razón de Género o de Sexo, al Acoso Discriminatorio y al Acoso Moral o Psicológico en el Ministerio Fiscal*).<sup>138</sup> The objective of this Protocol was to ensure that the members of the Public Prosecutor Career enjoy a professional environment where the dignity of the person is respected, and their health is not affected. Furthermore, it established measures to avoid possible harassment behaviours and confront them effectively in the event of occurring. The Protocol will be applied when the alleged victim and the alleged aggressor are members of the public prosecutor offices regardless of their category.

**On 6 May 2021, the National Ombudsman** (*Defensor del Pueblo*) published its [2020 Annual Report](#) (*Informe Anual 2020*)<sup>139</sup>. Regarding **sexist violence**, the report expresses how Covid-19 meant a greater risk. It referred to the number of fatalities that decreased the previous year and how violence did not, emphasising the murder of 45 women and three children. The National Ombudsman (*Defensor del Pueblo*) made a series of [recommendations](#) to the Ministry of Justice (*Ministerio de Justicia*) to expand protection against all forms of violence against women. The Ministry of Justice (*Ministerio de Justicia*) did accept those recommendations; however, the regulatory development was still pending when this report was finalised. The **National Ombudsman report** expresses how actions regarding [personal intervention plans](#) for the victims also continued. The Ministry of Equality (*Ministerio de Igualdad*) committed to drafting a reference protocol that allows the preparation of these personal intervention plans within the Sectorial Conference on Equality framework. Following-up, complaints were received illustrating the problems of victims of gender-based violence during legal proceedings. The National Ombudsman (*Defensor del Pueblo*) also recommended the Ministry of Justice (*Ministerio de Justicia*) to avoid double victimisation during judicial processes. The Secretary of State for Territorial Policy (*Secretaría de Estado de Política Territorial*) did accept the [recommendation](#) made by the National Ombudsman (*Defensor del Pueblo*) on the registration of women victims of gender-based violence who are in private residences and flats. The special vulnerability in which **foreign**

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<sup>137</sup>Spain, National State General Public Prosecutor (*Fiscalía General del Estado*), [Decree approving the "2021-2022 Action Plan" in the development and execution of the Fiscal Career Equality Plan](#) (*Decreto por el que se aprueba el Plan de Acción 2021-2022 en desarrollo y ejecución del Plan de Igualdad de la Carrera Fiscal*), 20 July 2021.

<sup>138</sup> Spain, National State General Public Prosecutor (*Fiscalía General del Estado*) (2019), (*Protocolo de Actuación frente al Acoso y Violencia en el Trabajo, al Acoso Sexual, Al Acoso por Razón de Género o de Sexo, al Acoso Discriminatorio y al Acoso Moral o Psicológico en el Ministerio Fiscal*), Madrid, National State General Public Prosecutor.

<sup>139</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Annual Report 2020](#) (*Informe Anual 2020*), Madrid, National Ombudsman.

**women** are exposed to gender-based violence was of particular concern to the National Ombudsman (*Defensor del Pueblo*). As expressed in the previous [2019 annual report](#), he insisted on strengthening protections against the expulsion of women in an irregular situation.

The National Ombudsman (*Defensor del Pueblo*) reported the difficulties in **identifying victims of human trafficking** and enquired to improve the existing protocols for the detection of, particularly vulnerable profiles. It was also stated that an agile and rapid response must be given to the victims who meet the authorities, taking all the required measures for their identification and protection. It also pointed out the problems in identifying children victims of trafficking. Finally, the need for special training for asylum interviews with children is emphasised, and the identification of adequate centres to care for girls with specific needs.

**In August 2021, the Spanish Government** [extended the Government extension until October 31 of the so-called "social shield" \(\*escudo social\*\)](#).<sup>140</sup> It meant that the services for the protection and assistance of victims of gender-based violence would continue to be considered essential. Thus, public information services, counselling, remote assistance, comprehensive social assistance, and shelter for victims of all forms of violence against women, including victims of trafficking for sexual exploitation, in the matter of gender-based violence, **will maintain their consideration of essential services after the end state of alarm**. Likewise, this extension modifies **Article 8** of (*Ley 1/2021, de 24 de marzo, de medidas urgentes en materia de protección y asistencia a las víctimas de violencia de género*)<sup>141</sup> so that the autonomous communities and local entities may allocate the funds assigned to them from the central national government and is intended to implement all preventive measures and assistance programs and any other program to guarantee prevention, protection, and care against all forms of violence against women. The modification is also **intended to unlink this provision with the validity of the state of alarm declared after March 2020 due to the Covid-19 health crisis**. To guarantee that the autonomous communities and local entities can continue to use the funds of the [State Pact against Gender-based violence](#) to develop the necessary programs to ensure the protection and assistance of the **victims from the vulnerabilities derived from the world pandemic**.

**On 17 November 2021**, the Spanish government Government published an amendment to **the Democratic Memory Law** (*Ley de Memoria Democrática*) referred to the application of Law 46/1977 of October 15 on

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<sup>140</sup> Spain, Head of State (*Jefatura de Estado*), [Royal Decree Law by which social protection measures are adopted to face situations of social and economic vulnerability](#) (*Real Decreto-ley 16/2021, de 3 de agosto, por el que se adoptan medidas de protección social para hacer frente a situaciones de vulnerabilidad social y económica*), 4 August 2021.

<sup>141</sup> Spain, Head of State (*Jefatura de Estado*), [Law 1/2021 of urgent measures in the matter of protection and assistance to the victims of gender violence](#) (*Ley 1/2021, de 24 de marzo, de medidas urgentes en materia de protección y asistencia a las víctimas de violencia de género*), 25 March 2021.

amnesty. The **new Democratic Memory Law**<sup>142</sup> addressed the investigation of the events that took place on the occasion of the coup d'état, the war and the dictatorship.<sup>143</sup> The Amnesty Law (*Ley de Amnistía*) established that all acts of political intent, whatever their result, classified as crimes or misdemeanours before 15 December 1976 were amnestied. In dispute whether facts and crimes that according to norms of international criminal law are classified as crimes against humanity are considered included in this article, nor in the second article (crimes of rebellion and sedition). Another amendment referred to expanding the census of victims of Francoism (*franquismo*) so that it integrates both the deceased and declared deceased people, as well as the survivors who give their express consent".

**In November 2021, the Cantabria regional government approved a new law on Historical and Democratic Memory of Cantabria** (*Ley de Cantabria 8/2021, de 17 de noviembre, de Memoria Histórica y Democrática de Cantabria*)<sup>144</sup>. The law was officially published on the 24<sup>th</sup> of November 2021 and was enforced the following day. According to it, the Government of Cantabria will adopt policies and measures concerning the right of victims and their families to search for their disappeared ascendants and close persons. And also address the right to reparation, which involves the application of individual and collective measures for moral reparation, as well as those for restitution, compensation, rehabilitation and satisfaction (Article 3).

**In December 2021, the Ministry of Equality issued a Resolution**<sup>145</sup> related to **procedures for the accreditation of situations of gender-based violence** by the Autonomous Communities. The victims will be certified if the applicant victim would have previously taken legal action and if they had a conviction whose sentences of removal and prohibition of communication were extinguished, or if they had at any time a protection order, but it's no longer in force. It will also consider whether the woman is in the phase of ending the relationship with the aggressor, duration, form (physical, psychological, sexual) and severity of violence suffered; the existence of

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<sup>142</sup> Spain, Ministry of the presidency relations with the Courts and Equality (*Ministerio de la Presidencia relaciones con las Cortes e igualdad*) Blueprint of the Democratic Memory Law (*Anteproyecto de Ley de Memoria Democrática*), 2020.

<sup>143</sup> Spain, [Law 46/1977, of 15 October, on Amnesty](#) (*Ley 46/1977, de 15 de octubre, de Amnistía*), 15 October 1977.

<sup>144</sup> Spain, Cantabria Government (*Gobierno de Cantabria*), [Law 8/2021, de 17 de noviembre on Historical and Democratic Memory of Cantabria](#) (*Ley de Cantabria 8/2021, de 17 de noviembre, de Memoria Histórica y Democrática de Cantabria*), 24 november 2021.

<sup>145</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Resolution of December 2, 2021, of the Secretary of State for Equality and against Gender-based Violence, by which the Agreement of the Sectoral Conference on Equality is published, on November 11, 2021, regarding the accreditation of situations of gender violence](#) (*Resolución de 2 de diciembre de 2021, de la Secretaría de Estado de Igualdad y contra la Violencia de Género, por la que se publica el Acuerdo de la Conferencia Sectorial de Igualdad, de 11 de noviembre de 2021, relativo a la acreditación de las situaciones de violencia de género*), 13 December 2021.

verbal, environmental violence and physical aggression; or progression in violence.

## 7.2 Measures addressing violence against women

**On 18 March 2021, the Ministry of Equality** (*Ministerio de Igualdad*) began to elaborate a **Comprehensive Law against Trafficking in Human Beings**<sup>146</sup>. It seeks to address a comprehensive regulation of the phenomenon of trafficking in human beings. Those aspects of the legislation in place on criminal matters and witness protection, publicity, and social care evaluate a possible reform to strengthen the prosecution of trafficking and human beings and guarantee the improvement of care, the safety, and recovery of its victims. Afterwards, **between April and May 2021** Ministry of Equality opened a Public consultation before elaborating a normative project consisting of a comprehensive law against trafficking in Human Beings<sup>147</sup>.

**On 11 May 2021, the National Statistics Institute** (*Instituto Nacional de Estadística*) published the last [data from 2020 corresponding to domestic violence and gender-based violence](#) (*Estadística de violencia doméstica y violencia de género. Año 2020*)<sup>148</sup>. Those data expressed that the number of women victims of gender-based violence decreased by 8.4% in 2020, to 29,215. In addition, the rate of victims of gender-based violence was 1.4 for every 1,000 women aged 14 and over, and the number of victims of domestic violence grew by 8.2%. **On 28 October 2021**, updated official statistics related to the murders by gender violence of women, as well as their children, were published from 2017 to 2020<sup>149</sup>. The reference indicator was the evolution of the investigation of each case in the respective judicial procedures. The data corresponding to the years 2017, 2018, 2019 and 2020 were collected among the following institutions: Observatory against Domestic and Gender Violence of the General Council of the Judiciary (*Observatorio contra la Violencia Doméstica y de Género del Consejo General del Poder Judicial*), Prosecutor's Office of the Violence against Women Chamber (*Fiscalía de Sala de Violencia sobre la Mujer*), Ministry of the Interior and Government Delegation against Gender Violence (*Ministerio del Interior y Delegación del Gobierno contra la Violencia de Género*). The data were as follows: The total number of women killed by gender-based violence from 2003 to 2021 were 1,117. The number of orphaned children

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<sup>146</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Igualdad inicia sus trabajos para la elaboración de una Ley Integral Contra la Trata](#), Press release, 18 March 2021.

<sup>147</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Consulta pública previa a la elaboración de un proyecto normativo consistente en una ley integral contra la trata](#), Official Website, Ministry of Equality.

<sup>148</sup> Spain, National Statistics Institute (*Instituto Nacional de Estadística*), [data from 2020 corresponding to domestic violence and gender-based violence](#) (*Estadística de violencia doméstica y violencia de género. Año 2020*), Press release, 11 May 2021.

<sup>149</sup> Spain, Presidency of the Government (*Presidencia del Gobierno*), [Actualizadas las estadísticas oficiales sobre asesinatos por violencia de género](#), press release, 28 October 2021.

since 2013 stands at 327, and the number of children killed by gender-based violence from 2013 to date stands at 46 women and three minors. It was the lowest annual figure since 2003 and, it confirmed the downward trend detected since 2011. The murder of the mothers left twenty-nine children orphaned. Only eight of the forty-six female victims, 17.4 per cent filed previous complaints against the aggressor; five of them maintained coexistence with him. All the victims were men, and the aggressors were women.<sup>150</sup>As of January 1, 2022, the Government blames the fatalities of all sexist violence, not only the murders perpetrated in the context of the couple or the ex-partner. The measure was also included in the State Pact against gender violence reached in 2017, counting the murders that men commit against women because they are women. It shall consist of the killings of women by sexual violence, sexual exploitation in the family, and fatal victims of vicarious violence.

**In September 2021**, the **Ministry of Equality** (*Ministerio de Igualdad*) published a report titled [Children fatalities in cases of gender-based violence against their mother in Spain. 2013 to 2021](#) (*Menores víctimas mortales en casos de violencia de género contra su madre en España. 2013 a 2021*)<sup>151</sup>. Since 2013, children victims of sexist violence in Spain were counted, both those murdered by the father (or the mother's partner) and those orphaned. It is expressed how in 2021, up to May 2021, two children who died from vicarious violence have been counted, the last update of the report. In Spain, it is estimated that 39 children have been murdered by their parents or their mother's partner since there are records.

**On 29 July 2021**, the **Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) announced the '[Data Protection Awards 2021](#)' (*Premios Protección de Datos 2021*)<sup>152</sup> to distinguish the best practices in promoting this right. The awards were recognized in six categories: one of them was titled as 'Good practices for greater protection of the privacy of women survivors of gender-based violence' (*Buenas prácticas para una mayor protección de la privacidad de las mujeres supervivientes a la violencia de género*). (The deadline for submitting candidatures is 21 November 2021; the recognized practice will be updated in the last version of this report).

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<sup>150</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*) (2021), [Women Killed by Gender Violence in Spain at The Hands of their Partners or Ex-Partners. Provisional Data](#) (*Mujeres Víctimas Mortales Por Violencia de Género En España A Manos de Sus Parejas o Exparejas. Datos Provisionales*); Spain, General Council of the Judicial Power (*Consejo General del Poder Judicial*), "[El informe sobre víctimas mortales de violencia de género en 2020 revela la incidencia de la pandemia: 4 asesinatos en los 99 días de confinamiento frente a los 42 del resto del año](#)", press release, 21 Decembre 2021.

<sup>151</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*) (2021), [Children fatalities in cases of gender violence against their mother in Spain. 2013 to 2021](#) (*Menores víctimas mortales en casos de violencia de género contra su madre en España. 2013 a 2021*), 16 September 2021.

<sup>152</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), '[Data Protection Awards 2021](#)' (*Premios Protección de Datos 2021*), Press release, 29 July 2021.

**On 15 April 2021, the Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) launched the initiative) You [stop it or you do not care \(Lo paras o lo pasas\)](#)<sup>153</sup>. This project aims to promote the [Priority Channel](#) (*Canal Prioritario*) to report the publication on the Internet of **sexual or violent content**. This Priority Channel reports the illegitimate publication of sensitive, sexual or violent content on the Internet, allowing it to report even without being the person affected. This Channel presents removal effectiveness of around 86%. The AEPD expressed how in 2021, almost 50 complaints were processed as urgent, with 29 removal requests of content published. The most frequent cases reported to the Agency referred to the publication on social networks and other websites of sexual content recorded with or without the woman's consent but published without her permission. More frequent cases are the publication of recordings of children assaults and LGTBIQ + people and false profiles on pornographic pages.

**In 2021, the Roma Secretariat Foundation** (*Fundación Secretariado Gitano*), published [Recommendations for intervention with Roma women victims of gender-based violence from public resources in the Region of Murcia](#) (*Recomendaciones de intervención con mujeres gitanas víctimas de violencia de género desde los recursos públicos de la Región de Murcia*).<sup>154</sup> This Project analysed the multiple discrimination that affects the Roma population and the additional obstacles faced in accessing care, protection, justice and reparation measures that allow them to enjoy a life free of sexist violence. The objective was to improve the quality of intervention and care for Roma women victims of gender-based violence and create the right conditions to tackle the problem according to the specific circumstances of the Roma population to improve care and prevention from a global perspective.

**On 18 May 2021, the AEPD** published a guide titled [Data Protection and Labor Relations](#) (*Protección de datos y relaciones laborales*)<sup>155</sup>. This Guide was elaborated by the AEPD with the collaboration of both the Ministry of Labour and Social Economy (*Ministerio de Trabajo y Economía Social*) and the employers and trade union organisations. It addressed issues such as the data protection of harassment victims at work and women survivors of gender-based violence. This Guide aimed at offering a practical tool to help public and private organisations for proper compliance with the Spanish legislation

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<sup>153</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), '[Lo paras o lo pasas](#)', Press release, 15 April 2021.

<sup>154</sup>Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2021), [Recommendations for intervention with Roma women victims of gender violence from public resources in the Region of Murcia](#) (*Recomendaciones de intervención con mujeres gitanas víctimas de violencia de género desde los recursos públicos de la Región de Murcia*), Murcia, Roma Secretariat Foundation.

<sup>155</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2021), [Data Protection and Labor Relations](#) (*Protección de datos y relaciones laborales*), Madrid, Spanish Data Protection Agency.

**In June 2021, the NGO Association of Research and Specialization on Ibero-American Issues** (*Asociación de Investigación y Especialización sobre temas Iberoamericanos*, AIETI, in its Spanish acronym) published research titled **"Pulling the String: Stories of Migrant Women Survivors of Sexist Violence"** (*Tirar del hilo: historias de mujeres migradas supervivientes de violencia machista*)<sup>156</sup>. It refers to other quantitative analyses not only confirmed the hypothesis that migrant women are overrepresented in Spain's sexist violence data but also reflected that migrant women in protection systems are underrepresented. As for the specific economic aid to migrant women in this situation, the figure decreases compared to the high rate of violence. Moreover, the fact that sexist violence affects foreign women to a greater extent is closely linked to the fact that they are less protected. As a result, they receive less official financial aid. As a result, there are fewer telematics monitoring programs applied to protect them. This lack of protection is also accentuated in those women who are in an irregular situation. Despite being disproportionately reflected in the data on gender-based violence, feminicides and calls to 016, only 13.3% of foreign women have benefited from public allowances.

**On 5 August 2021, the Spanish Government** published a new resolution to establish urgent measures to support the plan against the gender-based violence (*Resolución de 28 de julio de 2021, de la Subsecretaría, por la que se publica el Acuerdo del Consejo de Ministros de 27 de julio de 2021, por el que se aprueba el Catálogo de Medidas Urgentes del Plan de Mejora y Modernización contra la Violencia de Género*)<sup>157</sup>. Fifteen measures were established aimed at raising awareness of the environment of victims of sexist violence; early detection of violence in local public services; supporting the autonomy of women to break with violence; protecting children and girls against violence; and reinforcing the protection and safety of victims at risk, with and without a complaint. Among these measures was developed the so-called [Punto Violeta](#). It consists of an instrument intended to extend the information necessary to know how to act in a case of violence against women and bring information on comprehensive services where the victims are. [Punto Violeta](#) tools are a guide to act against sexist violence; tools provided for companies, public institutions, and entities; and badges to identify people involved in the fight against sexist violence.

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<sup>156</sup> Association of Research and Specialization on Ibero-American Issues. (*Asociación de Investigación y Especialización sobre Temas Iberoamericanos*) (2021), [Pulling the String: Stories of Migrant Women Survivors of Sexist Violence](#) (*Tirar del hilo: historias de mujeres migradas supervivientes de violencia machista*), Madrid, AECID.

<sup>157</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Resolution of 28 July 2021, of the Undersecretariat, by which the Agreement of the Council of Ministers of 27 July 2021 is published the approval of the Catalogue of Urgent Measures of the Improvement and Modernization Plan against Gender Violence](#) (*Resolución de 28 de julio de 2021, de la Subsecretaría, por la que se publica el Acuerdo del Consejo de Ministros de 27 de julio de 2021, por el que se aprueba el Catálogo de Medidas Urgentes del Plan de Mejora y Modernización contra la Violencia de Género*), 28 July 2021.



**On 6 September 2021**, the **State General Public Prosecutor** (*Fiscalía General del Estado*) presented data of the 2020 [Prosecutor's Office Report in the Opening Act of the Judicial Year](#) (*Memoria de la Fiscalía en la apertura del Año Judicial*)<sup>158</sup>. The Public Prosecutor's Office highlighted the higher risk for the **potential victims of gender-based violence**. The women were also locked in their homes with their potential aggressors during the 2020 Covid-19 State of Alarm. In addition, it recalled the seriousness of vicarious violence and the need to offer adequate and effective protection to children who are victims of gender-based violence. In terms of data, during 2020, it was recorded that 47 women were murdered, of whom only seven had previously filed a complaint. Three children were killed by their parents and were seriously injured. In terms of **data related to Trafficking in Human Beings** crimes, the Annual Report highlighted that the Covid-19 situation reduced the number of detected cases of victims of sexual exploitation, going from 830 in 2019 to 470 in 2020, out of the total 95.53% were women. And out of the total of 136 legal proceedings initiated in 2020, 75% were for sexual exploitation.

**On 19 noviembre de 2021**, the **Ministry of Equality** presented an **awareness-raising campaign, the "Together" (Juntas)** campaign, on the occasion of International Day for the Elimination of Violence against Women<sup>159</sup>. The slogan chosen appealed to the alliance between the Central State, the Autonomous Communities, local entities, working together to reinforce the State Pact against Gender Violence and in the advances that are being carried out for its renewal. The slogan also gives title to a short documentary that tells a story of the struggle against sexist violence through the testimonies of eight women, survivors of gender violence, professionals, institutional representatives and activists. It appeals, in short, to the unity of all citizens against sexist violence in the face of denialist messages.

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<sup>158</sup> Spain, State General Public Prosecutor (*Fiscalía General del Estado*), [La Fiscalía General del Estado presenta la Memoria de la Fiscalía en la apertura del Año Judicial](#), Press release, 6 September 2021.

<sup>159</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Igualdad presenta la campaña 'Juntas' con motivo del 25N, Día Internacional para la Eliminación de la Violencia contra las Mujeres](#), press release, 19 November 2021.

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 8. 1. CRPD Policy & Legal developments

On 20 January 2021, a [Royal Decree-Law 1/2021, of January 19, on protecting consumers and users against social and economic vulnerability situations](#),<sup>160</sup> was published. It modifies the [General Law for the Defense of Consumers and Users](#) (*Ley General para la Defensa de los Consumidores y Usuarios*) and introduces the concept of vulnerable consumers. People with disabilities are integrated into this category of vulnerable consumer that is defined as: "those natural persons who, individually or collectively, due to their characteristics, personal, economic, educational or social circumstances, are found, even if its territorial, sectorial or temporarily, in a special situation of subordination, defenselessness or lack of protection that prevents them from exercising their rights as consumers under conditions of equality." (*aquellas personas físicas que, de forma individual o colectiva, por sus características, necesidades o circunstancias personales, económicas, educativas o sociales, se encuentran, aunque sea territorial, sectorial o temporalmente, en una especial situación de subordinación, indefensión o desprotección que les impide el ejercicio de sus derechos como personas consumidoras en condiciones de igualdad*).

On 2 January 2021, the **Ministry of Social Rights Secretary for Social Rights and Agenda 2030** (*Ministerio de Derechos Sociales y Agenda 2030*). The National Ombudsman (*Defensor del Pueblo*) expressed its [intention to address the elaboration of a Draft Law, which can attribute to the social jurisdiction of controversies in the current legislative period](#).<sup>161</sup> This intended Draft Law referred to promoting personal autonomy and care of people in a dependency situation. The Secretary of State for Social Rights, concerning the National Ombudsman (*Defensor del Pueblo*), indicated that on 26 April 2017, the Plenary of the Territorial Council of Social Services and the System for Autonomy and Attention to Dependency (*Pleno del Consejo Territorial de Servicios Sociales y del Sistema para la Autonomía y Atención a la Dependencia*) reported favourably about promoting social jurisdiction of

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<sup>160</sup> Spain, Head of State (*Jefatura de Estado*) (2021) [Royal Decree-Law 1/2021, of January 19, on the protection of consumers and users against situations of social and economic vulnerability](#) (*Real Decreto-ley 1/2021, de 19 de enero, de protección de los consumidores y usuarios frente a situaciones de vulnerabilidad social y económica*), 20 January 2021.

<sup>161</sup> Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021), "[Derechos Sociales Responde al Defensor del Pueblo que en esta Legislatura se Atribuirán Las Controversias En Materia De Dependencia A La Jurisdicción Social](#)", Press release, 2 January 2021.

litigious issues in matters of dependency derived from [Law 39/2006, of December 14](#).

It responded to the requirements of the National Ombudsman (*Defensor del Pueblo*). Before the year 2015, he established that the social jurisdiction should hear about litigations related to the System for Autonomy and Care for Dependency (*Sistema para la Autonomía y la Atención a la Dependencia*).

The [Law regulating Social Jurisdiction of 2011](#)<sup>162</sup> provided that before 2015, the Government shop a Draft Law to tackle the controversies on dependency in the social jurisdiction. This Law aims to clarify the competent authority over certain issues related to public social assistance and protection. It seeks to assign to the social jurisdictional order those of the assessment, recognition and qualification of the degree of disability and those included in the legislation related to the promotion of personal autonomy and care for people in situations of dependency. The rest will be under the competence of the contentious-administrative order. This Law adapts the labour procedural regulations to the constitutional court jurisprudence and its interpretation of social protection. The Spanish Government, up to this date, ignored such mandate, despite the permanent reminders and requests of the Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI in its Spanish acronym).

**In 2021 and** for the first time, the **National Statistical Plan incorporates the disability perspective in statistical operations** in which this reality may result relevant after the publication. It was based on **the Spanish Government's previous** publication of [the Royal Decree 1110/2020, of December 15, approving the National Statistical Plan 2021-2024](#)<sup>163</sup>. In addition, the Plan includes specific statistical operations related to disabled persons such as 'The employment of people with disabilities' (*El empleo de las personas con discapacidad*) and 'The salary of people with disabilities' (*El salario de las personas con discapacidad*). Moreover, another statistical operation included is 'The working life of people with disabilities' (*La vida laboral de las personas con discapacidad*). The collaboration of the Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI in its Spanish acronym) the ONCE Foundation (*Fundación ONCE*) as expert entities of civil society is present in these two statistical operations by contributing to the creation of this statistics in its beginnings.

**On 4 February 2021, the CERMI Women Foundation** (*Fundación CERMI Mujeres*) requested the Spanish Senate to [correct some aspects included in the initial text so that the gender and disability perspective is taken into](#)

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<sup>162</sup> Spain, Head of State (*Jefatura de Estado*) (2011), [Law regulating the Social Jurisdiction of 2011](#) (*Ley 36/2011, de 10 de octubre, reguladora de la jurisdicción social*), 10 October 2011.

<sup>163</sup>Spain, Ministry of Economic Affairs and Digital Transformation (*Ministerio de Asuntos Económicos y Transformación Digital*) (2021) [the Royal Decree 1110/2020, of December 15, approving the National Statistical Plan 2021-2024](#) (*Real Decreto 1110/2020, de 15 de diciembre, por el que se aprueba el Plan Estadístico Nacional 2021-2024*), 30 December 2020.

[account and thus combat intersectional discrimination](#).<sup>164</sup> Within the Draft Law, urgent measures regarding protection and assistance to victims of gender violence were being processed [from Royal Decree-Law 12/2020, of March 31](#)<sup>165</sup>. CERMI Women demanded an inclusive and accessible approach to the assistance of victims. They referred to the fact that the competent administrations must supervise the telematic media of compliance with the preventive measures and penalties of prohibition of approach in matters of gender violence to ensure their use and availability for women with disabilities. In addition, providing women with disabilities have a voice in the decision-making was as well established as a priority by this [Law 12/2020 for urgent measures for victims of gender violence](#).

**On 11 April 2021**, the **Spanish Committee of Representatives of People with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI in its Spanish acronym) enquired the National Ombudsman (*Defensor del Pueblo*) to [appeal the Law of Euthanasia before the Constitutional Court](#) (*Tribunal Constitucional*) for incurring discrimination on the grounds of disability.<sup>166</sup> The CERMI requested an appeal to be filed against certain [Organic Law 3/2021 regulating euthanasia](#)<sup>167</sup>, as CERMI considered those dispositions meant discrimination on the grounds of disability. The CERMI argued that no legislation or regulation should contain discriminatory aspects for reasons of disability. It also expressed how Spanish legislation must be accompanied and reconciled with the United Nations International Convention on the Rights of Persons with Disabilities. The [European Disability Forum \(EDF\)](#), in a letter addressed to members of the Spanish Senate's Justice Committee (*Comisión de Justicia del Senado*), has urged the Spanish Senate to follow criteria of the United Nations' Human Rights' bodies, so legal regulation of euthanasia doesn't discriminate based on disability.

In **May 2021**, the **National Ombudsman** (*Defensor del Pueblo*) published a monograph report in a separate section of its [Annual Report 2020](#) (*Informe Anual 2020*)<sup>168</sup> entitled [People with Disabilities in the National Ombudsman Annual Report](#) (*Las personas con discapacidad en el informe del Defensor del Pueblo*). The **National Ombudsman** (*Defensor del Pueblo*) referred to the administrative processing of permanent disability files, as it strongly affects the restrictions derived from the COVID-19 pandemic. It was also

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<sup>164</sup>CERMI Women Foundation (*Fundación CERMI Mujeres*) (2021), "[CERMI Mujeres Pide Que La Nueva Ley De Protección Y Asistencia A Víctimas De Violencia De Género Tenga En Cuenta La Perspectiva De Discapacidad Para "Combatir La Discriminación Interseccional"](#)", Press release, 4 February 2021.

<sup>165</sup> Spain, Head of State (*Jefatura de Estado*) (2020), [Royal Decree-Law 12/2020, March 31](#) (*Real Decreto-ley 12/2020, de 31 de marzo, de medidas urgentes en materia de protección y asistencia a las víctimas de violencia de género*), 30 March 2020.

<sup>166</sup> Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021), [CERMI enquires the National Ombudsman to appeal the Law of Euthanasia before the Constitutional Court for incurring discrimination on the grounds of disability](#), Press release, 11 April 2021.

<sup>167</sup> Spain, Head of State (*Jefatura de Estado*) (2021), [Organic Law 3/2021 regulating euthanasia](#) (*Ley Orgánica 3/2021, de 24 de marzo, de regulación de la eutanasia*), 24 March 2021.

<sup>168</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Annual Report 2020](#) (*Informe Anual 2020*), Madrid.

affected by the National Social Security Institute (*Instituto Nacional de la Seguridad Social*, INSS, in its Spanish acronym) and the delays in the resolution of administrative permanent disability files.

The **National Ombudsman** (*Defensor del Pueblo*) **set out a possible** violation of Articles 9.2 and 14 of the [Spanish Constitution](#)<sup>169</sup> (which refers to equal treatment and non-discrimination) due to the absence of positive discrimination measures facilitate the **labour integration of persons with disabilities. Regarding university staff**, the **National Ombudsman** (*Defensor del Pueblo*) declared that it would continue to conduct investigations to assess the legality and opportunity to establish a system to reserve places for temporary teaching staff (*personal interino*). In addition, it addresses public administrations with competencies on education policies that did not establish any foresight or particularity in this regard or, even if they did establish it, included requirements that could limit the right to access public jobs on equal footing<sup>170</sup>.

**In May 2021**, it was approved a [Royal Decree 368/2021 on positive action measures to promote access to employment for people with limited intellectual capacity](#) (*Real Decreto 368/2021, de 25 de mayo, sobre medidas de acción positiva para promover el acceso al empleo de personas con capacidad intelectual límite*),<sup>171</sup>. It included several positive measures to support persons with limited intellectual capacity. Companies that hire for an indefinite period and full-time workers with limited intellectual capacity will be entitled to a subsidy of 2,000 euros. Companies that employ workers with limited intellectual capacity may request public grants to adapt jobs or provide means of personal protection. The modality of employment with the support of people with disabilities is also open to people with limited intellectual capacity; people with limited intellectual capacity can also benefit from the contract for training and learning Social Security Bonuses.

**On 10 July 2021, the Spanish Government** approved and published [Law 10/2021 on remote work](#) (*Ley 10/2021, de 9 de julio, de trabajo a distancia*)<sup>172</sup>. This Law includes amendments in favour of workers with disabilities. This Law had a requirement for the companies that should ensure that the means, equipment and tools, including digital ones, should be universally accessible to avoid any exclusion for this cause. It also included an additional provision related to the risk assessment and planning of the preventive activity of remote work and considering the accessibility of the effective work environment.

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<sup>169</sup> Spain, National Parliament (*Cortes Generales*), [Spanish Constitution](#) (*Constitución Española*), 29 December 1978.

<sup>170</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2021), [Annual Report 2020](#) (*Informe Anual 2020*), pp. 21, Madrid, National Ombudsman.

<sup>171</sup> Spain, Ministry of the Presidency, Relations with the Courts and Democratic Memory (*Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática*), [Royal Decree 368/2021, of 25 May, on positive action measures to promote access to employment for people with limited intellectual capacity](#) (*Real Decreto 368/2021, de 25 de mayo, sobre medidas de acción positiva para promover el acceso al empleo de personas con capacidad intelectual límite*), 25 May 2021.

<sup>172</sup> Spain, Head of State (*Jefatura de Estado*) (2021), [Law 10/2021, 9 July, on remote work](#) (*Ley 10/2021, de 9 de julio, de trabajo a distancia*), 9 July 2021.

**On 31 August 2021, the Spanish Committee of Representatives of People with Disabilities** (*Comité español de Representantes de Personas con Discapacidad CERMI*, in its Spanish acronym) **and the CERMI Women Foundation** proposed the [Organic Law Project for the comprehensive guarantee of sexual freedom](#) (*Proyecto de Ley Orgánica de garantía de la libertad sexual*)<sup>173</sup> to the Spanish Government. This Law is from the perspective of women and girls with disabilities, currently being processed in the Congress of Deputies (*Congreso de los Diputados*). Some additional provisions were included in decision-making support mechanisms and assessing the degree of disability and sexual assaults. Moreover, CERMI expresses the urgent application of article 39 of the [Istanbul Convention](#), which considers sexual freedom, forced abortion, and forced sterilization (*indemnidad sexual*). These improvements are manifested through a document of amendments and proposals, in which, initially, the creation of two new articles is proposed. On the one hand, in title II-chapter II of detection of sexual violence, cases of coercive abortion and forced sterilisation should be included. On the other hand, the second article should be included in title VI-chapter II. On the other hand, it should pose the Right to procedural adjustments and support in decision-making processes in access to justice.

**On 3 September 2021, Law 8/2021, to support people with disabilities in exercising their legal capacity**,<sup>174</sup> **entered into force**. It consists of a reform that prohibits judicial incapacitation in Spain. Concretely, **a civil and procedural reform to support people with disabilities in exercising their legal capacity**. The deprivation of rights of people with disabilities, or their exercise, is now without effect, and it is now mandatory to check the previous incapacitation resolutions within three years. With the reform, figures such as guardianship or extended parental authority disappear for the people of legal age. Instead, a system of individualised supports adapted to the needs of each person is established to help them express their will work freely with full autonomy.

**On 9 September 2021, the State's General Attorney** signed a [framework collaboration agreement](#) with the [Confederation of Full Inclusion Spain](#) (*Confederación Plena Inclusión España*)<sup>175</sup> that integrates organisations representing and defending the rights of people with intellectual or developmental disabilities in Spain. The main goal of this agreement was to establish a general framework of collaboration to ensure

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<sup>173</sup> Spanish Committee of Representatives of People with Disabilities, CERMI Women Foundation (2021), [El Movimiento Cermi Plantea Mejoras al Proyecto de Ley Orgánica de Garantía Integral de la Libertad Sexual desde la Perspectiva de las Mujeres con Discapacidad](#). Press release, 31 August 2021.

<sup>174</sup> Spain, Head of State (*Jefatura de Estado*) (2021), [Law 8/2021, of 2 June](#). (*Ley 8/2021, de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica*), 2 June 2021.

<sup>175</sup> Spain, State 's General Public Prosecutor (*Fiscalía General del Estado*), [La Fiscalía General del estado garantizará a los discapacitados intelectuales igual en el acceso a la justicia](#). Press release, 9 September 2021.

that people with intellectual or developmental disabilities or people with comprehension difficulties have full access to justice.

**On 10 September 2021, the Ministry of Social Rights and Agenda 2030** (*Ministerio de Derechos Sociales y Agenda 2030*) began the legislative process to recover the legal assimilation of situations of permanent Social Security incapacity to the minimum degree of 33% of disability.<sup>176</sup> **This objective** aims to access the framework of incentives and positive action measures established for people with disabilities. The legislative amendment initiative seeks, with the reform of the [General Law on the Rights of Persons with Disabilities and their Social Inclusion](#) to solve the controversies created by 2018 successive judgments of the Social Chamber of the Supreme Court (*Tribunal Supremo, Sala de lo Social*). The Spanish Supreme Court (*Tribunal Supremo*) declared this legal assimilation in force since 2003 invalid.

**On 10 September 2021,** LGBTIQ movements and people with disabilities participated in the [follow-up Commission of the Action Plan to Fight Hate Crimes 2019-2021](#)<sup>177</sup>. This participation had as the main objective the evaluation of this Action Plan and its future challenges and improvements for the second action plan. The follow-up commission also aimed to set the axes regarding the second action plan for the 2022-2024 triennium.

The follow-up commission is made up of officials from the Ministry of the Interior (*Ministerio del Interior*), the National Office for the Fight against Hate Crimes (*Oficina Nacional de Lucha Contra los Delitos de Odio*), National Police and Civil Guard commanders, representatives of the Prosecutor's Office against Hate Crimes and Discrimination (*Fiscalía contra Los Delitos de odio y discriminación*) and the Spanish Observatory of Racism and Xenophobia (*Observatorio Español del Racismo y la Xenofobia*, OBERAXE, in its Spanish acronym).

**On 21 December 2021,** the National Parliament **approved an amendment proposal for a law that modifies the revised text of the General Law on the Rights of People with Disabilities and their Social Inclusion** (*Ley General de derechos de las personas con discapacidad y de su inclusión*)<sup>178</sup>. It will be approved to regulate the **cognitive accessibility**, a dimension of universal accessibility that lacks legal recognition in Spain. This amendment seeks to define cognitive accessibility, within the general framework of universal accessibility; to establish areas, conditions and

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<sup>176</sup> Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021) [Ministry of Social Rights and Agenda 2030 begins the legislative process aimed at recovering the legal assimilation of situations of permanent Social Security incapacity to the minimum degree of 33% of disability](#), Press release, 10 September 2021.

<sup>177</sup> Ministry of Interior (*Ministerio del Interior*) (2021), [Follow-up Commission of the Action Plan to Fight Hate Crimes](#) (*Comisión de Seguimiento del Plan de Acción de Lucha contra los Delitos de Odio*), Press release, 10 September 2021.

<sup>178</sup> Spain, Ministry of Health, Social Services and Equality (*Ministerio de Sanidad, Servicios Sociales e Igualdad*) [Royal Legislative Decree 1/2013, of 29 November, approving the Revised Text of the General Law on the rights of people with disabilities and their social inclusion](#) (*Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y de su inclusión social*), 29 November 2013.

deadlines within which it shall be enforceable; to **create the State Reference Centre for Cognitive Accessibility** (*Centro de Referencia Estatal de Accesibilidad Cognitiva*); to include this new dimension in the National Accessibility Plan. The initiative added to **article 2 of the Law** the paragraphs l) and that introduced the definitions of cognitive accessibility and Easy Reading (*lectura fácil*). Likewise, the proposed law modified **Article 5** on the scope of application in terms of equal opportunities, non-discrimination and universal accessibility in order to clarify that the cognitive accessibility will also be applied in the fields of telecommunications and the information society; goods and services available to the public; relations with Public Administrations; Administration of Justice; Cultural Heritage, always with the purpose of reconciling the values of heritage protection and access, and enjoyment by people with disabilities.

**In December 2021**, the CERMI and the CERMI Women Foundation requested<sup>179</sup> that all political parties **support for the amendment of the Article 49 of the Spanish Constitution**<sup>180</sup> because neither the terminology used, nor the content are aligned with a human right' perspective. The proposed reform seeks to suppress certain expressions when referring to persons with disabilities, such as the term 'handicapped (*disminuido*).

## 8.2 CRPD monitoring at the national level

**On 22 January 2021**, the **National Office for the Fight against Hate Crimes** (*Oficina Nacional de Lucha contra los Delitos de Odio*) launched two practical guides to improve the prosecution of hate crimes and strengthen the protection of their victims<sup>181</sup>. Its **objective** was to enhance the prosecution of hate crimes and care for their victims, specific people with disabilities who suffered these criminal behaviours. Both guidelines were distributed to the National Security Forces (National Police and the Civil Guard) and other institutions with competencies in the protection of victims, such as the Ministry of Justice (*Ministerio de Justicia*). The document focusing on people with disabilities was also sent to specialised social organisations such as the Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI in its Spanish acronym), concerning one of the texts focused on people with developmental disabilities.

**On 22 March 2021**, the **Spanish Committee of Representatives of Persons with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) published its [Annual National CERMI report on human rights and disability in Spain for 2020](#)

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<sup>179</sup> CERMI.ES, [Reformar el Art. 49: Las Palabras Importan](#), press release, 3 December 2021.

<sup>180</sup> Spain, [Spanish Constitution](#) (*Constitución Española*), 27 December 1978.

<sup>181</sup> Spain, Ministry of Interior (*Ministerio del Interior*), [Interior elabora dos guías prácticas para mejorar la persecución de los delitos de odio y reforzar la protección a sus víctimas](#), Press release, 22 January 2021.



(Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2020)<sup>182</sup>. Several **conclusions were highlighted**, such as compliance with the Committees' opinions, as to change the scenario through legal modifications is crucial to the impulse of civil society. The strategic litigation and the advocacy work carried out by organisations working in the defence and promotion of human rights are called upon to play a fundamental role in encouraging the public authorities to deepen respect for human rights. It is demanded that advances in artificial intelligence be made from an approach of equality and non-discrimination, including universal accessibility and design for all people, to avoid the greatest risk of violation of the rights and freedoms that people with disabilities have. The use of Artificial intelligence systems has become a reality in daily life in a very short time. Still, there are serious concerns derived from their use in our hyper-technological societies, especially concerning the exercise of human rights.

**On 29 March 2021, Spanish Committee of Representatives of People with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI in its Spanish acronym) published its [Report on Human Rights and Disability Spain 2020](#) (*Derechos Humanos y Discapacidad Informe España 2020*)<sup>183</sup>. It focused on **the multiple impacts of the Covid-19 pandemic on the human rights of people with disabilities**. Its **conclusions** highlighted the special and extreme vulnerability of women with disabilities residing in collective institutions, emphasising those situations are especially dangerous in women with psychosocial disabilities in mental health institutions. It expresses how Covid-19 had a notable impact on the unprotected conditions of millions of women due to social distancing measures and restrictive freedom of movement measures. Moreover,

It confirmed that during the year 2020, people with disabilities suffered discrimination in Spain through different practices, such as: prohibiting the entry of guide dogs to establishments and the veto applied by some airlines banning disabled travellers from flying. The newspaper reported that The Spanish Socialist MEPs urged the European Commission to adopt measures in the face of "discrimination" that people with disabilities continue to suffer in air transport by registering two questions with the Community institution. The case where Ryanair denied boarding in July 2021 to a visually impaired person for "not having his dog's vaccination card at hand", although there was already flown with other companies without any inconvenience<sup>184</sup>. Also, previously, the CERMI referred to the case, about which this yesterday, of two passengers in wheelchairs who refused to let the plane access the Air

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<sup>182</sup> CERMI (2021), [Annual CERMI report on human rights and disability in Spain for 2020](#) (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2020*), Madrid, CERMI.

<sup>183</sup> Spanish Committee of Representatives of People with Disabilities (2021) (*Derechos Humanos y Discapacidad Informe España 2020*), March 2021.

<sup>184</sup> [Europarlamentarias socialistas piden a la comisión europea medidas contra la “discriminación” de las personas con discapacidad en el transporte aéreo, press release, 2021](#)

Nostrum plane after they had passed the relevant controls and followed to the finger the instructions of the personnel of the company<sup>185</sup>.

**On 25 May 2021, the Network of Support Services for People with Disabilities at University** (*Red de Servicios de Apoyo a Personas con Discapacidad en la Universidad*, Red SAPDU, in its Spanish acronym) in collaboration with the Conference of Rectors of Spanish Universities (*Conferencia de Rectores de las Universidades Españolas*, CRUE in its Spanish acronym) and ONCE Foundation (*Fundación ONCE*) presented the [Good practice guide for transition, access and the reception of students with specific needs of educational support in university studies](#) (*Guía de buenas prácticas para la transición, el acceso y la acogida del alumnado con necesidad específica de apoyo educativo en los estudios universitarios*)<sup>186</sup>. The **objective** was to facilitate access to the university for students with disabilities and with a specific need for support, who come from post-compulsory secondary education. It also aimed at avoiding educational abandonment that occurs in the first year of university studies. It should be taken into consideration that according to the [V University and Disability report of the ONCE Foundation](#) (*V Informe Universidad y Discapacidad*), which contained data from the 2019-2020 academic year from 61 Spanish universities, the total number of students with disabilities enrolled were 20,000 (1.5% of the total). Among them, 30% had a physical or organic disability, 11.5% had an intellectual or developmental disability, and 10% was a sensory disability.

**On 15 June 2021, Google Cloud and Once Foundation** (*Fundación ONCE*) signed a memorandum of understanding for the ONCE Foundation's to use Google Cloud services to develop applications that allow the full inclusion of people with disabilities.<sup>187</sup> The agreement was set towards developing projects to improve the quality of life of people with disabilities through information and Communication Technologies (ICTs). This initiative aimed to promote social inclusion and help reduce discriminatory barriers for people with disabilities.

**On 21 June 2021, the Spanish Committee of Representatives of Persons with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **published** its [2020 Activities Memory](#) (*Memoria de Actividades 2020*).<sup>188</sup> The report expressed how all 2020 efforts were involved in fighting the Covid-19 pandemic and standing issues, including the desired eradication of sterilisation on the political agenda, forced labour, the alarming employment situation of people

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<sup>185</sup> [CERMI, La legislación para viajar en avión de personas con discapacidad, “claramente insuficiente”](#), press release, 29 March 2021.

<sup>186</sup> Red SAPDU (2021), [Good practice guide for transition, access and the reception of students with specific needs of educational support in university studies](#) (*Guía de buenas prácticas para la transición, el acceso y la acogida del alumnado con necesidad específica de apoyo educativo en los estudios universitarios*), Madrid. Fundación ONCE. Con la colaboración de CRUE-Asuntos Estudiantiles.

<sup>187</sup> Google Cloud and Once Foundation (*Fundación ONCE*) (2021), [Agreement to improve the lives of people with disabilities](#), Press release, 15 June 2021.

<sup>188</sup> Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021), [2020 Activities Memory](#) (*Memoria de Actividades 2020*),

with disabilities, the accompaniment of women, girls, mothers and caregivers victims of violence, complaints against unwanted loneliness, and the dismissal of essential improvements in the sustainability of the disability sector.

**In July 2021, the CERMI Women Foundation** (*Fundación CERMI Mujeres*) published a [Guide for healthcare access and health care for women and girls with disabilities](#). (*Guía para el acceso a la salud y a la atención sanitaria de las mujeres y niñas con discapacidad*)<sup>189</sup>. It seeks to be a tool available both to women with disabilities themselves and to professionals interested in implementing training and empowerment actions in health. The guide also includes a brief analysis of the impact of COVID-19 on women and girls with disabilities and compiles good practices, highlighting the importance of associations and identifying future challenges. Certain challenges were highlighted, such as incorporating all socio-sanitary interventions and research of the gender, disability and Human Rights perspective. It recognised the diversity of identities and the intersectionality of people with disabilities. It created spaces for social and health care that focus on the specific needs of women and girls with disabilities.

**On 17 July 2021, the Spanish Committee of Representatives of People with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) decided to get involved as a popular action (*acción popular*) in the criminal process for the murder of a young man from Madrid with Asperger's syndrome. He was stabbed on 14 July 2021, claiming that the punishment of the case was a hate crime because of disability.<sup>190</sup> As public criminal action is established in the Spanish legal system, natural and legal persons can be present in criminal trials exercising the accusation, regardless of the charge carried out by the Public Prosecutor's Office (*Ministerio Fiscal*) and the parties directly offended by the crime.

**In July 2021, the Spanish Agency for International Development Cooperation** (*Agencia Española de Cooperación Internacional al Desarrollo*, AECID, in its Spanish acronym), the **Social Group ONCE** (*Grupo Social ONCE*) and the **Spanish Committee of Representatives of People with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) signed a collaboration agreement to promote the exchange of experiences and promote the inclusion of disability with a gender perspective in International Cooperation.<sup>191</sup> This agreement seeks to incorporate the concept of

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<sup>189</sup> CERMI Women Foundation (2021) [Guide for healthcare access and health care for women and girls with disabilities](#). (*Guía para el acceso a la salud y a la atención sanitaria de las mujeres y niñas con discapacidad*), July 2021.

<sup>190</sup> Spanish Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021), [El Cermi Ejercerá La Acción Popular En El Crimen De Isaac López. Para que se castigue Lo Más Severamente Posible Este Presunto Delito De Odio](#), Press release, 17 July 2021.

<sup>191</sup> Spain, Spanish Agency for International Development Cooperation (*Agencia Española de Cooperación Internacional al Desarrollo*) the Social Group ONCE (*Grupo Social ONCE*) and the Spanish

'diplomacy for inclusion in all actions to be carried out, aiming to improve the lives of people with disabilities, mainly in Latin America.

**On 3 August 2021, the Secretary of State for Security of the Ministry of Interior** published its annual [Report on the Evolution of Hate Crimes in Spain](#) (*Informe sobre la evolución de los delitos de odio en España*)<sup>192</sup>. According to its results, people with disabilities reported 69.2% more criminal offences based on contempt and discrimination to the authorities than the previous year. In addition, the total number of registered cases decreased by 17.9% due to confinement and sanitary restrictions. According to the Ministry of Interior, most hate crimes occur on the street (511 cases of the 1,401 registered in total, in 2020), but it also concerns hate crimes on the internet and social networks.

**On 24 August 2021, the Garrigues Study Center** published a report titled [Good Practice Guide for the inclusion of people with disabilities in organizations](#) (*Guía de Buenas Prácticas para la inclusión de las personas con discapacidad en las organizaciones*).<sup>193</sup> This Guide was elaborated within the collaboration framework with the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) and the [Law and Disability Foundation](#) (*Fundación Derecho y Discapacidad*). This Guide was established as a tool that wishes to implement inclusive strategies with a human diversity perspective. Its objective was to contribute to the incorporation of people with disabilities to decent and dignified jobs. In addition, the Guide offers clear guidelines for managing diversity in organisations to achieve the highest levels of inclusion. In addition, it seeks to allow people with disabilities to develop their professional careers in friendly, diverse environments where their participation will consider a valuable item.

**On 15 September 2021, the Spanish Committee of Representatives of Persons with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) published a Guide entitled ["Hate crimes based on disability. How to identify them? How to tackle them?"](#) (*Los delitos de odio por motivos de discapacidad ¿Cómo identificarlos? ¿Cómo atajarlos?*)<sup>194</sup>. The purpose of the document is to help define what hate crimes are, how to recognise them and how to act if you

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Committee of Representatives of People with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021), [AECID y el Grupo Social ONCE suman fuerzas en favor de la diplomacia para la inclusión](#), Press release, 12 July 2021.

<sup>192</sup>López Gutiérrez, J., Sánchez Jiménez, F., Fernández Villazala, T., Herrera Sánchez, D., Martínez Moreno, F., San Abelardo, M.Y., Rubio García, M., Gil Pérez, V., Santiago, A.M., Gómez Martín, M.Á. y Gómez Esteban, J., [Report on the Evolution of Hate Crimes in Spain](#) (*Informe sobre la evolución de los delitos de odio en España*), Madrid, Ministry of Interior, 2021.

<sup>193</sup>Garrigues Study Center (2021), [Good Practice Guide for the inclusion of people with disabilities in organizations](#) (*Guía de Buenas Prácticas para la inclusión de las personas con discapacidad en las organizaciones*), Madrid, CERMI.

<sup>194</sup>Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2021), ["Hate crimes based on disability. How to identify them? How to tackle them?"](#) (*Los delitos de odio por motivos de discapacidad ¿Cómo identificarlos? ¿Cómo atajarlos?*), 15 September 2021.

are aware that they occurred. The document assures that reporting these crimes is essential since it helps prevent hate crimes from happening again. Referring to the [International Convention on the Rights of Persons with Disabilities](#) and its articles 16 and 17 must be complied with if there is a hate crime against disabilities.

**On 17 November 2021**, the **CERMI** demands a family law to consider people with disabilities, which has a gender focus. The CERMI Women Foundation required that the future Family Law<sup>195</sup> promoted by the Ministry of Social Rights and Agenda 2030 (*Ministerio de Derechos Sociales y Agenda 2030*) takes into consideration the families of people with disabilities with a gender focus. Therefore, we must improve support to meet unique needs" for "economic vulnerability or social" and "for other reasons, such as single-parent families, single-parent families, those with a high number of children or families where rare diseases or disabilities concur". According to CERMI, the Secretary of State emphasised the relevant measures that the initial draft of the law will include, such as the full legal recognition of family diversity; improving financial protection; ensuring the provision of services to children from 0 to 3 years of age or the regime of the most advanced parental leave, among other measures.<sup>196</sup>

**In October 2021**, on the judgement of the **Spanish Constitutional Court (TC)**<sup>197</sup>, who protects people with disabilities who are evicted from his home. The Court stated that the previous assessments did not consider his cognitive difficulties, which placed him in a position of vulnerability. The ruling of the second chamber of the Constitutional Court upheld the appeal. It declared that the right of the plaintiff with a disability to effective judicial protection had been violated. According to the judgment, although the person alleged in the process his factual circumstance of disability, which entailed cognitive difficulties, the judicial bodies that knew of the eviction did not sufficiently weigh this factor.

**In October 2021**, agrees on different measures to improve access to the Minimum Vital Income from 2022 for people with a great disability. An improvement in the amount of 22 % of Minimum Income was approved for households with people with significant disabilities, with a recognised disability "equal to or greater than 65%". The Government announced most relevant measures in Minimum Vital Income are that there will be an

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<sup>195</sup> Spain, Ministry of Social Rights and Agenda 2030 (Ministerio de Derechos Sociales y Agenda 2030) [draft law on family diversity and support for families](#) (*anteproyecto de ley de diversidad familiar y apoyo a las familias*),

<sup>196</sup> CERMI, [Cermi Exige una Ley de Familias Considere a Aquellas que tienen Personas con Discapacidad y que tenga Enfoque de Género](#), press release, 17 November 2021.

<sup>197</sup> CERMI, [El CERMI saluda el fallo del Tribunal Constitucional que ampara a una persona con discapacidad porque la Justicia no tuvo en cuenta sus dificultades cognitivas](#), press release, 20 October 2021;

Spain, Constitutional High Court (*Tribunal Constitucional*), [Constitutional Sentence No. 161/2021, Constitutional Court, Second Chamber, Rec Resource of amparo 2407/2019 of October 04, 2021](#) (*Sentencia Constitucional Nº 161/2021, Tribunal Constitucional, Sala Segunda, Rec Recurso de amparo 2407/2019 de 04 de Octubre de 2021*), 4 October 2021.

increase of up to 22% for those families having a member with a disability equal to or greater than 65%.

**On 26 October 2021**, The CERMI requested that the Spanish Central Government that [the blueprint of the National Housing Law](#) (*Anteproyecto de Ley Estatal por el Derecho a la Vivienda*) incorporate the reform of the Horizontal Property Law (*Ley de Propiedad Horizontal*)<sup>198</sup> to have legislation that establishes as mandatory and charged to the community of owners the works and accessibility actions where people with disabilities or over 70 years of age<sup>199</sup>.

**In November 2021**, the Observatory of Diversity in Audiovisual Media (*Observatorio de la Diversidad en los Medios Audiovisuales*, ODA, in its Spanish acronym) presented a report titled **Analysis on the representation of diversity in Spanish fiction of 2020 in film and television** (*Análisis sobre la representación de la diversidad en la ficción española del 2020 en cine y televisión*)<sup>200</sup>. It included for the first time an analysis of characters with disabilities thanks to the collaboration with the (CERMI). A total of 49 films and 51 seasons of 49 fiction series were examined. Its **goal** was to promote diverse and non-stereotyped images in the audiovisual media, which eradicate prejudices and discriminatory attitudes towards these groups. **It concluded that** only a 2.4% of the characters in series and 2.1% of films are people with disabilities. A 19% of the series and 10% of the films analyzed include people with disabilities among their characters. And even though almost 60% of people with disabilities are women, they are 46% represented in the media, compared to 54% of men. Most of the characters with disabilities appear in series that have a hospital theme and in many cases, they play the role of evil, which reinforces negative conceptions.

**In December 2021**, it was published a book research entitled "**Comments on Law 8/2021 reforming procedural and civil legislation on disability**" (*Comentarios a la Ley 8/2021 por la que se reforma la legislación procesal y civil en materia de discapacidad*).<sup>201</sup> It made a legal assessment of the [Law 8/2021, to support people with disabilities in exercising their legal capacity](#),<sup>202</sup> as well as the amendments to the Civil Code, the Notariat Law

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<sup>198</sup> Spain, Head of State (*Jefatura del Estado*), [Horizontal Property Law](#) (*Ley 49/1960, de 21 de julio, sobre propiedad horizontal*), 21 July 1960.

<sup>199</sup> Spain, Presidency of the Government (*Presidencia del Gobierno*), [Anteproyecto de Ley por el Derecho a la Vivienda](#), press release, 26 Octubre 2021.

<sup>200</sup> ODA (2021), [Analysis on the representation of diversity in Spanish fiction of 2020 in film and television](#) (*Análisis sobre la representación de la diversidad en la ficción española del 2020 en cine y televisión*), Madrid, *Observatorio de la Diversidad en los Medios Audiovisuales*.

<sup>201</sup> Guilarte Martín-Calero, C. (2021), [Comments on Law 8/2021 reforming procedural and civil legislation on disability](#) (*Comentarios a la Ley 8/2021 por la que se reforma la legislación procesal y civil en materia de discapacidad*), Aranzadi, Madrid.

<sup>202</sup> Spain, Head of State (*Jefatura de Estado*), [Law 8/2021, of 2 June](#), (*Ley 8/2021, de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica*), 2 June 2021.

8 (*Ley del Notariado*)<sup>203</sup>, Mortgage Law (*Ley Hipotecaria*), Civil Registry Law of 2011<sup>204</sup>, Law 41/2003, on the patrimonial protection of people with disabilities, the Commercial Code<sup>205</sup> and procedural laws of civil procedure and voluntary jurisdiction that were modified by Law 8/2021. The publication was promoted by the CERMI and the Right and Disability Foundation (*Fundación Derecho y Discapacidad*). **It concluded that the change of classical and traditional conception of intellectual and psychosocial disability can only be implemented if it is accompanied by a transformation of the social mentality and, in particular, of that of those legal professionals, such as judges and magistrates, officials of the administration of justice, public notaries and registrars, or lawyers.** In addition, it emphasized the relevance for the entities of the third sector engaging in social action, which the law reform recognized them as a key stakeholder with essential functions of collaboration with the Justice Administration.

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<sup>203</sup> Spain, Ministry of Grace and Justice (*Ministerio de Gracia y Justicia*), [Law of the Notariat of May 28, 1862](#) (*Ley del Notariado de 28 de mayo de 1862*), 29 de mayo de 1862.

<sup>204</sup> Spain, Head of State (*Jefatura del Estado*), [Law 20/2011, of 21 July, on the Civil Registry](#) (*Ley 20/2011, de 21 de julio, del Registro Civil*), 22 July 2011.

<sup>205</sup> Spain, Head of State (*Jefatura de Estado*), [Law 41/2003, of 18 November, on the patrimonial protection of people with disabilities and the modification of the Civil Code, the Civil Procedure Law and Tax Regulations for this purpose](#) (*Ley 41/2003, de 18 de noviembre, de protección patrimonial de las personas con discapacidad y de modificación del Código Civil, de la Ley de Enjuiciamiento Civil y de la Normativa Tributaria con esta finalidad*), 18 november 2003.

## Annex 1- Promising Practices

Thematic area	<p style="text-align: center;"><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p style="text-align: center;"><b>Please provide one example of a practice to tackle nationality-based discrimination, or discrimination against LGBTI people, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2021 relevant to equality and non-discrimination of EU citizens or LGBTI people, preferably one conducted by a national equality body.</b></p>
<b>Title (original language)</b>	Máster en Identidad Sexual y Diversidad LGTBI+
<b>Title (EN)</b>	Masters in Sexual Identity and LGTBI + diversity
<b>Organisation (original language)</b>	Universidad de Salamanca
<b>Organisation (EN)</b>	University of Salamanca
<b>Government / Civil society</b>	Civil society
<b>Funding body</b>	Self-funded through funds of its own.



<b>Reference (incl. URL, where available)</b>	<a href="https://www.usal.es/master-en-identidad-sexual-y-diversidad-lgtbi-online">https://www.usal.es/master-en-identidad-sexual-y-diversidad-lgtbi-online</a> ; <a href="https://masterdiversidad.usal.es/">https://masterdiversidad.usal.es/</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	It started in 2020 and is ongoing.
<b>Type of initiative</b>	Training and Higher Degree Education.
<b>Main target group</b>	Students, Researchers, Lawyers and legal and policymakers.
<b>Indicate the level of implementation: Local/Regional/National</b>	Local and Regional
<b>Brief description (max. 1000 chars)</b>	<p>The <b>University of Salamanca Master's program</b> <u>in sexual identity and LGTBI + diversity</u> (<i>Máster en Identidad Sexual y Diversidad LGTBI+</i>) seeks training people in gender equality and sexual diversity. They carry out serious academic debate that reaches real research conclusions concerning equal rights in women's groups and LGTBI +.</p> <p>It addresses issues such as history, the collective's struggle, rights, crimes and other fundamental aspects and concepts, current problems and challenges of equality for LGTBI + people and formulates diagnosis and solutions by introducing appropriate techniques and procedures; training professionals with knowledge in the areas of parity concerning sexual and gender identity and</p>

	orientation; instructing specialists in multidisciplinary issues related to the rights of LGTBI + people, and incorporating the perspective of LGTBI + groups.
<b>Highlight any element of the transferable actions (max. 500 chars)</b>	<p>It addresses questions of common interest in all Member States, such as the fight against discrimination against lesbian, gay, transgender, bisexual and intersex (LGTBI) people, focused on achieving real and effective equality.</p> <p>Its approach, curriculum and methodology could be a reference for other institutions and the basis for new policies and practices on how the higher education institutions approach LGTBI+ issues.</p> <p>And certain related training such as the specialized <b>Law Course</b> titled <a href="#">Legal and Multidisciplinary Approach to the Rights of LGTBI+ People</a> (<i>Abordaje Jurídico y Multidisciplinar de los Derechos de las Personas LGTBI+</i>) could also be developed by other Higher Education Centres in the other Member States.</p>
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b>	<p>The University of Salamanca and the Master studies and other related ad hoc training over the same issues are under the competence of a new department created in <b>2019</b>, named <a href="#">the Sexual Affective Diversity and Gender Identity Unit</a> (<i>Unidad de diversidad afectivo sexual y de identidad de género</i>).</p> <p>The Master also responds to growing demand in subjects and lines of research related to gender and LGTBI + diversity.</p>
<b>Give reasons why you consider the practice as having a concrete, measurable impact</b>	<p>It is a national campaign supported by the official databases where all data referred to the demands and cases will be collected and analysed.</p> <p>It is an initiative with a strong social impact: withdrawing violent or sexual content that spreads on the Internet without the permission of the people who appear on them.</p>

	The university is made up of <b>9 teaching and administrative campuses</b> in Ávila, Zamora, Béjar y Salamanca. Therefore, it is characterised by widely dispersed geography.
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	<p>Salamanca University has a worldwide network, and the reality of the fight against discrimination against lesbian, gay, transgender, bisexual and intersex (LGTBI) people across Europe is a shared challenge.</p> <p>The University of Salamanca is the European university with the ninth-largest number of incoming Erasmus students who could benefit from the knowledge and shared experiences , rights, crimes and other issues LGTBI+ group of pers.</p>
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	Not available
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	The internal quality control standards, codes of conduct, and technical and financial regular reporting guarantee regular review and assessment.

<p><b>Thematic area</b></p>	<p style="text-align: center;"><b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b></p> <p style="text-align: center;"><b>Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about either: active cooperation with CSOs in addressing racism and hate crime; or combating racism and unequal treatment in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.</b></p>
<p><b>Title (original language)</b></p>	<p>Proyecto Salam (Promoción de la convivencia intercultural e interreligiosa y prevención de la intolerancia por motivos religiosos)</p>
<p><b>Title (EN)</b></p>	<p>Salam Project (Promotion of intercultural and interreligious coexistence and prevention of intolerance on religious grounds).</p>
<p><b>Organisation (original language)</b></p>	<p>Fundación la Merced Migraciones</p>
<p><b>Organisation (EN)</b></p>	<p>La Merced Migrations Foundation</p>
<p><b>Government / Civil society</b></p>	<p>Civil Society</p>
<p><b>Funding body</b></p>	<p>Asylum, Migration and Integration Fund of the European Union and the Spanish Ministry of Labour, Migration and Social Security.</p>

<b>Reference (incl. URL, where available)</b>	<a href="https://www.lamercedmigraciones.org/proyectos-con-la-sociedad/salam/">https://www.lamercedmigraciones.org/proyectos-con-la-sociedad/salam/</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2017 - Ongoing
<b>Type of initiative</b>	Civil Participation, Awareness Raising and Training.
<b>Main target group</b>	Representative members of religious groups, young migrants and the general population.
<b>Indicate the level of implementation: Local/Regional/National</b>	National

<p><b>Brief description (max. 1000 chars)</b></p>	<p><b>Its objective</b> is to promote interreligious coexistence and prevent discrimination on religious grounds through the religious identity, which is understood as an element of social cohesion and encourages the migrants' integration.</p> <p>The project actions are based on: <b>participation:</b> building safe spaces where young people express their interests, conflicts and doubts in the religious field through a <b>Motor Group of Migrants and Refugees</b> (<i>Grupo Motor de Personas Migrantes y Refugiadas</i>); <b>awareness-raising:</b> promote spaces for a mutual knowledge were to approach different beliefs through interreligious meetings and the <b>Plural Network of Confessions (Red Plural de Confesiones)</b>; and <b>training:</b> through workshops and talks and training developed by the <b>Network of Training Entities (Red de Entidades Formadoras)</b>, which was made up of thirteen public and private entities, working on the value of diversity and promoting tools for the prevention of attitudes of intolerance and discrimination.</p>
<p><b>Highlight any element of the transferable actions (max. 500 chars)</b></p>	<p>It does address an issue of common interest for all Member States related to discrimination on religious grounds.</p>

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>It has already been running for almost four years. It includes a wide and quite comprehensive range of member organizations working as a network that facilitates its updated responses and strong outreach.</p> <p>Because of the complementary aspect, the NGO La Merced Migrations Foundation has other projects and initiatives. These occur regularly, which can be seen with their integration programs with migrants and refugees.</p> <p>It responds to the awareness-raising needs in terms of the interreligious experiences, possible religious discrimination taking into account the particular needs of every religious group and the changing nature of the discriminatory acts and groups.</p>
<p><b>Give reasons why you consider the practice as having a concrete, measurable impact</b></p>	<p>Since the beginning, more than 2,000 people were reached, 13 entities active in the <u>Network of Training Entities</u> (<i>Red de Entidades Formadoras</i>), 16 participating religious communities, and a group of young migrants were organized and continues running. There were VII editions of training titled "Agents of prevention of Islamophobia and religious discrimination" (<i>Agentes de prevención de la islamofobia y de la discriminación religiosa</i>). Also, awareness-raising activities developed Spanish universities and workshops in schools took place.</p>

<p><b>Give reasons why you consider the practice as transferable to other settings and/or the Member States?</b></p>	<p>It addressed issues of common interest for all Member States when dealing with the EU anti-discrimination law and human rights frameworks that address discrimination based on religion or belief. It also links with the concept and approach towards <a href="http://europa.eu">Religion and human rights (europa.eu)</a></p> <p>Religion can play, and where it has played, a significant role is an immigration and the integration and acceptance of immigrants.</p> <p>This kind of practice may offer and help spread alternative, peaceful and tolerant narratives, as opposed to those of radical and violent leaders, to fight against radicalization movements or counter terrorist attacks and get closer to the role of religious leaders within the European communities.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available</p>



<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>La Merced Migrations Foundation counts on their certified quality of standards and models applied to all their programs. In addition, the NGO publishes its annual reports and financial accounts regularly and different codes of conduct to keep in line with the acting principle of transparency.</p> <p>Additionally, 13 entities were active in the <u>Network of Training Entities</u> (<i>Red de Entidades Formadoras</i>), 16 participating religious communities, a group of young migrants were organized and continues running; community as a way for the children and young adults to communicate and participate. These are bodies of representation and participation to be heard, and their opinions are considered at all levels.</p> <p>Through its Annual Technical and Financial Reporting.</p>
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> <b>Please provide one example of promising practice related to the two topics addressed in the chapter. Please make the link between the selected practice and the topics explicit.</b>
<b>Title (original language)</b>	Convenio Marco de Colaboración entre la Univerisad de Alcalá, la Fundación General de la Universidad de Alcalá y la Fundación Instituto de Cultura gitana.
<b>Title (EN)</b>	Framework Collaboration Agreement between the University of Alcalá, the General Foundation of Alcalá and the Institute of Roma Culture Foundation.
<b>Organisation (original language)</b>	Universidad de Alcalá (UAH)
<b>Organisation (EN)</b>	Alcala University
<b>Government / Civil society</b>	Government
<b>Funding body</b>	Ministry of Education, Culture and Sport ( <i>Ministerio de Educación, Cultura y Deporte</i> )
<b>Reference (incl. URL, where available)</b>	<a href="https://biblioteca.uah.es/biblioteca/documentos/Convenios_sumario.pdf">https://biblioteca.uah.es/biblioteca/documentos/Convenios_sumario.pdf</a> ; <a href="https://institutoculturagitana.es/wp-content/uploads/2020/06/20830763.pdf">https://institutoculturagitana.es/wp-content/uploads/2020/06/20830763.pdf</a>

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2011 and ongoing
<b>Type of initiative</b>	Higher Education Training and Awareness Raising
<b>Main target group</b>	Students and Researchers
<b>Indicate the level of implementation: Local/Regional/National</b>	Regional

<p><b>Brief description (max. 1000 chars)</b></p>	<p>The General Foundation of the Alcala University and the Institute of Roma Culture Foundation <b>signed in 2011 a collaboration agreement</b> with the fundamental objective of promoting the studies, teaching, and research in the field of Roma language, history, and culture in its different manifestations.</p> <p>Under this framework collaboration, the University of Alcala was the first in Spain <a href="#">to teach a transversal subject on Roma language and culture</a>. One of its training courses is titled <a href="#">Gypsies in Spain. history and Culture</a> (<i>Gitanos de España. Historia y Cultura</i>).</p> <p><b>In July 2021</b>, due to the collaboration between both institutions, the University of Alcala launched <a href="#">the Roma Library</a> (<i>Biblioteca del Pueblo Gitano</i>). El <a href="#">Institute of Roma Culture</a> (<i>Instituto de Cultura Gitana</i>) the University of Alcala became a national reference in a bibliography related to Roma culture. The Institute of Roma Culture made available to researchers its documentary collections, 1,000 volumes and diverse archival material to be consulted by researchers, students or anyone interested in Roma culture.</p>
<p><b>Highlight any element of the transferable actions (max. 500 chars)</b></p>	<p>The research and teaching methodology developed by Alcala University has been a great advance in recognition of Roma culture, its language and customs, giving them a positive image, making them an object of scientific study.</p> <p>The example of collaboration with Higher Education Institutions that have the structure and capacities to develop specialized studies and resources related to the Roma culture.</p>

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>The University of Alcala (UAH) is one of the oldest public universities in Europe located Madrid Region in Spain.</p> <p>Since 2011, the University of Alcala and the Institute of Roma Culture have collaborated in many other activities.</p> <p>In 2018, the University of Alcala received the Research Award of the Institute of Roma Culture (<i>Instituto de Cultura Gitana en la categoría de Investigación</i>).</p>
<p><b>Give reasons why you consider the practice as having a concrete, measurable impact</b></p>	<p>Over the years, some 180 undergraduate students of various degrees were enrolled under the specialized Roma studies on language and culture organized by the University of Alcala.</p> <p>After launching <a href="#">the Roma Library</a> (<i>Biblioteca del Pueblo Gitano</i>), a collection of books and specialized documentary material will be at the service of the university and research community in the University of Alcala and its network of associated and collaborating institutions in Spain and beyond.</p>

<p><b>Give reasons why you consider the practice as transferable to other settings and/or the Member States?</b></p>	<p>There are an estimated <b>10 million Romani people</b> in Europe (as of 2019). Besides Spain, significant Romani populations are located in the Balkans, in some Central European states, France, Russia and Ukraine.</p> <p>It meant actions <b>in line with the policy and legal developments at the EU level</b> (<a href="#">EU Roma strategic framework</a> October 2020 and the <a href="#">recommendation on Roma equality, inclusion and participation</a> in March 2021). It sought to give a stronger focus to combining the mainstreaming of Roma inclusion across policy areas with targeted measures supporting equal effective access of Roma to rights and services.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available</p>

<b>Explain, if applicable, how the practice provides for review and assessment.</b>	Not available.
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<b>Thematic area</b>	<p style="text-align: center;"><b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b></p> <p style="text-align: center;"><b>Please provide one example of a promising practice related to the topics addressed in the chapter, i.e. data protection, and/or artificial intelligence systems.</b></p>
<b>Title (original language)</b>	Comunica-Brecha RGPD
<b>Title (EN)</b>	Communicate-Breach RGPD
<b>Organisation (original language)</b>	Agencia Española de Protección de Datos.
<b>Organisation (EN)</b>	Spanish Data Protection Agency
<b>Government / Civil society</b>	Government
<b>Funding body</b>	Ministry for the Ecological Transition and the Demographic Challenge ( <i>Ministerio para la Transición Ecológica y el Reto Demográfico</i> ) and the European Regional Development Fund (ERDF).
<b>Reference (incl. URL, where available)</b>	<a href="https://servicios.aepd.es/AEPD/view/form/MDAwMDAwMDAwMDAwMDM1OTg3MzIxNjMzNDI5MjIyMDM1?updated=true">https://servicios.aepd.es/AEPD/view/form/MDAwMDAwMDAwMDAwMDM1OTg3MzIxNjMzNDI5MjIyMDM1?updated=true</a>



<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2019
<b>Type of initiative</b>	Data Protection and Cybersecurity
<b>Main target group</b>	General Population
<b>Indicate the level of implementation: Local/Regional/National</b>	National

<p><b>Brief description (max. 1000 chars)</b></p>	<p><a href="#">Communicate-Breach RGPD</a> was a tool created by the Spanish Data Protection Agency (AEPD). It introduced a new form to report incidents related to <a href="#">Personal data breaches</a>, which simplified the communication of security breaches. It seeks to guide the owner or data controller of the company through a series of questions about the case characteristics.</p> <p>The AEPD highlighted the person in charge or owner of the Communicate-Breach RGPD database stored could not provide any information that may allow the identification of the affected person.</p> <p>After gathering all the information, the AEPD issues a non-binding opinion on the possible actions to be carried out. This opinion should be made based on the provisions of Article 34 of the EU - General Data Protection Regulation that refers to the communication of a serious violation of the security of the personal data of the affected person.</p> <p>The communication could serve to a) Inform the affected persons of the security breach; b) do not report the security breach, as the exposed information is not important; or c) in the case of it is not possible to determine the risk based on the information provided.</p>
<p><b>Highlight any element of the transferable actions (max. 500 chars)</b></p>	

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>It is a tool funded and developed by a public administration body and available anytime.</p> <p>Part of a line of action where other related actions are developed is the Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>). In addition, there is an updated version of the report <a href="#">Notification Guide on personal data breaches</a> (<i>Guía para la notificación de brechas de datos personales</i>)<sup>206</sup> where this tool is included.</p>
<p><b>Give reasons why you consider the practice as having a concrete, measurable impact</b></p>	<p>It is a National mechanism supported by the official databases where all data referred to the claims and breaches will be collected and analyzed. It will be possible to access the final data on the number of violations finally communicated and the opinions issued by the AEDP. Likewise, information about those actions is always public and accessible.</p> <p>It is an initiative with a strong social impact: withdrawing breaches of personal data that spread on the Internet without the permission of the people affected.</p>
<p><b>Give reasons why you consider the practice transferable to other settings and/or the Member States?</b></p>	<p>It addresses the common interest in all Member States to facilitate the support and protection of children accused and/or with a final sentence after a criminal procedure. The fight against child sexual abuse and exploitation is a priority for the EU. The Commission is working on a new EU strategy to tackle this issue. It will focus on: preventing the abuse from happening in the first place, law enforcement, and supporting the victims. In addition, there was a dramatic increase in child sexual abuse instances detected in the EU in the past few years: from 23,000 in 2010 to 830,000 in 2019.</p> <p>The Spanish Regional Government may support the sharing of practices and information with the other Member States.</p>

<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	Not available
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	Not available

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<sup>206</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2021), [Notification Guide on personal data breaches](#) (*Guía para la notificación de brechas de datos personales*), Madrid, Spanish Data Protection Agency.

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide a promising practice related to the topics addressed in the chapter.</b>
<b>Title (original language)</b>	<a href="#">PantallasAmigas</a>
<b>Title (EN)</b>	<a href="#">FriendlyScreens</a>
<b>Organisation (original language)</b>	Asociación para el fomento del uso saludable de las Tecnologías de la Información y la Comunicación EscuelaTIC.
<b>Organisation (EN)</b>	Association for the promotion of the healthy use of Information Technologies and the School TIC Communication.
<b>Government / Civil society</b>	Civil Society
<b>Funding body</b>	Public and Private Funding depends on particular projects and initiatives.
<b>Reference (incl. URL, where available)</b>	<a href="https://www.pantallasamigas.net/">https://www.pantallasamigas.net/</a>

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2004-ongoing
<b>Type of initiative</b>	Technological educative program and awareness campaign.
<b>Main target group</b>	Children and Adolescents.
<b>Indicate the level of implementation: Local/Regional/ National</b>	National

<p><b>Brief description (max. 1000 chars)</b></p>	<p><a href="#">PantallasAmigas'</a> s mission was to defend and promote the rights of children and adolescents in the new digital context. In 2004 it was born with the slogan "For a Safe and Healthy Use" (<i>Por un Uso Seguro y Saludable</i>). It was expanded in 2009 with the slogan "For a Responsible Digital Citizenship" (<i>Por una ciudadanía Digital Responsable</i>).</p> <p><a href="#">PantallasAmigas'</a> <b>objective</b> is to promote safe and healthy use of the Information and Communication Technologies (ICTs), including the Internet. It aimed at promoting responsible digital citizenship in children and adolescents. <b>It deals with</b> the phenomena of online harassment and violence, such as gender cyber violence, cyberbullying, grooming, privacy and identity problems, and sexting, privacy and identity problems</p> <p>It develops publications and teaching materials, information or a <a href="#">Digital Documentation Center</a>. It offers specific resources, such as educational <b>resources for safe use of the Internet and New Technologies for children</b>, including educational multimedia guides and on the Internet, mobile telephones and video games, training and awareness and communication.</p>
<p><b>Highlight any element of the transferable actions (max. 500 chars)</b></p>	<p>The initiative is based upon five fundamental pillars of common interest in all Member States and across many different types of institutions and activities.</p> <p>Those pillars are: 1) use of multi-channel educational communication strategies; 2) promoting different social, cognitive and emotional skills; 3) promoting universal values such as respect, responsibility, justice, solidarity, cooperation, participation, equity, equal opportunities, and care for other people; 4) Transversality with other educational aspects, such as gender equality and social inclusion; and 5) innovation in processes, media, channels and agents.</p>

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>Originating in Spain in 2004, and since then, it <a href="#">has been awarded several times</a>.</p> <p>Its Child Welfare and Protection Virtual Documentary Center counts on strong institutional support from the Ministry of Consumption and Social Welfare (<i>Ministerio de Sanidad, Consumo y Bienestar Social</i>).</p> <p>In addition, it also counts with the collaboration and funding support provided by several Civil Society Organizations, such as <a href="#">Unicef Spain</a>, <a href="#">Platform of Children's Organizations</a> (<i>Plataforma de Organizaciones de Infancia</i>), <a href="#">Well-being and Child and Adolescent abuse of the University of Salamanca</a> (<i>Bienestar y Maltrato Infantil y Adolescente de la Universidad de Salamanca</i>) and from <a href="#">RED SABIA</a>.</p>
<p><b>Give reasons why you consider the practice as having a concrete, measurable impact</b></p>	<p>Its sphere of influence is global as it developed or collaborated on projects in more than 15 countries.</p> <p>The educational projects and resources for the training of children and adolescents, once they are developed, can work independently on the Internet.</p>



<p><b>Give reasons why you consider the practice as transferable to other settings and/or the Member States?</b></p>	<p>The European Parliament announced the settlement of <a href="#">new temporal rules aiming to stop online sexual abuse against children</a><sup>207</sup> by enabling email, chat, and messaging service providers to voluntarily detect, remove, and report child sexual abuse content.</p> <p>These projects consist of very heterogeneous interventions which allow reaching a very diverse group.</p> <p>The fundamental and final objective is the development of digital skills that allow them to participate in an active, positive and healthy way on the Internet.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available</p>

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<sup>207</sup> European Parliament News, [Parliament approves rules to tackle child sexual abuse online](#), Press release, 7 July 2021.

<b>Explain, if applicable, how the practice provides for review and assessment.</b>	Not available.
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Thematic area	<p style="text-align: center;"><b>ACCESS TO JUSTICE</b></p> <p style="text-align: center;"><b>Please provide one example of a promising practice related to the topics addressed in the chapter.</b></p>
<b>Title (original language)</b>	La víctima como Acusación Particular.
<b>Title (EN)</b>	The victim as a Private Accusation
<b>Organisation (original language)</b>	Red Jurídica (Despacho de abogados y abogadas)
<b>Organisation (EN)</b>	Legal Network (Lawyers' firm).
<b>Government / Civil society</b>	Civil Society.
<b>Funding body</b>	European Union Justice Program.
<b>Reference (incl. URL, where available)</b>	<a href="https://red-juridica.com/">https://red-juridica.com/</a> ; <a href="#">Compendium-of-practices-ES-final.pdf (dynamic.coop)</a> Pg.36.

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	Since 1882. Reinforced for the case of victims of gender violence since 2015.
<b>Type of initiative</b>	Legal Action.
<b>Main target group</b>	All crime victims.
<b>Indicate the level of implementation: Local/Regional/ National</b>	National

<p><b>Brief description (max. 1000 chars)</b></p>	<p>The lawyer's association uses the legal option developed under the Spanish criminal process, which allows a victim, the person harmed by the crime, to participate in an illegal operation with an active role as a private (prosecutor) accuser.</p> <p>This option in Spanish national law aligns with the plurality of accusers, provided in the Spanish Constitution. <b>The constitutional recognition of the victim's right to bring criminal and civil action</b> is part of the right to effective judicial protection of <a href="#">Article 21 of the Spanish Constitution</a>, a high level of protection freedom in Spanish legislation. Moreover, the standing of the individual accuser derives directly from Article 24.1 C.E. as damaged by the criminal offence<sup>208</sup>. This right to the active participation of the victim in the process was enshrined and developed by <a href="#">Law 4/2015, of April 27, 2015, on the Statute of the Victim of Crime</a>.</p> <p>Even if the private accusation is exercised, the charge will continue to be exercised by a public prosecutor when the Prosecutor's Office considers that the process should continue.</p> <p><b>The main advantage</b> of exercising the private prosecution is that the victim's lawyer will have access to the case documents and other rights, similar to those of the public prosecutor. In this sense, the victim who exercises the private accusation (through his lawyer) may: request the collection of further evidence; propose new witnesses or experts to support their case; be informed of all procedural orders adopted so that the relevant resources can be presented in the considered time, and the victim can as well request the conviction of the aggressor and compensation; as well as being aware of all the processing of the case.</p>
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<sup>208</sup> Spain, Constitutional Court Judgement (*Sentencia del Tribunal Constitucional*), [Judgement 34/1994](#) (*sentencia 34/1994, de 31 de enero*), 31 January 1994.

<p><b>Highlight any element of the transferable actions (max. 500 chars)</b></p>	<p>Given the importance of promoting the measures and judicial processes, the private accusation is particularly important to victims of crimes related to gender-based violence, who are assisted by a specialized lawyer from the beginning of the criminal process.</p>
<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>It is regulated by the <a href="#">Royal Decree of September 14, 1882, on the Code of Criminal Procedure</a> (Art. 110 on Private prosecution) (<i>Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal</i>)<sup>209</sup> and in <a href="#">Spanish Constitution</a>, 1978 (Art.21.1, Art. 125)<sup>210</sup> and in <a href="#">Law 4/2015, April 27, on the Statute of the Victim</a> (<i>Ley 4/2015, 27 de Abril, sobre el Estatuto de la Víctima</i>)<sup>211</sup>.</p>
<p><b>Give reasons why you consider the practice as having a concrete, measurable impact</b></p>	<p>After the reform of the Organic Law of Judicial Power (LOPJ), with <a href="#">Organic Law 7/2015</a> (<i>Ley Orgánica 7/2015, de 21 de julio, por la que se modifica la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial</i>)<sup>212</sup>, the Courts with jurisdiction in matters of violence against women, it also deals with crimes against privacy, the right to self-image and honour of women, as well as crimes of contempt before a precautionary measure.</p> <p>In Spain, in 2019, a total of 168,057 complaints of gender-based violence were registered (35.7% per 10,000 inhabitants). In the same year, a total of 40,720 protection orders were issued; 93.5% at the request of the victim in the exercise of this Condition of Private Prosecutor's Office and only 5% at the request of the Public Prosecutor's Office.</p>

<sup>209</sup> Spain, Ministry of Grace and Justice (*Ministerio de Grada y Justicia*) (1882), [Royal Decree of September 14, 1882, on the Code of Criminal Procedure](#) (Art. 110 on Private prosecution) (*Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal*), Madrid, 17 September 1882.

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<sup>210</sup> Spain, (1978), [Spanish Constitution](#) (*Constitución Española*), 1978.

<sup>211</sup> Spain, Head of State (*Jefatura de Estado*) (2015), [Law 4/2015, April 27, on the Statute of the Victim](#) (*Ley 4/2015, 27 de Abril, sobre el Estatuto de la Víctima*), Madrid, 27 April 2015.

<sup>212</sup> Spain, Head of State (*Jefatura de Estado*) (2015), [Organic Law 7/2015](#) (*Ley Orgánica 7/2015, de 21 de julio, por la que se modifica la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial*), Madrid, 22 July 2015.

<p><b>Give reasons why you consider the practice as transferable to other settings and/or the Member States?</b></p>	<p>It addresses an issue of common interest in all Member States to facilitate the support and protection of victims.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available</p>



<b>Explain, if applicable, how the practice provides for review and assessment.</b>	Not available
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<b>Thematic area</b>	<p style="text-align: center;"><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p style="text-align: center;"><b>Please provide one example of a promising practice related to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities.</b></p>
<b>Title (original language)</b>	Programa INSERTA
<b>Title (EN)</b>	INSERTA Program.
<b>Organisation (original language)</b>	<a href="#">Fundación ONCE.</a>
<b>Organisation (EN)</b>	<a href="#">ONCE Foundation.</a>
<b>Government / Civil society</b>	Civil Society.
<b>Funding body</b>	ONCE Foundation for Cooperation and Social Inclusion of People with disabilities ( <i>Fundación ONCE para la Cooperación e Inclusión Social de Personas con Discapacidad</i> ) and the European Social Fund (ESF)

<b>Reference (incl. URL, where available)</b>	<a href="https://www.insertaempleo.es/servicios/demandantes/programa-inserta;">https://www.insertaempleo.es/servicios/demandantes/programa-inserta;</a> <a href="https://www.foroinserta.es/programa-inserta">https://www.foroinserta.es/programa-inserta</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2000-ongoing
<b>Type of initiative</b>	Labour market integration.
<b>Main target group</b>	People with disabilities.
<b>Indicate the level of implementation: Local/Regional/National</b>	National.

<p><b>Brief description (max. 1000 chars)</b></p>	<p><b>The Inserta Program</b> seeks to address large companies. It enables measures and actions that directly contribute to improving the working and living conditions of people with disabilities. At the same time, it fosters the companies' commitment to the group of people with disabilities through their integration as an added value within the companies' Corporate Social Responsibility strategies.</p> <p>It focused on certain groups, such as women with disabilities, people with disabilities over 65%, young people with disabilities, people with disabilities over 45 years of age and people with disabilities who face serious difficulties in accessing or keeping their employment.</p> <p><b>The ONCE Foundation</b> identifies strategic partners that enable the direct employment of people with disabilities within large companies. And the ONCE Foundation offers its collaboration in developing projects through specialized consulting services to the companies.</p> <p>The ONCE Foundation signed an Agreement with every large company to set up a specific and coordinated action plan. This particular and individualized plan should define the actions to be undertaken. It will vary depending on the needs, the business particularities, the social objective pursue, and the strategies of each company.</p>
<p><b>Highlight any element of the transferable actions (max. 500 chars)</b></p>	<p>As a fundamental axis: the development of strategic projects to generate direct employment and promote the training of people with disabilities.</p> <p>As complementary axes: indirect labour integration; the promotion of actions in the field of accessibility of goods and services; the inclusion of efforts and strategies around disability in the social responsibility plans of large companies; social awareness actions; the promotion and sponsorship of actions that contribute to labour insertion; and projects that contribute to the improvement of the group of people with disabilities.</p>

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>This program has run for more than 20 years already, and it's implemented in all Spanish Autonomous Communities.</p> <p>Its counts with the funding support of the European Social Fund and its <a href="#">Youth Employment initiative</a>.<sup>213</sup> It is supported by the Spanish Ministry of Social Economy and Work (<i>Ministerio de Trabajo y Economía Social</i>) through the operational programs of <a href="#">Social Inclusion and Social Economy</a>.</p> <p>The programme evolves continuously and incorporates new activities and actions to meet actual needs through new tools and technologies.</p>
<p><b>Give reasons why you consider the practice as having a concrete, measurable impact</b></p>	<p>The program may benefit from the existing tools to measure impact in every large company where the actions may be implemented.</p> <p>The concrete and measurable impact will be guaranteed through the data collected and the measures and all the participant partners in the Observatory. It would be possible to In addition, other direct and indirect beneficiaries, number of activities, agreements signed, companies involved, and other activities main partner institutions could contribute with their existing impact assessment tools already in place. This program has more than 100 large companies acting associated members, such as Accenture, Banco Santander, BBVA, Deloitte, EY, Ford, Ikea, KPMG, Leroy Merlin, etc.). And also because the programme is implemented at three complementary levels: individual, group and socio-community level.</p> <p>Six thousand jobs for disabled people were generated since the creation of the Inserta program in 2000 and until 2020, collaborating with more than 60 large companies.</p>

<sup>213</sup> European Commission (2012-2023), [Youth Employment initiative](#) (YEI), 2012, Brussels.

<p><b>Give reasons why you consider the practice as transferable as other settings in the and/or Member States?</b></p>	<p>The comprehensive tool provided for large companies to promote the labour integration of people with disabilities could be implemented in the other Member States. And it would be equally applicable to reinforce the involvement of other vulnerable groups.</p> <p>It is fully adapted to each specific legal framework of labour insertion of every Member State, promoting the labour integration of people with disabilities through tools and strategies given to companies.</p> <p>Its data and methodology could be a reference for other institutions and the basis for new policies and practices on protecting disabled persons and how the private sector could play a key role.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>The large companies that collaborate in the INSERTA program through the signing of its particular collaboration Agreement. Those same large companies also participate directly in taking and implementing actions depending on the needs, the particularities of the business, social objective, and the strategies of each company.</p> <p>The ONCE Foundation special consulting is in charge of the implementation of each agreement signed. It counts on the strong commitment of the people with disabilities employed in each particular company.</p>

<b>Explain, if applicable, how the practice provides for review and assessment.</b>	In October 2019, the ONCE Foundation published <a href="#">results report on the Impact of labour insertion of people with disabilities in the frame of the INSERTA Program</a> ( <i>Impacto de la inserción laboral de personas con discapacidad en el marco del Programa INSERTA</i> ). <sup>214</sup> This report aimed at identifying and measuring the social impact generated by the Inserta program. A social impact is measured in personal development, social inclusion and well-being through the labour insertion of this group of people with disabilities.
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<sup>214</sup> PricewaterhouseCoopers (2019) [Impact of labor insertion of people with disability in frame of the INSERTA Program](#) (*Impacto de la inserción laboral de personas con discapacidad en el marco del Programa INSERTA*), Madrid, October 2019.

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b>  <b>Please provide one high court decision addressing discrimination against EU citizens based on nationality or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.</b>
<b>Decision date</b>	25 May 2021
<b>Reference details</b>	Spain, <a href="#">Zaragoza Contentious Administrative Court nº3. Judgment 126/2021</a> ( <i>Juzgado De lo Contencioso Administrativo Nº 3 de Zaragoza. Sentencia 126/2021, Proc. 115/2020</i> ), 25 May 2021.
<b>Key facts of the case</b> <b>(max. 500 chars)</b>	<p>On 26 June 2020, the multi-coloured LGTBI flag was placed in the town hall building of the Zaragoza City Local Council.</p> <p>The flag is placed in the form of a horizontal ensign outside of the main balcony of the town hall.</p> <p>On 26 June 2020, the <a href="#">Association of Christian Lawyers</a> (<i>Asociación de Abogados Cristianos</i>) introduced a claim before the Zaragoza Administrative Court. They requested the withdrawal of the flag in the application of article 135 of the LJCA "consisting of preventing and where appropriate demanding removal of the unofficial flag intended to be placed in the headquarters of the City of Zaragoza (and in other public buildings of the same, if there are unofficial flags).</p>



	<p>At the same time the multi-coloured LGTBI flag was being placed, the Zaragoza mayor published several statements on the official website of the Zaragoza Local city council, such as: "If today I am proud of, as mayor, put the multi-coloured flag on the balcony of the City Hall, (...), ...." "This flag represents LGTBI pride (...)" "<i>Si hoy me siento orgulloso de, como alcalde, poner la bandera multicolor en el balcón del Ayuntamiento, (...) ... "Esta bandera representa el orgullo LGTBI (...)"</i></p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The <b>claimant requested the "nullity of full right"</b> (<i>nulidad de pleno derecho</i>) of the administrative local council action for being contrary to the duty of neutrality and objectivity of the public administrations, following the provisions of <b>Article 48.1</b> of <a href="#">Law 39/2015 of October 1, on the Common Administrative Procedure of Public Administrations</a>.</p> <p><b>The City of Zaragoza</b> (accused), in response to the claim, argued that the Local Council acted based on Article 69 c. of the <a href="#">Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction</a>, which relates to certain actions that are not possible to be judicially challenged because of being a decision of a social or political nature.</p> <p>The administrative local council action under discussion was mainly related to how <b>unofficial flags are placed in a building representative of a public administration</b>. It referred to its placement next to the official flag of the Spanish State and that of the ones representing Autonomous Communities or a Local Council.</p> <p>The Judgment referred to the application of the Supreme Court jurisprudential doctrine in line with the Supreme Court Judgment of the <a href="#">Chamber 3rd of the Contentious-administrative, of 1163/2020, of May 26, 2020</a>,<sup>215</sup> that stated that it was not compatible</p>

<sup>215</sup> [Supreme Court, Chamber 3rd of the Contentious-administrative, of 1163/2020, of May 26, 2020](#) (*sentencia del Tribunal Supremo, Sala 3ª de lo Contencioso-administrativo, de 1163/2020, de 26 de mayo de 2020*),

	<p>with the legal framework, the use of unofficial flags on the outside of buildings and public spaces.</p> <p>The <a href="#">Flag Act</a> (Law 39/1981, of 28 October, regulating the use of Spain) and the legislation in force do not include the rainbow banner as one of the official flags in a public building.</p> <p>This way, the doctrine of the Supreme Court becomes a kind of prohibition for public bodies, and especially for city councils, when placing unofficial flags, as in the case at hand, and also concerning the gay or LGTBI flag to which the appellant alludes and as some city councils have already decided. It is excluded that unofficial flags are used, even on an "occasional" basis, outside buildings and public spaces.</p> <p>That placement was not legal, even if it was done occasionally when not substituting other official flags. Instead, it appears simultaneously as the flag of Spain and the other legal or statutory laid down flags.</p> <p>It was concluded that placement does not respond to criteria of objectivity and neutrality of the Public Administrations.</p> <p>The <b>Zaragoza City Council</b> argued that a "flag" was not placed on a mast but that a simple "banner" was placed. In addition, <b>the claimant argued</b> that the Mayor of the City Council himself assumed the qualification of the flag by the publication on the official website of the Zaragoza City Council in which he expressly indicated to feel proud of, as Mayor, putting the multicolour flag on the balcony of the City Council.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Zaragoza Contentious Administrative Court nº3 considered that since a piece of fabric was placed with the rainbow colours of the LGTBI flag, it can be define as a flag and not a simple "banner", as the Zaragoza City Council defended.</p>

	<p>This Judgment was based on the applicability of the <b>Supreme Court doctrine</b> in relation that means a prohibition for public bodies, especially for City Council, to place unofficial flags such as the gay or LGTBI flag.</p> <p>It is not compatible with the constitutional and legal framework in force, and in particular, with the duty of objectivity and neutrality of the Public Administrations the use, even occasional, of unofficial flags on the outside of buildings and public spaces, even if they do not replace, but concur, with the flag of Spain and the others legally or statutorily instituted.</p> <p>As far as the inadmissibility of the appeal opposed by the Zaragoza Local Council, the Zaragoza Contentious Administrative Court nº3 clarified that what must be assessed was whether the municipal action was adjusted to Law. The Zaragoza administrative Court did not deny that the move questioned may have social or political implications and therefore fully in line with <b>Article 48.1</b> of <a href="#">Law 39/2015 of October 1, on the Common Administrative Procedure of Public Administrations</a>.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The judgment held the contentious administrative appeal introduced by the Association of Christian Lawyers against the Local Council of the City of Zaragoza.</p> <p>The judgment understood that next to the flag of Spain and the other flags legally or statutorily instituted cannot be placed next to other flags.</p> <p>It implied the correlative annulment of the contested administrative action and it left without effect.</p> <p>No procedural costs were imposed on either party.</p> <p>The judgment was not final; an appeal could be lodged before Aragon's High Court of Justice (<i>Tribunal Superior de Justicia de Aragón</i>).</p>

<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>"The fact that the fabric with the colours (flag) is not placed on a mast together with the other official flags, does not mean that it is not prohibited; we must bear in mind that the prohibition is generic." <i>(El hecho de que la tela con los colores (bandera) no se coloque en un mástil junto con las otras banderas oficiales, no significa que no esté prohibida; hay que tener en cuenta que la prohibición es genérica).</i></p> <p>"It is excluded ... that unofficial flags are used, even on an "occasional" basis, on the outside of buildings and public spaces. The Flag Act and other legislation in force does not include the rainbow banner as one of the official flags that may be in a public building." <i>(Se excluye, ... que se utilicen, incluso de forma "ocasional", banderas no oficiales en el exterior de los edificios y espacios públicos. En la Ley de banderas y demás legislación vigente no se recoge el estandarte arcoíris como una de las enseñas oficiales que pueden estar en un edificio público)</i></p>
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<p><b>Thematic area</b></p>	<p><b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b></p> <p><b>Please provide the most relevant <u>high court</u> decision concerning applying <u>either</u> the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally.</b></p>
<p><b>Decision date</b></p>	<p>March 2021</p>
<p><b>Reference details</b></p>	<p>Spain, Algeciras Criminal Court No. 3 (<i>Juzgado de lo Penal número 3 de Algeciras</i>), March 2021.</p>

<p><b>Key facts of the case</b> (max. 500 chars)</p>	<p>A 63-year-old person of Spanish nationality from Algeciras (Cádiz) disseminated many violent content publications through his Facebook profile, clearly and directly inciting hatred and violence against Muslim immigrants.</p> <p>The publication of the material online was made without restriction, and the accused had more than 200 friends on his Facebook profile.</p> <p>The Navarra Civil Guard investigated to identify the user of that profile due to the seriousness and cruelty of the contents poured into social networks. It resulted in the full identification of the accused. Then, he was arrested in the Navarra region, and his case was transferred to the Public Prosecutor of the Prosecutor's Office of the Algeciras Area (Cádiz).</p>
<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>As the publication of the material on the Internet was made without any restriction, it was concluded that the messages of incitement to hatred, violence and discrimination published could have reached a large number of users of this social network (he had more than 200 friends on the Facebook profile).</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>This operation is part of the priorities for investigating and prosecuting hate crimes, framed in the Action Plan to Combat Hate Crimes (<i>Plan de Acción de Lucha contra los delitos de odio</i>).</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>The Algeciras Criminal Court No. 3 (<i>Juzgado de lo Penal número three de Algeciras</i>) issued a judgment condemning the accused of committing a crime of provocation to discrimination and xenophobia through social networks, which is covered under <a href="#">Article 510 of the Criminal Code</a><sup>216</sup>.</p>

<sup>216</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 10/1995 of November 23rd, of the Criminal Code](#) (*Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 23 November 1995.

	The Court imposed one year and six months imprisonment, plus eight months fine and one year and six months' special disqualification from the right to stand as a political candidate. It also imposed a fine of 12 months at the rate of €15/day.
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> <b>Please provide the most relevant high court decision addressing violations of the fundamental rights of Roma and Travelers.</b>
<b>Decision date</b>	25 January 2021
<b>Reference details</b>	Spain, Second Chamber of the Constitutional Court ( <i>Sala Segunda del Tribunal Constitucional</i> ), <a href="#">appeal 1343-2018 against Judgment 58/2018</a> ( <i>Recurso de amparo núm. 1343-2018 contra la sentencia núm. 58/2018</i> ), 25 January 2021.
<b>Key facts of the case (max. 500 chars)</b>	<b>On 18 May 1994</b> , the claimant was married to the deceased partner following gipsy customs and lived with him for fifteen years before his death. There was no registration of the union as a de facto couple, and as a result of their partnership, five children were born. However, the parents appeared unmarried in the respective birth certificates.

	<p>The claimant (a Spanish widow ) partner died <b>on 27 April 2014</b>. And immediately after, she entered a claim before the National Social Security Institute (<i>Instituto Nacional de la Seguridad Social</i>, INSS, in its Spanish acronym), claiming the recognition of her right to a widow's pension (<i>pension de viudedad</i>). Her first claim before the INSS was <b>denied on 12 September 2014</b>.</p> <p><b>On 13 October 2015</b>, her claim was dismissed after the claimant entered an appeal before the Jaen nº 4 Social Court (<i>Juzgado Social de Jaén</i>). The dismissal was based on not having formally established the bond with the deceased partner at least two years before the death, following the provisions of <b>Article 174.3</b> of the <a href="#">General Law of the Social Security</a> (<i>Ley General de la Seguridad Social</i>).</p> <p>Then, the claimant appealed the Social Court of Jaén (<i>Juzgado Social de Jaén</i>) judgment before the Andalusia High Court (<i>Tribunal de Justicia de Andalucía</i>) <b>on 20 April 2016, issued a new decision</b><sup>217</sup> recognizing the widow's right to obtain her pension. The favourable judgment was based on the years of coexistence. The children born gave a sample of good faith regarding the validity and effectiveness of her marriage contracted under the gipsy rite.</p> <p>The National Social Security Institute (<i>Instituto Nacional de la Seguridad Social</i>, INSS, in its Spanish acronym) and the General Treasury of Social Security (<i>Tesorería General de la Seguridad Social</i>, TGSS, in its Spanish acronym) entered an appeal before the Spanish Supreme Court<sup>218</sup>. The appeal requested the harmonization of jurisprudential doctrine.</p>
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<sup>217</sup> Spain, Andalusia High Court (*Tribunal Superior de Justicia de Andalucía*), [Judgment 16532/2016](#) (*Sentencia N°: 201/2007. N°: 10667/2006*), [20 April 2016](#).

<sup>218</sup> Spain, Supreme Court (*Tribunal Supremo*), [Supreme Court Judgment No. 58/2018](#) (*Sentencia del Tribunal Supremo sentencia núm. 58/2018*), 25 January 2018.

	<p><b>On 13 March 2018</b>, the case was then referred to the Spanish Constitutional Court.</p>
<p><b>Main reasoning/argumentation</b> <b>(max. 500 chars)</b></p>	<p>The claimant argued indirect discrimination in applying a <a href="#">Social Security General Law</a> (<i>Ley General de la Seguridad Social</i>)<sup>219</sup> as it did not consider their Roma ethnic origin, gender, and the care roles assigned them.</p> <p>The Jaen Social Court (<i>Juzgado Social de Jaén</i>) established that the widow pension sought by the claimant was denied because of: the bond as a common-law partner not being formally established at least two years before the death of her partner, following the provisions of <b>Article 174.3</b> of the <a href="#">General Law of Social Security</a>; the appellant having celebrated marriage following gipsy customs living with him for at least the fifteen years before the death; being no registration of the union as a de facto couple, and because both parents appear in the respective birth registrations as single.</p> <p>The <b>Andalusia High Court</b> (<i>Tribunal Superior de Justicia de Andalucía</i>) recognized her right to obtain a pension based on the years of coexistence. The children born gave a sample of good faith regarding the validity and effectiveness of her marriage contracted under the gipsy rite.</p> <p>However, the <b>Constitutional Court</b> (<i>Tribunal Constitucional</i>) annulled the <b>Andalusia High Court</b> previous ruling arguing that the family book (<i>Libro de familia</i>) is a public document that proves marriage and filiation, but not the existence of a legal partner.</p> <p>The <b>Constitutional Court</b> (<i>Tribunal Constitucional</i>) stated that the denial of the benefit was based on the non-existence of a valid bond marriage in Law as the de facto union in</p>

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<sup>219</sup> Spain, Ministry of Employment and Social Security (*Ministerio de Empleo y Seguridad Social*) (2016), [Royal Legislative Decree 8/2015, of 30 October, approving the revised text of the General Social Security Law](#) (*Real Decreto Legislativo 8/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley General de la Seguridad Social*), 2 January 2016.



	<p>line with the Roma ethnic group's tradition was not valid under the Spanish legal system. And therefore, it was not reasonable to request the pension benefit as established by law.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Constitutional Court judgment referred to the 2009 European Court of Human Rights' case <a href="#">Muñoz Días vs Spain</a><sup>220</sup>, which analysed the possible discrimination due to the denial of the right to receive the widow's pension based on the person concerned belongs to the Roma ethnic group.</p> <p>But the Constitutional Court (<i>Tribunal Constitucional</i>) concluded that ECHR's case law was not applicable. In this case, both members of the gipsy couple were aware that their marriage was not valid following Spanish law and because their union as cohabitants were not formalized.</p> <p>The Constitutional Court (<i>Tribunal Constitucional</i>) confirmed the previous <a href="#">judgment 58/2018, issued by the Supreme Court in 2018</a>, which denied the widow's pension to a woman married by the gipsy rite.</p> <p>And <b>it concluded that the denial of the pension does not imply discrimination based on race or ethnicity</b> because the union concluded the Spanish legal system did not recognize following Gypsy customs and customs as one of the valid forms of marriage with effects of civil validity. If there was no valid marital bond with the, it is impossible not to speak of direct discrimination based on social or ethnic grounds.</p> <p>The NGO <a href="#">Roma Secretariat Foundation</a> (<i>Fundación Secretariado Gitano</i>) filed an appeal against this resolution from the Constitutional Court (<i>Tribunal Constitucional</i>) in August</p>

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<sup>220</sup> European Court of Human Rights, [Muñoz Días vs Spain Judgment](#), 8 December 2009.

	2021 before the European Court of Human Rights. (Pending concrete legal reference. Request sent to the Roma Secretariat Foundation) <sup>221</sup> .
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<p>The Spanish Constitutional Court (<i>Tribunal Constitucional</i>) established that the National Public Administration did not create in the applicant a reasonable expectation of being entitled to the widow's pension, nor that it incurred an abuse or an unjustified difference in treatment.</p> <p>It concluded that there is no direct discrimination based on social or ethnic grounds as recognized in <b>Article 14</b> of the <a href="#">Spanish Constitution</a> (<i>Constitución Española</i>)<sup>222</sup> as the applicant's union was not equated with duly and legally formalized de facto unions.</p> <p>Her claim was finally dismissed.</p>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>"the union celebrated in accordance with Roma customs was not recognized by the legislator as one of the valid ways to marry with civil legal effects" (<i>la unión celebrada conforme a los usos y costumbres gitanos no ha sido reconocida por el legislador como una de las formas válidas para contraer matrimonio con efectos de validez civil</i>).</p> <p>"The denial of the benefit is provided by the non-existence of a valid marriage bond in Law and by the lack of formalization of de facto couple in accordance with the Law," (<i>la denegación de la prestación viene dada por la inexistencia de un vínculo matrimonial válido en Derecho y por la falta de formalización de una pareja de hecho de acuerdo con lo prescrito en la ley</i>).</p>

<sup>221</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*), "[Mujer gitana demanda a España ante el Tribunal de Estrasburgo por denegarle la pensión de viudedad](#)", Press release, 2 August 2021.

<sup>222</sup> Spain, Spanish Government (1978), [Spanish Constitution](#) (*Constitución Española*), 31 October 1978.

	<p>“there is not ...a form of direct discrimination against the Roma ethnic group, but rather the ordinary consequence of one's own personal, free and voluntary decision of not acceding to any of those constitutional formulas in Law to establish the link” <i>(no concurre ... una forma de discriminación directa de la etnia gitana, sino la consecuencia ordinaria de la propia decisión personal, libre y voluntaria de no acceder a alguna de aquellas fórmulas de constitución en Derecho para establecer el vínculo).</i></p>
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<p><b>Thematic area</b></p>	<p><b>ASYLUM, VISAS, MIGRATION, BORDERS, AND INTEGRATION</b></p> <p><b>Please provide the most relevant high court decision – or any court ruling – relating to implementing the <u>right to an effective remedy</u> in the context of storing data in large-scale national databases and EU IT systems (Eurodac, VIS, SIS) delivered in 2021.</b></p>
<p><b>Decision date</b></p>	<p><b><u>“No case law has been identified for this thematic area.”</u></b></p>

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b>  <b>Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. data protection, and/or artificial intelligence systems.</b>
<b>Decision date</b>	27 July 2021
<b>Reference details</b>	Spain, Spanish Data Protection Agency ( <i>Agencia Española de Protección de Datos</i> ), <a href="#">Procedure Nº: PS/00120/2021 Resolution of Termination of the Procedure for Voluntary Payment</a> ( <i>Procedimiento Nº: Ps/00120/2021. Resolución de Terminación del Procedimiento por Pago Voluntario</i> ), 27 July 2021.
<b>Key facts of the case</b>  <b>(max. 500 chars)</b>	<p><b>On 1 July 2020</b>, Mercadona Supermarkets implemented a pilot test of a facial recognition system in 48 of the 1,640 stores, which was tested for several months. The purpose of this system was to prevent the entry of people into Mercadona Supermarkets stores who had committed a crime against their employees or property and who had been convicted in a final judgment with a restraining order on Mercadona Supermarkets' facilities.</p> <p>After the testing was published in the media, the AEPD registered two claims related: one by the <a href="#">Association of Consumers and Users in Action-Facua</a> (<i>Asociacion de consumidores y usuarios en Accion-facua</i>) on July 15, 2020 (registration number 025103/2020), and another by <a href="#">APEDANICA</a> on 27 July 2020 (registration number 026511/2020).</p> <p><b>Then, on 6 January 2021, the Spanish Data Protection Agency</b> (<i>Agencia Española de Protección de Datos</i>, AEPD, in its Spanish acronym) agreed to initiate investigative actions given the implementation that Mercadona Supermarkets of a detection system of those people with a final judgment and restraining orders in force against Mercadona Supermarkets or any of its workers.</p>

<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>) claimed several violations of the GDPR related to <b>the facial recognition system implemented by Mercadona Supermarkets in several of its stores.</b></p> <p><b>The AEPD argued that Mercadona Supermarket's breached several Articles</b> of the <a href="#">General Data Protection Regulation (GDPR), such as</a> (a) The processing of special categories of personal data (Article 9); (b) the lawfulness of the processing (Article 6); (c) the principle of data minimization (Article 5.1.c), (d) transparency of information, communication and modalities of exercise of the rights of the interested party (Article 12) (e) the information to be provided when personal data are obtained from the interested party (Article 13) (f) data protection by design and by default (Article 25) and (g) the impact assessment regarding data protection (Article 35).</p> <p>The AEPD referred to the <a href="#">Report 31/2019 of the Legal Cabinet of the AEPD (Informe 31/2019 del Gabinete Jurídico de la AEPD)</a> that explained that the video surveillance treatments were regulated in the <a href="#">Organic Law 3/2018, on the Protection of Personal Data and guarantee of digital rights</a> and in the <a href="#">Law on Professional Societies</a>. It also referred to the <a href="#">Report 36/2020 of the Legal Cabinet of the AEPD (Informe 36/2020 del Gabinete Jurídico de la AEPD)</a>, where the concepts of Biometric identification and Biometric verification/authentication were defined.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>A facial recognition system should not be used for video surveillance and biometric identification purposes. However, the regulation in Spain was considered insufficient to allow the use of facial recognition techniques in video surveillance systems by private security companies.</p> <p><a href="#">Mercadona Supermarkets</a> argued that the biometric pattern of a person does not constitute personal data. Still, the AEPD pointed out that the facial recognition and the way obtained from the personal image included personal data as two patterns are never the same.</p>

	<p>It was applied <b>Article 29.5</b> of <a href="#">Law 40/2015, of 1 October, on the Legal Regime of the Public Sector</a><sup>223</sup> (<i>Ley 40/2015, de 1 de octubre, del Régimen Jurídico del Sector Público</i>) states that when the commission of an infringement is a consequence of the commission of another or others infringement, only the sanction corresponding to the most serious violation committed must be imposed.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>In its Spanish acronym, the <b>Spanish Data Protection Agency</b> (<i>Agencia Española de Protección de Datos</i>, AEPD) penalized the <a href="#">Mercadona Supermarkets</a> company with 3.15 million euros. Mercadona Supermarkets used the 20% discount for voluntary payment at the moment of settling the fine amount, so the final cost was 2.52 million euros.</p> <p>Finally, <a href="#">Mercadona Supermarkets</a> decided to end that pilot test and pay the fine imposed by the AEPD.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>"... practice into the large-scale establishment of a facial recognition system highly intrusive on the rights and freedoms of those affected" (<i>la práctica en el establecimiento a gran escala de un sistema de reconocimiento facial altamente intrusivo en los derechos y libertades de los afectados</i>)</p> <p>"long-term risk of discrimination against a criminally convicted person (even after the judgment has been served and the criminal record is cancelled) who continues to be identified" (<i>riesgo a largo plazo de discriminación de una persona condenada penalmente (incluso después de que haya cumplido la condena y estén cancelados los antecedentes penales que se siga identificando)</i>).</p>

<sup>223</sup> Spain, [Law 40/2015, of 1 October, on the Legal Regime of the Public Sector](#) (*Ley 40/2015, de 1 de octubre, del Régimen Jurídico del Sector Público* (LRSP) LRSP), 1 October 2015.

	<p>"It would be installed in the private sphere a system that is not being used by the State Security Forces and Bodies" (<i>Se instalaría en el ámbito privado un sistema que no está siendo utilizado por las Fuerzas y Cuerpos de Seguridad del Estado</i>).</p>
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<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b>  <b>Please provide the most relevant high court decision related to the topics addressed in the chapter.</b>
<b>Decision date</b>	6 May 2021
<b>Reference details</b>	Spain, Supreme Court ( <i>Tribunal Supremo</i> ) Criminal Chamber ( <i>Sala de lo Penal</i> ), <a href="#">Court Criminal judgment 395/2021, Section 1, Appeal 10258/2020</a> ( <i>Sentencia Penal N° 395/2021, Tribunal Supremo, Sala de lo Penal, Sección 1, Rec 10258/2020</i> ), 6 May 2021.
<b>Key facts of the case</b>  <b>(max. 500 chars)</b>	<p><b>In 2016</b>, the <b>Investigating Magistrate's Court</b> No. 3 initiated a judicial investigation against four accused persons about several production crimes, possession and distribution of child pornography, corruption of children, sexual abuse of children, and membership of a criminal group.</p> <p>28 Web domains as their object the distribution of contents were acquired in the same company's name. Only the three accused had access to those web domains by payment of an economical fee. Those web domains were redirected to these three main domains with paid content, whose subscriptions were channelled through virtual payment platforms. The accused used a method of encrypting the images of child pornography and a remote access system to the equipment to ensure the security of their system, anonymity and make it difficult to locate the producers of the images.</p> <p>During the entry and search in the house where one of them was living, several documents related to child pornography were found intervened, such a: diskettes, tapes, DVDs, children photography's taken out of context, as well as many magazines of child pornography, video cameras and clothing.</p> <p><b>In 2017</b>, they were referred for prosecution to the Provincial Court of Tarragona once those investigations were concluded. <b>In March 2020</b>, the Tarragona High Court (<i>Audiencia</i></p>



	<p><i>de Tarragona</i>) issued a judgment that imposed four people with penalties of up to 57 and a half years in prison as perpetrators responsible for a single continuing crime of child pornography<sup>224</sup>.</p> <p>Afterwards, the Public Prosecutor entered an appeal before the Supreme court <b>in 2020 and after</b> the Tarragona High Court (<i>Audiencia de Tarragona</i>) issued its judgment.</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The Public Prosecutor appeal defended the existence of 103 crimes of use of children for the production of child pornography, all of them in real competition (<i>concurso real</i>), and the existence of the criminal continuity concerning some of these criminal offences. In addition, it established that in child pornography crimes, each child is a victim and that both crimes committed should bring a unique prison judgment.</p> <p>The Supreme Court (<i>Tribunal Supremo</i>) upheld the Public Prosecutor´s appeal position and stated that many crimes were abused. Therefore, it rejected the option of a single prison judgment for a continuous offence, which could be imposed on several children. It considered that it would be a possibility only applicable in cases where repeated conduct happens on the same taxable person.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Supreme Court (<i>Tribunal Supremo</i>) judgment established a law that stated that recruitment and use of children under 16 years for the preparation of pornographic material or use in exhibitionist or pornographic shows (<a href="#">Article 189.1.a of the Criminal Code</a>) to be a criminal offence, there are as many crimes as there are people who are subject to abuse<sup>225</sup>.</p>

<sup>224</sup> Spain, Tarragona High Court (*Audiencia Provincial de Tarragona*), sentencia n. º 77/2020, 31 March 2020.

<sup>225</sup> Spain, Consejo General del Poder Judicial, <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Noticias-Judiciales/El-Tribunal-Supremo-fija-que-en-la-captacion-y-utilizacion-de-menores-para-la-elaboracion-de-material-pornografico-existen-tantos-delitos-como-personas-atacadas>-El Tribunal Supremo fija que en la captación y utilización de menores para la elaboración de material pornográfico existen tantos delitos como personas atacadas, Pres reléase, 18 May 2021.

	<p>The criteria of a unique conviction for a continuous crime on several children according to <a href="#">Article 74 of the Criminal Code</a><sup>226</sup> was rejected. It clarified indeed how an ongoing crime should be characterized by a repetition of attacks sufficiently differentiated.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Supreme Court (<i>Tribunal Supremo</i>) partially upheld an appeal by the Prosecutor's Office (<i>Fiscalía</i>) against the previous court judgment of the Tarragona High Court (<i>Audiencia de Tarragona</i>) based on the application of Article 189.1.a), which condemned four persons to imprisonment for up to 57 and a half years as responsible for the commission of a single continuous crime of child pornography.</p> <p>It meant that the accused were condemned for as many crimes as victims:</p> <p>Accused nº 1) as the author of a continuous crime of using children to prepare pornographic material of Article 189.1 a) and subsequent distribution of <b>Article 189.1 b) of the Criminal Code</b><sup>227</sup> together with <b>Article 189.3 a)</b> for the use of children under thirteen years.</p> <p>Accused nº 2) A crime of belonging to a criminal group of <b>Article 570 Ter 1 a) of the Criminal Code</b><sup>228</sup> and a continuous crime of recruitment and use of children for the production of pornographic material of <b>Article 189.1 a) of the Criminal Code</b> and subsequent distribution of Article 189.1 b) <a href="#">of the Criminal Code</a>, Article 189.2 a) when they are used to children under sixteen years of age and e) when the pornographic material is of notorious importance and a crime of distribution of pornographic material in whose preparation children were used, provided for in <b>Article 189.1 (b) of the Criminal Code</b>.</p>

<sup>226</sup> Spain, Head of State (*Jefatura de Estado*) (1996) [Organic Law 10/1995 of November 23rd, of the Criminal Code](#) (*Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 23 November 1995.

<sup>227</sup> Spain, Head of State (*Jefatura de Estado*) (1996) [Organic Law 10/1995 of November 23rd, of the Criminal Code](#) (*Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 23 November 1995.

<sup>228</sup> Spain, Head of State (*Jefatura de Estado*) (1996) [Organic Law 10/1995 of November 23rd, of the Criminal Code](#) (*Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 23 November 1995.

	<p>Accused nº 3) As the author of 16 continuous crimes of recruitment and use of children to prepare pornographic material of Article 189.1 a) and subsequent distribution of Article 189.1. (b), with the aggravating factor in Article 189(2)(a) when children under 13 are used.</p> <p>Accused nº 4) As the author of 29 crimes of recruitment and use of children to prepare pornographic material of Article 189.1 a) and subsequent distribution of Article 189.1. b). each of them of 1 year and six months of imprisonment and special disqualification for the right to stand as a candidate during the sentence and accessory penalties fixed in the instance. A maximum of 4 years and six months in prison is fixed for all crimes.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>“proclamar la existencia de un delito de captación de menores para la elaboración de pornografía infantil del artículo 189.1.a), por cada menor que fuera sujeto pasivo de la acción” (<i>proclaim the existence of a crime of recruitment of children for the production of child pornography of article 189.1.a), for each minor who was a taxable person of the action</i>).</p> <p>“To corrupt the educational process of the child is to undermine the criteria and ethical guidelines that must accompany their trajectory until maturity” (<i>corromper el proceso educativo del menor es socavar los criterios y las pautas éticas que deben acompañar su trayectoria hasta la madurez</i>).</p> <p>"Knowing and assuming that reiteration operates as a particularly clever mechanism to mislead and twist the development of the child in a profound and irremediable way, ...affecting its definitive personality" (<i>conocer y asumir que la reiteración opera como un mecanismo particularmente hábil para descarriar y torcer el desarrollo del menor de manera profunda e irremediable, ... indefectiblemente, su definitiva personalidad</i>).</p>

<b>Thematic area</b>	<b>ACCESS TO JUSTICE</b> <b>Please provide the most relevant high court decision related to the topics addressed in the chapter.</b>
<b>Decision date</b>	21 April 2021
<b>Reference details</b>	Spain, Supreme Court ( <i>Tribunal Supremo</i> ), <a href="#">Court Decision 324/2021</a> , <a href="#">Appeal number: 10686/2020</a> ( <i>Nº de Resolución: 324/2021. Nº Recurso: 10686/2020</i> ), 21 April 2021.
<b>Key facts of the case</b> <b>(max. 500 chars)</b>	<p>All six accused persons (four women and two men) since 2015 agreed to obtain illicit benefit after bringing Nigerian women to Spain with false promises and acting all of them in an organized manner. The Nigerian women (victims who intervened as a protected witnesses at the Court) were offered by the accused the possibility of coming to Spain with the false promise of accessing a labour contract. Before reaching Spain, certain VUDU rituals were practised to bend their will as those Nigerian women feared the reprisals that may derive from the breach of their oaths.</p> <p>The accused persons organized the trip to Spain, crossing the Mediterranean illegally from Libya to Italy in precarious boats. In Italy, where they were picked up and transferred to <b>Spain</b>, they were informed that they had contracted a debt of approximately 30,000 euros with the organization on the trip once those Nigerian women were in Spain. They were asked to settle that debt through the exercise of prostitution. They were also requested to ask for asylum to get legal residence. The accused performed their activities in Madrid, Tenerife and Benidorm Spanish cities.</p> <p><b>In 2016</b>, there was a first action brought before the Arona First Instance Court. <b>On 19 October 2020</b>, the Second Section of the High Provincial Court of Santa Cruz de Tenerife</p>

	<p>(Canary Islands) (<i>Audiencia Provincial de Santa Cruz de Tenerife</i>) issued <a href="#">a condemnatory judgment</a> appealed before the Supreme Court.</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>Crime of <b>trafficking in human beings because of sexual exploitation</b> according to Article 177 bis 1 <a href="#">of the Criminal Code</a>.</p> <p>Concept agg 177 bis 1 paragraph 6 <a href="#">of the Criminal Code</a>.</p> <p><b>Crime relating to prostitution</b> Article 187.1. <a href="#">of the Criminal Code</a> refers to the obligation imposed over a legal age to practice or remain in prostitution. And in that purpose, violence, intimidation or deception, or power abuse or vulnerability of the victim is used.</p> <p>Crime of <b>smuggling and illegal immigration</b> (Article 318 bis, 1 and 2 (b)) <a href="#">of the Criminal Code</a>.</p> <p><b>Value of proof of the telephone taps and the requirements for its authorization requested</b> (Articles 18.3 and 24.2 of the Spanish Constitution referred to the secrecy and guarantees on the communications together with Article 852 of Law for Criminal proceedings).</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Supreme court, in this judgment, stressed how the recruitment, transfer, fostering, and control over women was intended to subject them to sexual exploitation and emphasized the situation of need and vulnerability in which they found themselves, the fact that they had been deceived on their journey to Spain, having been concealed from them that they would have to engage in prostitution, the deception concerning the possibilities of exercising work activities with the documentation those Nigerian women accessed as asylum seekers, the effectiveness of the voodoo oath and, ultimately, in the way in which a final situation of isolation had been configured in which they had no real alternative but the exercise of prostitution in abusive and deplorable conditions.</p>

	In terms of the proof of telephone taps, this judgment stated that the judge had at his disposal objective data on the existence of crime and the suspect's participation. As well as the usefulness of the telephone tap, it was necessary and justified (reference made to the Supreme Court Judgment No. 635/2012, of 17 July ( <i>STS núm. 635/2012, de 17 de julio</i> )).
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<p>The judgment dismissed the appeals brought by the six accused persons against the Judgment issued by the <a href="#">Criminal Chamber of the Superior Court of Justice of Las Palmas de Gran Canaria, dated October 19, 2020, in Appeal Roll No. 42/2020</a><sup>229</sup>.</p> <p>The accused were imposed with the costs arising from their respective appeal actions.</p>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>"...As can be easily seen from the typical description, the crime can be committed at various times, from recruitment to accommodation, and any of the required elements may occur, that is, violence, intimidation, deception or abuse of any of the situations mentioned, in any of the aforementioned temporary moments, provided that the typical purpose is stated..."  <i>(Como se desprende sin dificultad de la descripción típica, el delito puede cometerse en varios momentos, desde la captación hasta el alojamiento, pudiendo concurrir cualquiera de los elementos exigidos, es decir, la violencia, la intimidación, el engaño o el abuso de cualquiera de las situaciones mencionadas, en cualquiera de los citados momentos temporales, siempre que conste la finalidad típica).</i></p> <p>"In the criminal organization it is not necessary that all the participants carry out each of the elements of the type, but that they contribute individually what is an essential contribution to the functioning of the "system" (<i>En la organización delictiva no hace falta que todos los partícipes realicen cada uno de los elementos del tipo, sino que aporten individualmente lo que sea una contribución esencial para el funcionamiento del sistema</i>).</p>

<sup>229</sup> Spain, [Criminal Chamber of the Superior Court of Justice of Las Palmas de Gran Canaria, October 19, 2020, in Appeal Roll No. 42/2020](#) (*sentencia dictada por la Sala de lo Penal del Tribunal Superior de Justicia de las Palmas de Gran Canaria, con fecha 19 de octubre de 2020, en el Rollo de Apelación nº 42/2020*), 19 October 2020.

<b>Thematic area</b>	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b>  <b>Please provide the most relevant court judgment, which quoted the CRPD or prominently referred to the CRPD in the reasoning.</b>
<b>Decision date</b>	8 September 2021
<b>Reference details</b>	Spain, Supreme Court ( <i>Tribunal Supremo</i> ) Civil Chamber ( <i>Sala de lo Civil</i> ), <a href="#">Court Decision 589/2021, Appeal number: 4189/2019</a> ( <i>Sentencia 589/2021, Casación núm.: 4187/2019</i> ), 8 September 2021.
<b>Key facts of the case</b>  <b>(max. 500 chars)</b>	<p><b>In October 2018</b>, the claimant was 66 years old, living alone without any known close relatives. The neighbours contacted the public prosecutor’s office concerned about the claimant’s situation.</p> <p>The claimant had a personality disorder that led him to collect and accumulate garbage obsessively while abandoning his care of hygiene and food.</p> <p>Both the Court of First Instance (<i>Juzgado de Primera Instancia</i>) and the High Provincial Court (<i>Audiencia Provincial</i>) agreed to modify the person’s capacity and assistance for cleaning on a support measure’s home while appointing the competent Autonomous Community for his tutorship.</p> <p>The Public Prosecutor (<i>Ministerio Fiscal</i>) brought an action before the Oviedo no. 9 Court of First Instance (<i>Juzgado de Primera Instancia</i>) to determine the adequate and effective capacity support measures and safeguards to guarantee the claimant’s exercise of his full</p>

	<p>legal power. The claimant expressly opposed the provision of support, and the appeal was dismissed by the High Provincial Court (<i>Audiencia Provincial</i>).</p> <p>At the time of the voting and ruling of the appeal (27 May 2021), the National Parliament was processing. It was about to conclude a new <a href="#">Law 8/2021</a>, which reformed the civil and procedural legislation to support people with disabilities in exercising their legal capacity.</p>
<p><b>Se</b> <b>Main</b> <b>reasoning/argumentation</b> <b>(max. 500 chars)</b></p>	<p>The Supreme Court (<i>Tribunal Supremo</i>) decision applied the transitory regime of the law <a href="#">Law 8/2021, which reforms civil and procedural legislation to support people with disabilities in exercising their legal capacity</a><sup>230</sup>.</p> <p>The Supreme Court (<i>Tribunal Supremo</i>) decision analyzed the support provision regime that people with disabilities may require to exercise their legal capacity properly.</p> <p>The reason for the first appeal was the infringement of <b>Article 199 and Articles. 200 and 322 of the <a href="#">Spanish Civil Code</a></b>, referring to the causes of lack of legal capacity and a presumption of capacity. The appeal concluded that a possible disorder is insufficient to modify the ability to act.</p> <p>The Supreme Court (<i>Tribunal Supremo</i>) estimated that <b>the will and preferences of the affected person must be taken as a priority</b>. It emphasizes a clear healthcare need whose absence was causing a severe personal impairment that prevents exercising their rights. It stated that the appellant's personality could prevent the claimant from having a clear awareness of the situation and directly affects the exercise of legal capacity and social relationships.</p>

<sup>230</sup> Spain, Head of State (*Jefatura de Estado*), [Law 8/2021 of June 2, which reforms the civil and procedural legislation to support people with disabilities in the exercise of their legal capacity](#) (*Ley 8/2021, de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica*), 3 September 2021.



	<p><b>Article 250 and Article 269 of <a href="#">the Spanish Civil Code</a></b><sup>231</sup> were applied regarding providing support measures to the person who needs them, respecting the exercise of their legal capacity following the circumstances of the person with disabilities. The adoption of care measures was justified and proportionate to the claimant's needs and respected the maximum autonomy of the person even if it should be taken against his will. It was also appointed a curator to exercise those reviewer support measures under the competence of the Autonomous Community where the claimant was living.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The <b>Supreme Court (<i>Tribunal Supremo</i>)</b> applied for the first time in Spain, the <a href="#">Law 8/2021, which reforms civil and procedural legislation to support people with disabilities in exercising their legal capacity</a><sup>232</sup>. It applied the abolition of the declaration of incapacity and the possibility of any judicial statement of modification of power.</p> <p>The <b>Supreme Court (<i>Tribunal Supremo</i>)</b> based its decision on <b>Article 249 of <a href="#">the Spanish Civil Code</a></b> that focused on providing the necessary support that a person with a disability may require. It agreed to establish the appropriate safeguards to ensure that the support measures that comply with the legal criteria will be deeply assessed. In particular, it meets the will and wishes of the person who requires them.</p> <p>The purpose was to fully develop their personality and legal development under conditions of equality to achieve full exercise of their legal capacity.</p>

<sup>231</sup> Spain, Ministry of Grace and Justice (*Ministerio de Gracia y Justicia*), [Royal Decree of July 24, 1889, publishing the Civil Code](#) (*Real Decreto de 24 de julio de 1889 por el que se publica el Código Civil*), 24 July 1889.

<sup>232</sup> Spain, Head of State (*Jefatura de Estado*), [Law 8/2021 of June 2, which reforms the civil and procedural legislation to support people with disabilities in the exercise of their legal capacity](#) (*Ley 8/2021, de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica*), 3 September 2021.

	<p>The <b>Supreme Court (<i>Tribunal Supremo</i>)</b> stated that the support provided must consider the specific needs of a person with a disability (the claimant). It must also involve a judgment or assessment of its effects on exercising his, rights and it may be needed.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Civil Chamber of the Supreme Court (<i>Sala de lo Civil del Tribunal Supremo</i>) understood that this first pronouncement is deleted since any judicial declaration of modification of the capacity disappears from legal regulation after the reform of <a href="#">Law 8/2021, of June 2</a><sup>233</sup>. The appeal was partially upheld: statement of change of power was left without effect; guardianship was replaced by curatorship, and the content of the support measures was confirmed together with some proposals of the Public Prosecutor.</p> <p>A periodical review every six months of the results of the support measures and their impact in practice should take place.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p><i>"Not to intervene in these cases, under the excuse of respect for the will expressed against the affected person, would be a social cruelty, to abandon to their misfortune those who by direct effect of a (mental) disorder are not aware of the process of personal degradation they suffer"</i> (<i>No intervenir en estos casos, bajo la excusa del respeto a la voluntad manifestada en contra de la persona afectada, sería una crueldad social, abandonar a su desgracia a quien por efecto directo de un trastorno (mental) no es consciente del proceso de degradación personal que sufre</i>).</p> <p>"...although we had been able to issue a judgment just before the entry into force of the new law, it made no sense to resolve in accordance with the regulations prior to the reform, knowing that ..., was going to be reviewed and adapted to the new regime of provision of support". (<i>Aunque hubiéramos podido dictar sentencia justo antes de la entrada en vigor</i></p>

<sup>233</sup> Spain, Head of State (*Jefatura de Estado*), [Law 8/2021 of June 2, which reforms the civil and procedural legislation to support people with disabilities in the exercise of their legal capacity](#) (*Ley 8/2021, de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica*), 3 September 2021.

	<p><i>de la nueva ley, carecía de sentido resolver de acuerdo con la normativa anterior a la reforma, sabiendo que ... iba a ser revisado y adaptado al nuevo régimen de provisión de apoyos).</i></p>
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