

# HOW TO DEAL WITH CASES OF DISCRIMINATION AND HATE AND INTOLERANCE CRIMES

**PRACTICAL GUIDE. PROFESSIONALS** 

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# HOW TO DEAL WITH CASES OF DISCRIMINATION AND HATE AND INTOLERANCE CRIMES: PRACTICAL GUIDE

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Layout and production: Imprenta Nacional de la AEBOE

NIPO: 685-15-031-0 (on line edition)

Catálogo de Publicaciones de la Administración  
General del Estado  
<http://publicacionesoficiales.boe.es>

Production of this report was supported by the EU's PROGRESS  
(2007–2013) programme.

This programme is implemented by the European Commission. It was established as a means of financially supporting achievement of the European Union's objectives in the spheres of employment, social issues and equal opportunities. In addition, it is intended to support achievement of the objectives for these spheres set out in the Europe 2020 Strategy.

This seven-year programme is aimed at all relevant partners collaborating on development of appropriate and effective employment and social legislation and policy among the EU 27, the EFTA-EEA countries and candidates and potential candidates for accession.

For further information, see: <http://ec.europa.eu/progress>

The information contained in this publication does not necessarily reflect the European Commission's position or opinion.

**CORE , Conociendo la discriminación, Reconociendo la diversidad  
(Progress JUST/2013/PROG/AG/AD)**

# Presentation

**Equality** is, together with liberty, justice and political pluralism, one of the superior values of our legal order and enjoys the highest legal protection, both as a fundamental right of our Constitution and the Charter of Fundamental Rights of the EU and as a human right in the European Convention on Human Rights and in the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights ratified by Spain.

Hence, achieving a real and effective equality and repairing any discrimination are **permanent tasks of all public powers**.

Nevertheless, all surveys on discrimination that were conducted during recent years, both at Spanish and at EU level, reach the same alarming **diagnosis**, calling for an immediate response of public institutions: on one hand discriminations on different grounds and in different areas of society against people belonging to social minority groups (immigrants, homosexuals, people with disabilities, elder persons, etc.) take place every day but on the other hand there is a major **disproportion** between the number of discriminations effectively produced and the number of incidents actually reported or denounced. That is, an ample majority of existing discriminations pass unknown because those who are discriminated against don't complain or report them. There are a variety of reasons for this phenomenon known as **«underreporting»**: some discrimination victims think that reporting would be useless, others state that they do not know very well what exactly their rights are in this regard and that in any event they wouldn't know where to report the discrimination suffered, and others again consider that discrimination is something too normal and embedded in our social practices to report it.

This **lack of trust** in the institutional response to any discrimination complaint often results in **impunity** of the perpetrators, a fact that in turn reinforces the impression that discrimination comes for free and that there is no use in denouncing it. To break out of this vicious circle, **information** activities for all citizens are needed, along with **a reinforcement of the response capacity of institutions** and with **training activities for professionals** who have to deal with the discrimination complaints. Considerable **progress** has been made during the last years in this regard, with the elaboration of police protocols aiming at identifying and handling adequately discrimination cases, the creation of specialized services within all provincial Prosecutors' Offices and the improvement of the legal regulation of hate and discrimination crimes. However, undoubtedly there is still a long way to go until we reach a **generalized social conscience** that discriminations are banned by the law, that whoever is discriminated against can resort to **effective instruments** that will allow him or her to see his or her rights restored and that who commits discrimination is **risking being sanctioned** for it.

This **Practical Guide** is to be understood as a further step in that direction, as it synthesizes the most relevant information on which actions are discriminatory, which legal norms apply and to which institutions or organizations to resort in order to denounce the discrimination suffered. In addition, the Guide offers a number of key recommendations to be borne in mind in order to ensure as much as possible that the complaint is effective in achieving its goals and that the right to equality of the victim is restored and the damage suffered repaired.

This Guide is part of the activities carried out by the **Institut of Women and for Equal Opportunities** during the last years in its efforts to advance the principle of equal treatment and non discrimination with two priority workstreams: on the one hand, to **improve evidence**, that is, expert knowledge about discrimination, through the collection of data and the preparation of guides and instruments that allow to disseminate information about citizen's rights and about existing resources for those who want to report a discriminatory incident; and on the other hand, to **promote the consolidation and acknowledgement of existing strategies for the promotion of equal treatment and non discrimination**. This has taken place in the framework of the **CORE**-project: Knowing Discrimination, Acknowledging Diversity **co-financed by the European Union** under the **PROGRESS** programme.

Last but not least, we wish to express our sincere **gratitude** to the representatives of Public Administrations, trade unions and non governmental organizations that have generously joined the contrast group for the preparation of the guide. Without their expert knowledge and valuable contributions it would not have been possible to produce this Guide. All of them have ratified the interest of this project and their institutional support to the defence of equality and non discrimination.

*Rosa Urbón Izquierdo*

Director of the Institute of Women  
and for Equal Opportunities

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# 1. Introduction

*The Practical Guide: how to deal with cases of discrimination and of hate and intolerance crimes* is part of the work carried out by the Institute of Women and for Equal Opportunities, through the Deputy Directorate General for Equal Treatment and Non-Discrimination, whose responsibilities include mainstreaming the principle of equal treatment and non-discrimination in all relevant public policies and promoting and launching awareness raising initiatives and activities<sup>1,2</sup>.

The approach of this Guide is eminently practical, with examples, case law and key recommendations to consider when identifying discrimination incidents and deciding to respond to any act of discrimination or hate crime. Therefore, the Guide is structured as follows:

- Chapter 2 provides a discussion of the **basic concepts** concerning equal treatment, non-discrimination and hate crimes that are at the core of the law and of social discourse on this phenomenon.
- Chapter 3 summarises the **legislative framework** for dealing with incidents of discrimination and hate crimes at national, EU and international level.
- Chapter 4 discusses some particular areas in which discrimination is especially intense, such as **employment; access to goods and services**, which in turn is divided into **access to entertainment venues, education and healthcare; and public spaces and security**. For each of these areas the Guide indicates the specifically applicable legal provisions, shows typical examples of discrimination on different grounds along with relevant case law, and outlines formal and informal assistance mechanisms that can be accessed by those who have been discriminated against.
- Chapter 5 is devoted to the analysis of **hate and discrimination crimes**. The specific nature of these offences, the particularities of the existing complaint procedures and assistance services for victims thereof, as well as the complexity of the legal base, residing mainly in the Criminal Code, all these factors make their treatment in a separate section advisable. This chapter includes a commentary on the main provisions of the Criminal Code that are usually applied to the facts known as hate and discrimination crimes, practical recommendations concerning how to deal with some of them (violence, threats, hate crimes through the Internet or social networks) and a section on how to provide adequate assistance to victims of hate crimes.

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<sup>1</sup> The preparation and publication of this practical guide is part of the CORE project (Knowing discrimination, Recognising diversity) **co-financed by the European Union** under the PROGRESS Programme, JUST/2013/PROG/AG/AD.

<sup>2</sup> This Guide also implements a number of State strategies in the field of public policies regarding different aspects of equal treatment and non-discrimination: the Strategic Plan for Equal Opportunities 2014-2016 (gender equality) [http://www.lamoncloa.gob.es/espana/eh14/social/Documents/PEIO2014-2016%20\(PLAN%20IGUALDAD%20OPORTUNIDADES\).pdf](http://www.lamoncloa.gob.es/espana/eh14/social/Documents/PEIO2014-2016%20(PLAN%20IGUALDAD%20OPORTUNIDADES).pdf); the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and related forms of intolerance [http://explotacion.mtin.gob.es/oberaxe/inicio\\_descargaFichero?bibliotecaDatold=207](http://explotacion.mtin.gob.es/oberaxe/inicio_descargaFichero?bibliotecaDatold=207); the Spanish Disability Strategy 2012-2020 [http://www.msssi.gob.es/ssi/discapacidad/docs/estrategia\\_espanola\\_discapacidad\\_2012\\_2020.pdf](http://www.msssi.gob.es/ssi/discapacidad/docs/estrategia_espanola_discapacidad_2012_2020.pdf) and the National Strategy for Social Inclusion of the Roma population 2012-2020 <http://www.msssi.gob.es/ssi/familiasInfancia/inclusionSocial/poblacionGitana/estrategiaNacional.htm>

- Finally, the annexes feature information of interest for professionals and legal practitioners, such as **general and specific resources** which can be accessed in cases of hate and discrimination crimes, both concerning legal issues and other aspects of the assistance to victims.

Finally, an important clarification is required concerning **the scope of this guide**: both in the individual chapters and in the resources included in the annexes the main discrimination grounds covered by secondary EU legislation have been considered (racial or ethnic origin, religion or beliefs, age, disability, sexual orientation), with one notable exception: discrimination on grounds of gender. This discrimination ground has been taken into consideration when combined with other grounds by way of multiple or intersectional discrimination (Roma women, disabled women, etc.), but not as a separate discrimination ground, for two reasons: firstly, because the level of awareness of existing resources in the event of gender discrimination is certainly greater than for other grounds; in the field of gender equality there already are a number of publications similar to this Guide, and it is in the area of these other discrimination grounds where it can add value. And secondly, due to co-funding from the European Union from which the elaboration of this Guide has benefited, which was part of a separate programme to those intended to finance activities in the field of gender equality and gender discrimination.

## 2. Basic concepts. Discrimination grounds and types of discrimination

## 2.1 Basic Concepts

The **right to equal treatment** is the right not to be discriminated against, banning any contrary provision, behaviour, act, criterion or practice. This right has the status of an inherent guiding principle of the legal system, of administrative action and of judicial practice and is mandatory for both public institutions and private actors. This is reflected in Article 14 of the Spanish Constitution, which enshrines the core guarantee of equality:

*«Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.»*

It should be noted that the **constitutional principle of equal treatment extends also to the citizens of other States**. The Spanish Constitutional Court leaves no doubt on this fact when it states that «despite the literal wording of art. 14 SC, based on the general doctrine of this Court on foreigners, the rights “essential to the guarantee of human dignity” (STC 107/1984) are granted not only to Spaniards, but to all people, and there is no doubt that the right not to be discriminated against on grounds of birth, race, sex, religion, opinion or any other condition or personal or social circumstance has to be considered part of these»<sup>3</sup>.

Closely related to this, **Article 10.1 of the Spanish Constitution** recognises the dignity of the person as one of the foundations of political order and social peace and **Article 10.2** establishes that *«the principles relating to the fundamental rights and liberties recognised by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreements thereon ratified by Spain*. Hence, the **concepts of equality and non-discrimination and human dignity**, as interpreted by the Constitutional Court, the Court of Justice of the European Union, the European Court of Human Rights and the various Human Rights Committees established by international treaties ratified by Spain, reflect core values of our society which are at the foundation of our legal system.

It should be noted, in any case, that not every differential treatment constitutes discrimination. Differences in treatment that can be objectively justified by a legitimate aim and by using appropriate, necessary, and proportionate means to achieve it are not considered as discriminatory.

**Discrimination:** For the definition of discrimination, this Guide refers to the one included in Directives **43/2000/EC** of June 29<sup>th</sup> 2000 implementing the principle of equal treatment between persons irrespective of **racial or ethnic origin** and **78/2000/EC** of November 27<sup>th</sup> 2000, establishing a **general framework for equal treatment in employment and occupation**.

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<sup>3</sup> STC 137/2000, FJ 1<sup>st</sup>, citing SSTC 107/1984, 99/1985, 115/1987 and 94/1993.

The definition of equal treatment in both Directives is as follows: «The principle of equal treatment shall mean that there shall be no direct or indirect discrimination», specifying thereafter that:

- **Direct discrimination** shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation
- **Indirect discrimination** shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless:
  - i) that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary; or,
  - ii) as regards persons with a particular disability, the employer or any person or organisation, is obliged, under national legislation, to take appropriate measures in line with the principles in order to eliminate disadvantages entailed by such provision, criterion or practice.

**Discrimination Grounds:** The discrimination grounds especially protected under EU-Law are specified in the following two provisions:

- Article 19 of the **Treaty on the Functioning of the European Union** (TFEU) which states: «Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on **sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation**».
- Article 21 of the **Charter of Fundamental Rights** adds the following to the six discrimination grounds just quoted: **social origin, genetic features, language, political opinions or opinions of any other type, membership of a national minority, property and birth**.

It should be noted that since the entry into force of the **Lisbon Treaty** (2009) the Charter of Fundamental Rights has acquired a legally binding character for the EU and Member States when they apply EU legislation.

It should be emphasised that in both the Spanish Constitution and the Charter of Fundamental rights the **clauses** determining the grounds for discrimination are **deliberately open-ended** and do not constitute a *numerus clausus*; that is, if discriminatory incidents occur on other grounds not specifically mentioned in the regulations (such as nationality, marital status, etc.) these are also covered by the regulatory framework both at the national and EU level.

**Discriminatory incident.** Taking as a reference the definition proposed by the European Commission against Racism and Intolerance (ECRI) of the Council of Europe in its General Policy Recommendation no.11, «**On Combating racism and racial**

**discrimination in policing»,** a discriminatory incident can be understood as «any incident which is perceived to be discriminatory by the victim or any other person».

**Hate speech.** The Committee of Ministers of the Council of Europe in its Recommendation No. R(97)20, of October 30<sup>th</sup> 1997, on «hate speech» states that this term shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.

**Hate crime.** This Guide refers to the definition of the Organisation for Security and Cooperation in Europe (OSCE): «any criminal offence, including offences against persons and property, where the victim, place or object of the offence are selected because of their connection, relationship, affiliation, support, or real or perceived belonging to a group that could be based on «race», national or ethnic origin, language, colour, religion, age, physical or mental disability, sexual orientation or other similar factors».

**Tolerance.** This Guide refers to the meaning of tolerance defined in Article 1 of the UNESCO **Declaration of Principles on Tolerance**. Thus, «Tolerance consists of respect, acceptance and appreciation of the rich diversity of the cultures of our world, our forms of expression and the ways of being human. It is fostered by knowledge, openness, communication and freedom of thought, conscience and religion. Tolerance consists of harmony in difference. It is not only a moral duty, but also a political and legal requirement».

**Victim.** For the definition of the concept of victim, this Guide refers to the one provided by **Law 4/2015 on the Statute of Crime Victims**, as «any person who has suffered damage or injury against his person or property, especially physical or mental injuries, emotional suffering or economic loss», a definition that *mutatis mutandis* also extends to victims of any discriminatory incident.

## 2.2 Types of discrimination

- **Direct Discrimination.** Is the situation where a person is, has been or would be treated less favourably than another in a similar or comparable situation.
- **Indirect discrimination.** Occurs when, based on an apparently neutral provision, criterion or practice, persons belonging to a protected group find themselves in situations of particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.
- **Multiple discrimination.** This term can be understood as a discrimination situation in which two or more discrimination grounds are involved simultaneously. The acknowledgement that some people suffer discrimination due to several traits or grounds at the same time is gradually introducing the concept of multiple discrimination into the political and legal language of the European Union.

Although there is currently no definition of this term in EU legislation, there are already some references to it in a variety of documents of EU institutions.

Two reports of the EU Fundamental Rights Agency<sup>4</sup> define multiple discrimination as: «the fact that an individual can be discriminated against on more than one ground in any given situation or time. In other words, a person does not only have a minority background, but also a certain age and gender that might add to her or his vulnerability to discrimination. For example, a woman with an ethnic minority background might be affected by discrimination in a different way to a man with the same minority background. Other personal characteristics or circumstances, such as disability or educational background, also impact on one's exposure to an experience of discrimination. It is the adding up and/or combination of different grounds of discrimination that form the substance of what is commonly understood as "multiple discrimination" and which has been variously addressed by different authors and academic disciplines as "additive discrimination" or "compound discrimination" and as "intersectional discrimination"».

- **Discrimination by perceived grounds.** Discrimination based on an incorrect assessment about the characteristics of the discriminated person. For example, a person is refused entry to an entertainment venue because they are believed to be a Roma without being so; or is the subject of unfavourable treatment due to an assumed homosexual orientation when this is actually not the case.
- **Discrimination by association** occurs when a person or group is discriminated against on the basis of a relationship or contacts with one or more persons who are discriminated against on any of the grounds protected by the current law, for example, refusing to hire or rent housing to someone for being married to another person belonging to a particular ethnic group or minority.
- **Discriminatory harassment.** Harassment shall be deemed to be a form of discrimination when unwanted conduct related to any discriminatory ground takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
- **Discriminatory victimisation or reprisal.** Any adverse treatment or negative consequence that a person or group to which they belong may suffer for intervening, participating in or collaborating with an administrative proceeding or judicial process to prevent or stop a discriminatory situation or for having filed a complaint, claim, demand or action of any kind for the same purpose. This discrimination occurs irrespective of whether or not the alleged actions did indeed constitute a criminal offence.
- **Instruction to discriminate.** All inductions, orders or instructions to discriminate directly, indirectly, by association etc. in accordance with the above criteria, are discriminatory.

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<sup>4</sup> EU Fundamental Rights Agency (FRA) (2011): *EU – MIDIS Data in Focus Report 5: Multiple Discrimination 2010*, February 2011, p. 6. Available on the website of the FRA: <http://fra.europa.eu/>; EU Fundamental Rights Agency (FRA) (2012): *FRA Factsheet: Inequalities and multiple discrimination in healthcare* published in February 2012. Available on the website of the FRA: <http://fra.europa.eu>.

Also see the article by Fernando Rey «Discriminación múltiple: una realidad antigua, un concepto nuevo» in: *Revista Española de Derecho Constitucional*, n.º 84, September-December 2008.

## 2.3 Specialised discrimination services

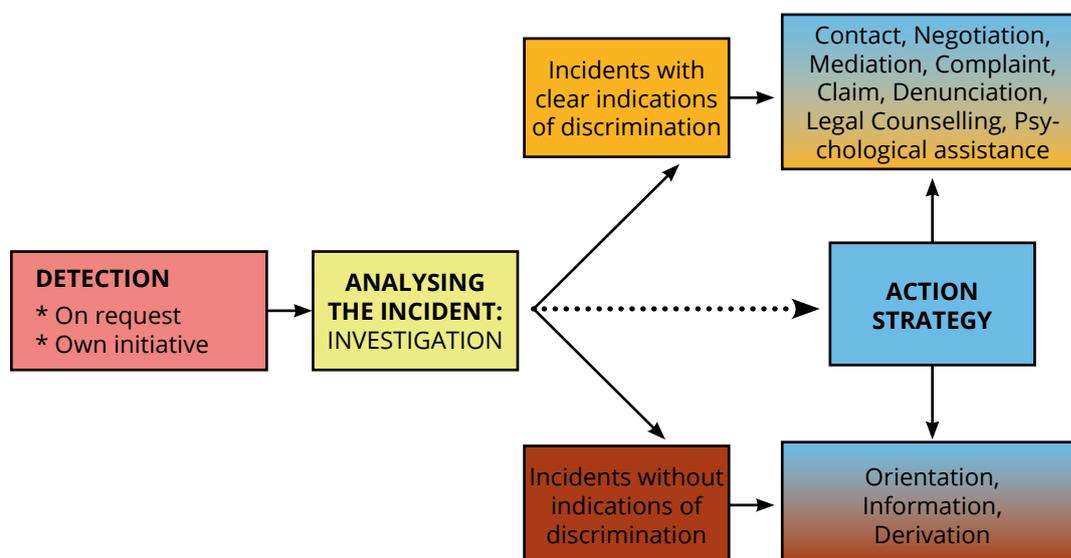
Apart from the general resources that exist in case of any infringement of the law, there are a number of specialised mechanisms, both at state, regional and local level, and also specialised services offered by social organisations, which may be accessed in cases of discrimination or hate crimes. **In the annex to this guide you will find a list** of these mechanisms and services sorted by areas and discrimination grounds.

Most of these services offer **assistance** in pursuing complaints, claims or denunciations. Some combine this assistance with **mediation, conciliation or negotiation** services in case of a discriminatory incident and have protocols for this purpose.

For example, the **Office for Non-Discrimination of the City of Barcelona**<sup>5</sup>, a service provided by the Department of Women and Civil Rights of the City of Barcelona with the aim of promoting human rights, ensuring equality for all citizens and combating all forms of discrimination, offers the following:

- Basic information and guidance on Human Rights.
- Conflict resolution in case of discrimination incidents through mediation or conciliation.
- Specialised legal and psychological counselling.

For its part, the Assistance Service to Victims of Discrimination of the **Council for the Elimination of Racial and Ethnic Discrimination**<sup>6</sup> has the following action strategy that includes various legal mechanisms and alternative conflict resolutions:



<sup>5</sup> Office for Non-Discrimination of the City of Barcelona.

<sup>6</sup> <http://www.igualdadynodiscriminacion.org/home.do>

Hence, when reacting to a discriminatory incident, it should be noted that apart from the complaint or formal claim, other formulas also exist for the resolution of conflicts in which there has been discrimination, consisting in **mediation, conciliation or negotiation**. The selection of one or another or two consecutively or cumulatively, will depend on the will of the person discriminated against and the nature and seriousness of the discriminatory incident.

Regardless of the path or paths that are used, **it is of crucial importance that a complaint, denunciation and/or claim be made**, so that a factual record is produced and existing discriminations and hate crimes become visible. **One of the great problems of the fight against all forms of discrimination is that the proportion of discrimination actually reported is extremely low**, which leads to this being an unknown problem which doesn't figure high on the public agenda, and consequently few resources are dedicated to combating the damage caused by discrimination to equality and dignity, as well as to justice and social cohesion.

# 3. Basic legal framework

Under Articles 10.2 and 96.1 of the Spanish Constitution, the International Treaties that have been ratified by Spain are part of internal law after their publication in the Official State Bulletin (BOE) and the regulations on fundamental rights and freedoms the Constitution recognises shall be interpreted in accordance with these international legal instruments. The main legally binding instruments ratified by Spain on equal treatment and non-discrimination are the following:

### 3.1 United Nations (UN)

- International Convention on the elimination of all forms of racial discrimination, December 21<sup>st</sup> 1965, ratified by Spain on April 23<sup>rd</sup> 1969 (**BOE no. 118 of 17<sup>th</sup> May 1969**).
- International Covenant on Civil and Political Rights, December 19<sup>th</sup> 1966, ratified by Spain (**BOE no.103 of April 30<sup>th</sup>, 1977**).
- International Covenant on Economic, Social and Cultural Rights of 16<sup>th</sup> December 1966, ratified by Spain on April 30<sup>th</sup> 1977 (**BOE no. 103 30<sup>th</sup> April 1977**).
- Convention on the elimination of all forms of discrimination against women of December 18<sup>th</sup> 1978, ratified by Spain on December 16<sup>th</sup> 1983 (**BOE no. 69, of March 21<sup>st</sup> 1984**).
- Convention on the rights of persons with disabilities and its Voluntary Protocol, of December 13<sup>th</sup> 2006, ratified by Spain on December 3<sup>rd</sup> 2007 (**BOE no. 97 of April 22<sup>nd</sup> 2008**). Ratified by the European Union on the 23<sup>rd</sup> of December 2010.
- Convention on the Rights of the Child, of November 20<sup>th</sup> 1989, ratified by Spain on December 21<sup>st</sup> 1990 (**BOE no. 313 of December 31<sup>st</sup> 1990**).
- **Declaration of Principles on Tolerance**, 16<sup>th</sup> of November 1995<sup>7</sup>.

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<sup>7</sup> Although not a legally binding instrument, it is included here because of its particular relevance to the subject matter.

## 3.2 Basic framework of the European Regional Domain: EU and Council of Europe

### a) European Union

Treaty	Treaty of the European Union	Article 2	The Union is founded on the values of <b>respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights</b> , including the rights of persons belonging to minorities. These values are common to the Member States in a society in which <b>pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail</b> .
		Article 3	The Union shall <b>combat</b> social exclusion and <b>discrimination</b> and promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.
	Charter of Fundamental Rights. Article 21	Prohibits discrimination based on <b>thirteen discrimination grounds</b> : sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. It is pertinent to highlight Article 51 in which the scope of the Charter of Fundamental Rights is established. That article states that «The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties». Therefore, it is limited to the application of EU law.	
	Treaty on the Functioning of the EU	Article 18	Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt rules designed to prohibit such discrimination.
		Article 19	Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Directive 2000/43/EC of the Council, 29th June 2000	Implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
Directive 2000/78/EC of the Council, 27th November 2000	Establishing a general framework for equal treatment in employment and occupation.
Directive 2010/41/EU of the European Parliament and Council, 7th July 2010	On the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity.
Directive 2010/18/EU of the Council, 8th March 2010	Implementing the revised Framework Agreement on parental leave concluded by BUSINESS EUROPE, UEAPME, CEEP and ETUC.
Directive 2006/54/EC of the European Parliament and Council, 5th July 2006	On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

<b>Directive 2004/113/EC, of the Council, 13th December 2004</b>	Implementing the principle of equal treatment between men and women in the access to and supply of goods and services.
<b>Framework Decision 2008/913/JHA, of the Council, 28th November 2013</b>	On combating certain forms and expressions of racism and xenophobia by means of criminal law.

## b) Council of Europe

- Convention for the Protection of Human Rights and Fundamental Freedoms, November 1950 (ECHR) ratified by Spain (**BOE no. 243 of October 10<sup>th</sup> 1979**) and Protocol No.12, November 4<sup>th</sup> 2000, ratified by Spain (**BOE no. 64 of March 14<sup>th</sup> 2008**).
- European Social Charter of October 18<sup>th</sup> 1961, ratified by Spain (**BOE no. 153 of June 21<sup>st</sup> 1980**).
- Framework Convention for the Protection of National Minorities number 157 Council of Europe, Strasbourg February 1<sup>st</sup> 1995, ratified by Spain (**BOE no. 20 of January 23<sup>rd</sup> 1998**).
- Convention on Cybercrime, completed at Budapest on November 23<sup>rd</sup> 2001, ratified by Spain (**BOE no. 226, of September 17<sup>th</sup> 2010**).
- Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a Racist and Xenophobic nature committed via Computer Systems ratified by Spain (**BOE no. 26, January 30<sup>th</sup> 2015**).

## 3.3 Basic Spanish legal framework

### a) Spanish Constitution

<b>Article 1.1</b>	Recognises equality as one of the highest values of the legal system: therefore, equality must be interpreted as crosscutting the entire legal system.
<b>Article 9.2</b>	Entails the recognition of substantive equality. The constitution of Spain as a social State requires the action of public authorities in order to promote that equality of individuals becomes real and effective.
<b>Article 10</b>	<ol style="list-style-type: none"> <li>1. The dignity of the person, his or her inherent inviolable rights, the free development of the personality, the respect for the law and for the rights of others are the foundation of political order and social peace.</li> <li>2. Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain.</li> </ol>
<b>Article 14</b>	Axis of the legal guarantee of equality: «Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance. According to Article 53.2 CE, any citizen may assert a claim to protect this right by means of a preferential and summary procedure before the ordinary courts and, when appropriate, by lodging an individual appeal for protection (recurso de amparo) to the Constitutional Court.

## b) Specific regulations concerning equal treatment, non-discrimination and hate crimes

Law **62/2003 of the 30<sup>th</sup> December on fiscal and administrative measures and social order** transposes into the Spanish regulatory framework Directive 43/2000 regarding discrimination on grounds of racial or ethnic origin in multiple areas<sup>8</sup>, and Directive 78/2000 concerning discrimination on grounds of religion or belief, disability, age and sexual orientation, but confined to the area of employment.

Stated below is the Spanish legislation referring to specific discrimination grounds:

<b>Gender</b>	✓ Organic Law 3/2007, of 22nd of March, for the effective equality between women and men.
<b>Racial or ethnic origin</b>	✓ Organic Law 4/2000, 11th of January, on the Rights and Freedoms of Foreigners in Spain and their social integration. ✓ Royal Decree 557/2011, 20th of April, which approves the Regulation of Organic Law 4/2000, on the Rights and Freedoms of Foreigners in Spain and their social integration, after its reform by Organic Law 2/2009.
<b>Religion and/or beliefs</b>	✓ Organic Law 10/1995 of the Criminal Code (articles 522 to 526 list the offences against freedom of conscience, religious feelings and respect for the deceased) ✓ Organic Law 7/1980, 5th of July, on religious freedom.
<b>Sexual orientation and gender identity</b>	✓ Law 3/2007, 15th of March, regulating the registry rectification of the mention of people's gender. ✓ Law 13/2005, 1st of July, amending the Civil Code regarding the right to marry.
<b>Disability</b>	✓ Royal Legislative Decree 1/2013, of 29th November, which approves the Consolidated Text of the General Law on Rights of Persons with Disabilities and their social inclusion. ✓ Law 26/2011, of 1st August, of normative adaptation to the International Convention on the Rights of Persons with Disabilities. ✓ Royal Decree 1276/2011, of 16th September, of normative adaptation to the International Convention on the Rights of Persons with Disabilities.

Furthermore, covering conduct for various discriminatory grounds, although limited to the field of sport, **Law 19/2007 of July 11<sup>th</sup>, against violence, racism, xenophobia and intolerance in sport** has to be mentioned.

Next to this specific legislation for the main discrimination grounds, the Spanish legal framework includes a number of **administrative, criminal and labour law provisions** to fight against discrimination and hate crimes, which are addressed in the various sections of this Guide.

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<sup>8</sup> The areas listed in Directive 43/2000 are the following: conditions of access to employment, to self-employment and to occupation; access to all types and levels of vocational guidance and vocational training; employment and working conditions, including dismissals and pay; membership of and involvement in an organisation of workers or employers; social protection including social security and healthcare; social advantages; education; and access to goods and services.

# 4. How to deal with cases of discrimination: mechanisms, practical examples, key recommendations

This chapter addresses the most typical examples of discrimination that can occur in different areas, the specific claim or complaint mechanisms that exist, as well as some key recommendations to bear in mind when dealing with a case of discrimination.

Special attention is given to the main social areas in which discrimination is produced and those areas in which there are specific mechanisms or formulas for claims or complaints.

Therefore, this chapter is structured as follows:

- 4.1 Discrimination in employment.
- 4.2 Discrimination in access to public and private goods and services: This applies to all goods and services. However, attention is given to the existence of specific mechanisms particularly in three areas: access to entertainment venues, education and health.
- 4.3 Discrimination in public areas and security.

## 4.1 Discrimination in employment

**Law 62/2003 of the 30th of December on measures for fiscal, administrative and social order** transposes into Spanish law Directives 43/2000 and 78/2000 mentioned in the previous chapter, modifying the text of the Royal Legislative Decree 1/1995 of March 24<sup>th</sup>, which approves the revised text of the **Workers' Statute Law, Law 36/2011 of the 10th of October, regulating social jurisdiction, and the Royal Legislative Decree 5/2000 of the 4th of August, which approves the revised text of the Law on Offences and Penalties in Social Order.**

Discrimination in Employment can occur in:

- Access to employment, self-employment and occupational exercise.
- Access to counselling and vocational training.
- Membership of trade unions, employers' or professional organisations.
- In labour and employment conditions, including dismissal and remuneration.

Hence, discrimination in employment may occur at various stages of the working life: job searches, interviews, selection, performance, promotion, retirement and/or dismissal.

In addition to the general legislation contained in section 2 of this Guide, there is specific labour antidiscrimination legislation contained in the **Workers' Statute**. Thus, Article 4.2.c) of the Workers' Statute states that all workers have the right not to be discriminated against in the access to employment, or once employed, on grounds of «*gender, marital status, age within the limits set by this Law, racial or ethnic origin, social status, religion or beliefs, political ideas, sexual orientation, affiliation or not to a union, and language, within the Spanish State*». The provision then continues: «*Nor*

*can people be discriminated against on grounds of disability, provided that they have the aptitude to perform the work or job in question».*

Likewise, Article 17 of the Workers' Statute on «Non-discrimination in labour relations» states that *«regulatory provisions, clauses in collective agreements, individual agreements, and unilateral decisions by employers that cause direct or indirect discrimination on grounds of age, disability, sex, origin, including racial or ethnic origin, marital status, social status, religion or beliefs, political ideas, sexual orientation or condition, membership or not of unions and their agreements, family links with people related or not to the company and language within the Spanish State both in employment and in the terms of remuneration, working hours and other conditions of work shall be null and void».*

Law **56/2003 of Employment** in its Article 22 states that *«public services of employment, their associates and placement agencies in the management of employment placement should specifically ensure the avoidance of both direct and indirect discrimination in access to employment. Should the managers of intermediation appreciate discriminatory conduct, during the job placement procedure, they shall inform those who have made the offer».*

Finally, **the Organic Law 11/1985, of August 2nd, concerning Trade Union Freedom** (LOLS) states in article 12 that *«regulatory provisions, clauses in collective agreements, individual agreements, and unilateral decisions of employers, which involve any type of discrimination in employment or in working conditions, whether favourable or unfavourable, on the basis of membership or not of a union, its agreements or the general exercise of union activities shall be null and void».*

Labour infringements of equal treatment and non-discrimination can be grouped into three classes according to various articles of the **Law on Offences and Penalties in the Social Order (LISOS)**:

- a) **Discriminatory acts: unilateral business decisions involving direct or indirect discrimination.** **Article 8.12** of LISOS bans any *«unilateral business decisions involving unfavourable direct or indirect discrimination on grounds of age or disability, as well as favourable or unfavourable discrimination concerning remuneration, working hours, training, promotion and other conditions of work, on grounds of sex, origin, including racial or ethnic origin, marital status, social status, religion or beliefs, political ideas, sexual orientation, membership or not of unions and their agreements, family links with other workers in the company or language within the Spanish State, and the decisions of the businessperson that involve unfavourable treatment of employees in response to a complaint within the company or to an administrative or judicial action aimed at enforcing compliance with the principle of equal treatment and non-discrimination».*
- b) **Discrimination in access to employment.** A specific article of the LISOS is devoted to discrimination in access to employment: **Article 16.2 c)** considers a very serious infringement *«to request personal data in selection processes or set conditions through advertising, media or any other means, constituting discrimination*

*for access to employment on the grounds of gender, origin, including racial or ethnic origin, age, marital status, disability, religion or beliefs, political opinion, sexual orientation, union membership, social status and language within the State».*

- c) **Discriminatory harassment** is addressed by **Article 8.13 bis** of LISOS, which considers a very serious infringement the «*harassment on grounds of racial or ethnic origin, religion or beliefs, disability, age, sexual orientation and gender harassment when occurring within the jurisdiction of the management, whoever the perpetrator thereof, provided the manager knew of the infringement, and had not adopted the measures necessary to prevent it*».

It is important to highlight the closed list-nature of the causes that are constitutive of this infringement. In accordance with the provisions of article 129.4 of Law 30/1992 of the 26<sup>th</sup> of November on the Legal Regime of Public Administration and Common Administrative Procedure (LRJPAC), «**the rules defining offences and sanctions shall not be subject to application by analogy**». Thus, it has to be considered that the list of discriminatory grounds is exhaustive.

## Disability

Chapter VI of **Title I of Royal Legislative Decree 1/2013 of the 29<sup>th</sup> of November, approving the revised text of the General Law of rights of people with disabilities and their social inclusion**<sup>9</sup>, addresses the right to work for people with disabilities<sup>10</sup> in the framework of the principles of the right to work (Article 35), and equal treatment and non discrimination (Article 36).

Based on these principles, Article 37 distinguishes the different types of employment through which people with disabilities can exercise their right to work, according to the current regulations on employment of people with disabilities:

- a) **Ordinary employment** (in companies and public administrations). To ensure full equality at work, affirmative action measures may be maintained or adopted<sup>11</sup>, aimed at preventing or compensating for disadvantages caused by reasons of disability (Article 40). These measures translate into two main obligations for the employer:

1. To take appropriate measures to adapt the workplace and the accessibility of the company.

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<sup>9</sup> It involves the application in Spain of the **UN Convention of 2006 on the Rights of Persons with Disabilities** (CRPD), the first treaty of the United Nations UDHR, open to the participation of regional integration organisations, ratified by the EU in December 2010. The Treaty (the Protocol of which has also been ratified by Spain) informs the Spanish legal system in this matter on the two aspects of domestic law and EU law.

<sup>10</sup> We use here the nationally and internationally used legal term, accepted both by international treaties, governments and most associations representing the sector: «**person with disability**». However, in 2005 the Forum for Independent Living proposed the term «**person with functional diversity**», which aims to replace others with semantics that can be considered pejorative, such as «disability» or «handicap».

<sup>11</sup> **Affirmative action** measures are understood as «those of a specific nature designed to prevent or compensate for the disadvantages of disability and to accelerate or achieve equality for people with disabilities and their full participation in the areas of political, economic, social, educational, work and cultural life, according to the different types and degrees of disability» (Article 2-g).

2. To hire disabled workers: a reserve of 2% of the positions for people with disabilities is established for public and private enterprises employing a total of 50 or more workers (Article 42).

Public employment offers also include a quota reserved for people with disabilities. In calls for access to employment in Public Administrations<sup>12</sup>, a quota of not less than 7% is reserved, while at least 2% of the reserve is to be filled by persons demonstrating intellectual disabilities and the rest by persons with other disabilities.

b) **Protected employment.** In the area of this type of employment are defined:

1. **Special Employment Centres** (Articles 43, 44 and 45). A Special Employment Centre is one «the main objective of which is to perform a productive activity of goods or services, participating regularly in market operations, and which is aimed at ensuring gainful employment for persons with disabilities; at the same time being a means of inclusion of an increased number of these people in the ordinary employment regime» (Article 43.1). The staff of special centres of employment will be comprised of the largest number of workers with disabilities which the nature of the production process permits, and in any case of 70 out of every 100 people.
2. **Labour enclaves**, in order to «facilitate the transition to ordinary employment of workers with disabilities and with special difficulties of access to the same» (Article 46).

c) **Self Employment.** Article 47 states that «the public authorities, in their respective fields, shall adopt policies to promote self-employment of people with disabilities aimed at establishing and developing economic and professional initiatives on their own, or through entities of the social economy, according to the regulations of the subject».

In addition, the Royal Legislative Decree 1/2013 includes various legal measures that combat discrimination **on the grounds of disability**, such as Article 23.d) concerning the adoption of internal rules in companies or centres that promote and stimulate the elimination of disadvantages or general situations of discrimination against people with disabilities, including reasonable adjustments.

Finally, we have to quote Articles 80 and 81 of this Royal Legislative Decree on infringements, which defines these as «*the actions and omissions causing violations of the right to equal opportunity, non-discrimination and universal accessibility to the areas referred to in Article 5, producing direct or indirect discrimination, harassment, failure to accomplish the requirements for accessibility and reasonable adjustments, as well as the failure to comply with legally established affirmative action measures, especially when economic benefits arise for the offending person*».

However, it should be noted that, regarding specifically the area of employment, according to the Seventh Additional Provision of RDL 1/2013, the offences and penal-

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<sup>12</sup> Article 59.1 Law 7/2007 of the 12th of April, of the Basic Statute of Public Employees.

ties relating to equal opportunities, non-discrimination and universal accessibility for people with disabilities are not governed by this law, but by the Law on Social Order Offences and Penalties (LISOS).

For its part the Eighth Additional Provision of RDL 1/2013 establishes, in relation to offences relating to accessibility and reasonable adjustments that the application of the provisions of Articles 81.3.b, 95.2.a, 95.3.e, 95.3.f, 95.3.g, 95.4.f and 95.4.g, in as much as they derive from the failure to accomplish the requirements of accessibility or do not adopt a reasonable adjustment, shall be subject to the provisions of Articles 24, 25, 27, 28 and 29 and their corresponding regulatory developments.

#### *4.1.1 Mechanisms to be used: where to go in case of discrimination in employment*

Depending on the type of discriminatory incident and the severity thereof, in the area of employment there are different mechanisms for making a claim of discrimination. These mechanisms are:

- a) The Labour and Social Security Inspection.
- b) Trade Unions.
- c) Social jurisdiction.
- d) Criminal proceedings.

##### **a) Labour and Social Security Inspection: complaint to the labour authority**

The Labour and Social Security Inspection (ITSS) can act:

- Initiating the administrative disciplinary proceedings in social order according to the provisions of LISOS.
- Mediating and providing technical advice in labour disputes concerning discrimination.
- Activating the prevention mechanisms provided by Law 31/1995 through the corresponding request to the companies.
- Initiating ex officio the procedure of injunction for discrimination in employment of Article 148 c) of Law 36/2011 of the 10<sup>th</sup> of October, regulating social jurisdiction.

The Labour and Social Security Inspection shall always act ex officio upon higher order, upon reasoned request by other bodies, on its own initiative or upon receipt of complaints, which is the most common reason for the commencement of ITSS activities.

The action of complaint with the Labour Inspection is public and therefore can be done by any citizen. When the inspection starts on the basis of a complaint an information about the outcome must be submitted **in writing**. Anyone with knowledge

of facts that would constitute an infringement of the areas covered by ITSS (Labour, health and safety, social security, employment, etc.) may claim ITSS services.

The written complaint should include:

- Personal identification data including a telephone contact number and the signature of the complainant.
- The alleged facts constituting an infringement. Specifying what the complaint is and what area it affects (employment, social security, prevention of risk, etc.).
- Date and place where the events occurred. The exact location is necessary in the case of absence of specific address.
- Identification of the person allegedly responsible, noting the employer or manager against whom the complaint is made.
- Other relevant circumstances accompanied, where appropriate, by supporting documents.

To file a complaint, citizens can use the standard complaint form that can be downloaded from the webpage of ITSS: [http://www.meys.es/itss/web/Atencion\\_al\\_Ciudadano/Descarga\\_de\\_Formularios](http://www.meys.es/itss/web/Atencion_al_Ciudadano/Descarga_de_Formularios)

You can also get this form at the offices of the different Provincial Inspections, located in the provincial capitals.

**Place and presentation procedure of the complaint before ITSS.** Presentation of the complaint should be made according to the provisions of law 30/92 of the Legal Regime of Public Administration and Common Administrative Procedure, and law 11/07 of Citizens' Electronic Access to Public services, in the following ways:

- **IN PERSON.** In person at offices of ITSS, as well as at the offices of other organs of the State Administration and Autonomous regions and local authorities, whenever there is a corresponding agreement.
- **ELECTRONICALLY.** Through the Electronic headquarters of the Ministry of Employment and Social Security, provided the complainant provides her/his electronic ID, or an advanced electronic signature based on an electronic certificate recognised by the @firma platform.

The procedure will be performed by accessing the Electronic headquarters of the Ministry of Labour and Social Security through the Ministry's website, at the following website: [http://www.meys.es/es/sede\\_electronica\\_menu](http://www.meys.es/es/sede_electronica_menu).

Further steps are indicated on this site, after clicking on organisational unit «*D. G. Inspección de Trabajo y Seguridad Social*». The complaint is to be filed using the procedure called «*Acción Inspectora*». Once the «*Espacio información*» option is selected the appropriate template should be completed, saved and submitted through the option «*Alta solicitud*».

- **MAIL.** Addressed to the appropriate office of the Provincial Labour and S. S. Inspection. If the complaint is filed by mail or at an office without the complainant being present in person, a copy of the ID of complainant will be required and,

where appropriate, authorization for verifying the identity of the complaining person at the relevant register.

The Labour and Social Security Inspection may open a **period of preliminary information** to ascertain the circumstances of the case and decide whether or not to initiate inspection activities.

## b) Trade union activity in case of discrimination

We can establish three levels of action: one of **preventive** character, which occurs prior to possible discrimination and two that are **proactive** in case of a possible discrimination:

1. As a **preventive** measure, at the time of negotiating and establishing Collective Agreements unions play a key role in including aspects that impact directly on the fight against discrimination. For example, they can establish clauses to avoid any type of discrimination, ensuring freedom of expression and establishing controls over hiring processes by setting targets.
2. Unions can also promote the creation of **specific committees** responsible for the implementation and monitoring of the principle of non-discrimination, within the framework of collective bargaining. In a situation of discrimination in employment, people should initially approach the Specific Committees if they exist. For example, this is the case in the hospital collective agreement, which is one of the few that provides a penalty for discriminatory harassment on grounds of racial or ethnic origin, religion or beliefs, disability, age, sexual orientation or gender, to both the employer or the employees.
3. **Equality Services** within the union itself, accessible on the basis of affiliation to the union. These are specific services for cases of discrimination, and they offer different services such as counselling and information, and ensure the correct processing of those cases in which workers are victims of discrimination on any of the grounds listed in this Guide. Trade unions usually have legal services which offer comprehensive advice in a case of discrimination.

## c) Social Jurisdiction

In addition to these procedures there is the path of social jurisdiction. In this domain it should be noted that Article 181 of the Labour Procedure Law (LPL) establishes that discriminatory treatment based on sex, age, racial or ethnic origin, disability, sexual orientation and gender identity, religion or beliefs shall be processed in accordance with the specific **procedure for fundamental rights enforcement**. In proceedings arising from the violation of fundamental rights, **the judgment finding an infringement of any such rights must necessarily contain at least one of the following outcomes:**

- To declare radically void the antisocial act.
- To order the immediate cessation of the conduct.
- To restore the situation to the moment before the discrimination occurred.
- To order that the consequences of the act be repaired, including compensation.

**These kind of processes have urgent character and preference** over other pending cases. Likewise, this procedure is exempt from prior conciliation or pre-judicial claim duties.

In the event of the process raising an issue of gender equality, the judge or court may seek the opinion of the relevant public authorities (Article 95.3 LPL).

In these processes the **burden of proof** is also reversed (Article 96 LPL). This entails that, once the existence of discrimination may be presumed from the facts established by the plaintiff, it is for the defendant to provide an objective and reasonable justification of the measures taken and of their proportionality. Hence, it is for the employer to not only prove the legality of the adopted measure but also its non-discriminatory nature.

#### **d) Criminal proceedings**

Finally, in certain cases discrimination in employment can be a criminal offense. Article 314 of the Criminal Code require the following elements for that to happen: first, a serious discrimination in employment on grounds of ideology, religion or beliefs, race, ethnic group or nation, gender, sexual orientation etc. and second, that after the employer has been sanctioned or required by an administrative or judicial authority to restore the situation of equality, repairing the damages suffered, he or she has not acted accordingly. For more information, see chapter 5 of this Guide on hate crimes.

In the following section a number of discrimination cases and judgments on different discrimination grounds are presented.

#### *4.1.2 Practical examples of discrimination in employment on grounds to racial or ethnic origin*

Racial or ethnic minorities are at a disadvantage in European labour markets due to a variety of factors, but discrimination in employment is undoubtedly one of the contributing factors. Some examples of discrimination include the following:

- In a job offer spanish language proficiency is required for a position in which perfect knowledge of the language is not necessary.
- A Roma person goes to a job interview and is told that the job is already taken, but then a person who is not a Roma is subsequently interviewed.
- In a job offer «Spanish nationality» is specified.
- A worker from sub-Saharan Africa is paid less for the same job than a Spanish worker.

Although it is technically necessary to distinguish between discrimination due to racial or ethnic origin and discrimination due to nationality, since their legal regime is different –so for example Article 3.2 of Directive 43/2000/EC on discrimination due

to racial or ethnic origin expressly excludes from its scope of application the differences in treatment based on nationality<sup>13</sup>–, in reality often both forms of discrimination, on grounds of nationality and on grounds of racial or ethnic origin, are closely intertwined, since it is the criterion of physical appearance that infers an origin from abroad and gives rise to discriminatory treatment.

In this context, one of the forms of discrimination with a higher incidence targets foreign workers, whether they have a regular or irregular administrative status. In this regard, it should be noted that the Law on Infringements and Sanctions in the Social Order, apart from the aforementioned Article 8, which regulates discrimination as a very serious infringement, also establishes in Article 37 that employers using foreign workers who have not obtained in advance the required work permit commit a very serious infringement, as do natural or legal persons who promote or mediate work in Spain for foreigners without the required work permit. Likewise, Organic Law 4/2000 on the rights and freedoms of foreigners in Spain, makes discrimination of foreign nationals on grounds of racial, ethnic, national or religious difference a very serious offense. If a foreign worker in an irregular situation denounces this type of discrimination to the Labour and Security Social Inspection she/he could qualify for a residence permit for collaborating with the administrative authority (Article 127 Royal Decree 557/2011 of the 20<sup>th</sup> of April).

For its part, the Criminal Code, in its Title XV relating to crimes against workers' rights, criminalises the fact of imposing, workers by deception or abuse of a situation of need, working or Social Security conditions which harm, suppress or restrict the their rights as recognised by law, collective agreement or individual contract (Article 311), the repeated hiring of workers without work permits (Article 311a), labour trafficking (Article 312), simulation of contract (313) and severe discrimination in employment without restoring the situation of equality before the law after requirement or administrative penalty (Article 314).

**CASE: Judgment of the Court of Justice of the EU (Second Chamber) of July 10th 2008 (reference for decision of the preliminary ruling from the Arbeidshof te Brussels Belgium) Centrum voor gelijkheid van kansen en voor racismebestrijding/Firma Feryn NV (Case C-54/07) (1) (Directive 2000/43/EC discriminatory criteria recruitment Burden of proof Sanctions) (2008/C 223/17).**

An employer declares publicly that, under her/his recruitment policy, workers of a particular ethnicity will not be employed because the employer believes that her/his customers do not trust them when offering their services. For the Court, these statements are sufficient to presume the existence of a recruitment policy that is directly discriminatory within the meaning of Article 8 paragraph 1 of Directive 2000/43. It is then for that employer to prove that she/he has not breached the principle of equal treatment. This can be done by demonstrating that the actual hiring practice of the company does not correspond to those statements. It is the responsibility of the national court to verify that the facts alleged against that employer are established and to assess the sufficiency of the elements submitted by the employer in support of her/his claims that the principle of equal treatment has not been breached.

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<sup>13</sup> In any case, in our domestic law foreign citizens are covered by the general prohibition of discrimination under Article 14 of the Constitution. This constitutional regulation is specified in Articles 3 and 23 of Organic Law 4/2000 of the 11th of January on the rights and freedoms of foreigners in Spain and their social integration, which state a general interpretation principle regarding the rights conferred to foreigners which unless otherwise stated are to be understood as granted under equal conditions with Spaniards, and ban discrimination, both direct and indirect, including on grounds of national origin or nationality.

### 4.1.3 *Practical examples of discrimination in employment on grounds of sexual orientation and gender identity*

Discrimination against LGBT persons can happen through violations of the right to privacy in the process of recruitment, in non-renewal of employment contracts in certain circumstances, in the impeding of promotion of LGBT people in companies, in harassment situations, in the refusal of leave for a partner's illness, etc.

The scarce reporting is a fundamental feature of homophobic and transphobic infringements. The lack of complaints is explained by the reluctance of many victims to reveal their sexual orientation, often because they do not trust the authorities to be sensitive to their situation or to be prepared to support the victim in such incidents. The lack of complaints is a serious problem because it means that the official figures do not reveal the true extent of the existing discrimination.

**CASE: A homosexual male airline worker had his working relationship with this company extinguished through a disciplinary dismissal; there are indications of bullying because of his homosexuality.**

**Judgement of the Constitutional Court STC 41/2006 of February 13th.** This judgment is an important milestone for Spanish anti-discrimination law as it was the first in which homosexuality is recognised as one of the «Suspicious categories» of discrimination referred to in Article 14 of the Constitution. The Court granted constitutional protection declaring the dismissal as discriminatory, thus including homosexuality in the scope of the second paragraph of Article 14 EC on the prohibition of discrimination. The following statement is highlighted in the legal reasoning of the Judgment: «It is noteworthy that although sexual orientation is not explicitly mentioned in art. 14 EC as one of the specific cases where discriminatory treatment is prohibited, it is undoubtedly a circumstance included in the clause «any other personal or social circumstance» to which the prohibition of discrimination should refer. In brief, the Constitutional Court accepts the appeal lodged by the employee of the airline, arguing that there are reasonable indications for a link between the sexual orientation of the worker and his dismissal and the company has not succeeded in undermining these indications by showing that the real reasons for the termination of the employment contract were not related to a discriminatory motive.

### 4.1.4 *Practical examples of discrimination in employment on grounds of religion or beliefs*

Ethnic and religious minorities are disadvantaged in European labour markets due to a variety of factors, but discrimination in employment is also a contributing factor. One of the difficulties in assessing its scope is that statistics do not collect data concerning the number of jobs that take into account religion or beliefs; however, different Europe-wide studies<sup>14</sup> find that the employment rate of ethnic and religious minorities is lower than in the general population.

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<sup>14</sup> Institute for Open Society, *Muslims in the EU*, 2003; Ministry of Immigration, Integration, National Identity and Solidary Development, *Rapport du SOPEMI pour la France*, 2012.

Examples of discrimination based on religion or beliefs are also related to the lack of space and time for pray or the fact that the company menu does not consider foods that can be consumed by minorities religious.

Some positive practices in collective bargaining should be noted such as the Collective Agreement in the agriculture sector of Almería, which establishes special permissions for a month on the occasion of Ramadan. It also introduces the possibility of a leave of three additional days in case of death, maternity or illness if they occur at a distance greater than 80km from the worker's home. Also, in Melilla, in the construction sector, paid leave is established for the Eid al-Adha (Feast of the Sacrifice) and in the iron and steel industry of Ceuta paid leave is granted for the days of IUD AL-FITR (the end of the fasting month of Ramadan) and IUD AL-ADHA (sacrifice of the Prophet Abraham).

**CASE: The Constitutional Court Judgment STC 101/2004, of June 2<sup>nd</sup> 2004,** accepted the request for constitutional protection raised by a sub-inspector of the National Police, assigned to the Cavalry unit in Seville. Knowing that each year a group of agents is commissioned to participate in a procession in Malaga he sent a letter to his superior requesting that, in the event corresponding to Easter 1998, he be excused from having to attend such religious events, considering that to force him to be present would be against his right to religious freedom, recognised in Article 16.1 SC. His request was rejected, with the reminder that the National Police has the status of an «Elder Brother» of the Sacramental Brotherhood. Hence, every year a group of Police Agents march in procession in order to ensure order and security of the procession.

The sergeant was finally assigned to this service and performed correctly his duty although this did not stop him disputing the decision of his superiors in defence of his right to religious freedom. The case, after passing through different instances, reached the Constitutional Court, which in his judgment recalled its general doctrine on religious freedom, as well as the content of Article 16.3 SC granting the «neutrality of public authorities inherent to the non-confessional character of the State». There is therefore no room for «confusion between religious and State functions». The Court rules that the only way to force a police officer to attend a religious act such as an Easter procession is to provide effectively a police service, which in this case does not occur. The use of cavalry uniform gala, sabres and lances, etc. indicates that it is really «a special service the main purpose of which is not to ensure public order, but to contribute to the enhancement of the solemnity of a religious ceremony of the Catholic confession». It is stressed that the service is not provided for other brotherhoods, but only for that which has appointed the National Police as «Elder Brother», which is the essential reason for the presence of the police officers at the parade. It is thus concluded that the service is of a religious nature, which more than justifies «the refusal of those who do not profess the Catholic religion to take part in demonstrations of worship of that religion, such as a processional parade». Therefore, the right to religious freedom of the sergeant has been violated by forcing him to take part in the Easter procession, and his «right not to participate, if that is his desire, in acts of religious content» is recognised.

#### *4.1.5 Practical examples of discrimination in employment on grounds of age*

Discrimination in employment on grounds of age is the most frequent case. It occurs in different moments such as in access to employment, training and job promotion and termination of employment or in working conditions (wages, annual leave, etc.).

The **Provincial Labour and Social Security Inspectorate of Barcelona** sanctions an electric company in relation to a job advertisement published on February 27<sup>th</sup> 2000 in which the following requirement for the job is stated: «Age between 35-45 years».

**The judgment of the Superior Court of Catalonia on November 10<sup>th</sup> 2006** confirmed the administrative sanction of 3,000 Euros imposed by the labour authority on a company that had published an offer of employment in which it requested candidates, among other requirements, aged between 35 and 45 years. The company claimed in its defence that it was a job of «high responsibility» and considered «that the essential and crucial requirement for the position offered was the experience of the person selected and above all her/his personal maturity, emotional stability and professional trajectory». The court ruled that «we are faced with a discriminatory conduct on the grounds of age, since 'it does not follow that the normal functions to be performed cannot be normally exercised by people with ages lower or higher than the age range of between 35 and 45 years'».

What happens in cases where minimum or maximum ages are set in access to employment based on a just cause? **Directive 2000/78/EC, of the 27<sup>th</sup> of November, on the establishment of a general framework for equal treatment in employment and occupation, irrespective of religion or belief, disability, age or sexual orientation**, establishes guidelines for whether or not this can be reasonably justified. Article 4.1 states that the difference of treatment based on any of the grounds of the Directive shall not constitute discrimination «when, due to the nature of the particular occupational activity concerned or of the context in which it is performed», it «constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate» Article 6 permits –but doesn't impose– that Member States include some additional exceptions authorising different treatment on grounds of age. These include:

- a) The setting of special conditions on access to employment and vocational training for young people, older workers and persons with caring responsibilities, in order to promote their vocational integration or ensure their protection. This would justify, for example, the bonuses implied in the so-called support contract for young entrepreneurs hiring workers aged under 30 or over 45.
- b) The fixing of minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment.
- c) The fixing of a maximum age for recruitment based on the training requirements of the post in question or on the need for a reasonable period of employment before retirement<sup>15</sup>. For low-skilled or temporary jobs this exception cannot be claimed.

In Spanish legislation, Article 17 (paragraphs 2, 3 and 4) of the Workers' Statute establishes exceptions to this prohibition of discrimination, which include subsidies, tax reductions and other measures to promote employment of specific groups of workers who are experiencing particular difficulties, due to their age for example, in accessing the labour market.

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<sup>15</sup> Judgment of the Supreme Court of May 30<sup>th</sup> 2012, the maximum age of access for enlisted personnel and sailors of the Armed Forces.

### 4.1.6 *Practical examples of discrimination in employment on grounds of disability*

Chapter VI of Title I of the **Royal Legislative Decree 1/2013 of the 29<sup>th</sup> of November**, approving the revised text of the **General Law on rights of people with disabilities and their social inclusion**, addresses the right to work of persons with disabilities under conditions which ensure the implementation of principles of equal treatment and non-discrimination (Article 35.1).

According to the National Institute of Statistics, the unemployment rate of people with disabilities was 35.0% in 2012, which is 9 points more than the population without disabilities. The most common form of discrimination against people with disabilities is to completely deny the possibility of employment, assigning them poorly paid tasks and menial labour.

#### **CASE: Judgment T. S. J. Andalucía 778/2012, of March 8<sup>th</sup>.**

Discriminatory dismissal: Void. Disabled worker, with greater seniority, without evidence that his performance has been lower than that of others. Compensation for moral damages: The basis and key elements of the compensation claimed have to be provided.

The worker had been providing paid services on behalf of company XXXXX, in the facilities of XXXXX. Located in Puerto Real, that worker had provided services from the 10/12/09, in the category of cleaner. He was recognised as having a degree of disability of 37%, and the company hired him for this reason on a temporary employment contract for people with disabilities. It is for the plaintiff to provide facts that indicate that the dismissal in this case was due to motives contrary to fundamental rights and it is for the defendant to prove that his action had an objective and reasonable justification not entailing a breach of fundamental rights. The resulting evidence will tip the balance from one to the other of the parties in dispute.

In this case, the following facts were substantiated: 1. Condition of disability. 2. Temporary Contract with a recognised higher seniority. 3. Dismissal at the moment of return of the worker of a situation of temporary leave on grounds of illness, which began on the 09/05/10. 4. The worker is the oldest of the six workers serving in XXXXXX, and none of the others were dismissed. 5. It is deemed unfair to dismiss the worker based on poor performance: «unproductive» «below expectations» «in equal conditions» «tasks have to be taken over by colleagues». 6. The company has not taken any measure to allow the worker to perform his basic tasks.

The judgment declares the dismissal of the worker void, condemning the company to his immediate reinstatement with payment of unpaid wages.

### 4.1.7 *Key Recommendations*

- There are **specific mechanisms** to report discrimination in employment: in case of a discriminatory incident address the Labour and Social Security Inspection, the trade unions or the specific committees that may be provided for in the collective agreement of the sector.
- If you resort to the **courts**, remember that procedures of discriminatory treatment shall be processed in accordance with the **procedure foreseen for fundamental rights enforcement**. This implies:
  - That the processes are **urgent** and have **preference** over other pending cases.

- That the **burden of proof** is reversed: once the existence of discrimination may be presumed from the facts established by the plaintiff, it is for the defendant to provide an objective and reasonable justification of the measures taken and of their proportionality. Hence, it is for the employer to not only prove the legality of the adopted measure but also its non-discriminatory nature.
- In certain cases discrimination in employment can be a **criminal offense**. Article 314 of the Criminal Code requires a serious discrimination in employment on one of the different grounds and, in addition, that after the employer has been sanctioned or required by an administrative or judicial authority to restore the situation of equality, repairing the damages suffered, he or she has not acted accordingly. For more information, see chapter 5 of this Guide on hate crimes.

## 4.2 Discrimination in the access to goods and services

Discrimination in access to goods and services means to give a person or group of people different and less favourable treatment with respect to others due to one or more characteristics or to membership of a particular group, when she/he accesses any public or private good or service, such as housing, education, health and entertainment and recreation venues (restaurants, nightclubs, etc.).

### 4.2.1 *Discrimination in access to entertainment venues*

The main regulatory mechanism regarding access to entertainment venues is **the right of admission**, which is to establish how people can access a public or private establishment and/or, where appropriate, to remain there. This is recognised normatively in **Royal Decree 2816/1982, of August 27th, which approves the General Regulation of Policy in Public Entertainment and Recreational Activities (REGP)**, which mentions it in its Article 59.1.e): «to enter the premises or venue without meeting the requirements to which the Company had conditioned the right to admission, through advertising or on posters, prominently placed in the access points, clearly stating these requirements».

Thus, in order to reserve the right of admission the conditions for acceding or remaining in the premises have to be clearly specified by a prominent display of signs or advertising in the points of access. It follows that signs with the statement «right of admission reserved» are not sufficient.

The majority of the Autonomous Communities (regional governments) have taken on competencies in the field of public entertainment venues, dictating concrete provisions<sup>16</sup> which displace REGP, the provisions of which, however, continue to apply as far as public security is concerned, which is an exclusive competence of the State.

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<sup>16</sup> The exceptions are the Autonomous Communities of Cantabria, Extremadura and Galicia, where REGP of 1982 applies.

Examples of these regulations are in **Andalusia** Law 13/1999 governing Public Performances and Recreational activities, in **Catalonia** Law 11/2005 for Administrative Regulation of Public Entertainment and Recreation, and in the **Community of Madrid** Law 17/1997 on Public Entertainment and Recreational Activities. In the few Autonomous Communities that have not legislated on the matter, Royal Decree 2816/1982 applies. The fines provided for the offence of discrimination in the exercise of the right of admission are high. Usually these rules not only classify as serious or very serious infringements the discriminatory exercise of the admission right, but also sanction, for example, to allow the access of persons carrying symbols which could incite racism, xenophobia, hatred and intolerance, among others.

For example, Article 24.2 of **Law 17/1997, of July the 4th, concerning public entertainment and recreational activities of the Community of Madrid** states that *«this right cannot be used to restrict access in an arbitrary or discriminatory manner or place the user in a position of inferiority, legal defencelessness or unfairness. The right of admission should be designed to prevent access of people who behave violently and may cause inconvenience to the public or users or alter the normal development of the show or activity. The conditions for the right of admission shall be shown in a visible place at the entrance of venues, establishments and enclosures. Access to the premises, public entertainment and recreation is prohibited to persons wearing clothing or symbols that incite violence, racism or xenophobia»*.

Moreover, **Article 512 of the Criminal Code** criminalises discriminatory denial of services in the exercise of business or professional activities<sup>17</sup>.

What will determine the path to take against a discriminatory act against the right of admission (administrative, criminal or civil) will be above all the perceived seriousness of the infringement, but also the time it may take to reach a decision through one route or another should also be valued, as well as the possible difficulty of obtaining hard evidence of the discrimination suffered, for example having witnesses willing to testify on the matter, and the degree of involvement required from the victim for tracking and reporting the claim.

The easiest way is to claim through the **book of claims**. What this achieves is to urge the authorities of the Autonomous Community to act.

If the book of claims is not made available by the entertainment venue, the **Police** should be called. In their presence you must reapply for the book of claims and, if it is not delivered, it will be the police themselves who shall make the complaint for failure to deliver or make it available, coupled with complaints that may arise from the exercise of an activity without authorisation. It is important that in this moment the police identify the person(s) responsible for the venue on-site.

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<sup>17</sup> For more information see chapter 5 of this Guide on hate crimes.

Regardless of the legal path followed, requesting the **book of claims** is key. Firstly, it is a good way to prevent a repetition of the experience and it also constitutes evidence in the case of the claim finally reaching consumer office arbitration or a lawsuit. The procedure followed after the presentation of a claim may lead to a sanction for the denounced establishment.

Secondly, and independently of the above, you can also **report** the facts to the **competent administrative bodies of the City or Autonomous Region** in which they occurred, urging these bodies to initiate an infringement procedure on the basis of the applicable state or autonomic legislation.

Although the disciplinary procedure and the competent body carrying it out varies from one Autonomous Community to another, and in some cases the power is vested upon local councils, this possibility exists and can end in substantial sanctions of fines for the person or company that has discriminated. On the other hand, using this path it is not possible to claim compensation for damages.

If **it is intended to claim financial compensation for damages suffered** a claim can be made either through the **Consumer Arbitration System** established in Article 57 of the General Law for the Defence of Consumers and Users (revised text approved by Royal Decree 1/2007 of the 16<sup>th</sup> of November), usually through the Consumer Office, or by a **lawsuit before the civil courts**. To launch either of these two procedures it is not necessary to wait until the claim formulated by the complaint form is resolved. In the case of a civil suit, it should be borne in mind that the terms of the decision can significantly expand the costs of the process (although if the claim does not exceed €6,000 it shall be processed by the method of oral proceedings, for which no lawyer or solicitor is required), and if compensation is awarded for moral damages the amount would not be very high.

If the discrimination suffered is considered serious and the victim is willing to engage further in order to achieve a sanction against the discriminatory agent, it is best to **file a complaint with the Security Forces, the Public Prosecutor (there are specialised services for hate and discrimination crimes at all provincial prosecutors' offices), or before the duty law court**.

The **report to the Security Forces** has the advantage that you can ask the police to investigate whether indeed discrimination has occurred. If, for example, someone alleges that they were denied access to a leisure venue due to their skin colour, and the police enter the premises and find that everyone there is white, we would have evidence of discrimination that would strengthen the statement made by the person alleging discrimination.

In addition, the police have the obligation to begin two sanction proceedings, administrative and criminal. While the criminal proceedings are in process, the administrative proceedings are suspended, but if the criminal proceedings are closed without conviction, the administrative proceedings are reactivated, and may result in a financial penalty for the person who has caused discrimination even if there is no criminal sentence.

**Criminal proceedings also include the possibility of seeking compensation** for damages suffered due to the discrimination.

### **Practical examples of discrimination in access to entertainment venues**

**a) Due to racial or ethnic origin. Judgment of September 29<sup>th</sup> 1998 of the Chamber Supreme Criminal Tribunal.** Article 512 of the Criminal Code was applied for the first time against the owner of a property for the purchase and sale of vehicles in Murcia who expressly denied to serve a person of colour («I do not sell to brown people like as you, nor to gypsies or moors»).

**b) Due to disability. Judgment of Criminal Court number 12 of Valencia,** which sentenced to one year of disqualification of profession and activities related to the hospitality and leisure trade to the owner of a pub for not allowing a group of people with disabilities to remain on the premises.

The court decision ruled that there was discriminatory behaviour by the people responsible for the public establishment which constituted a crime against the fundamentals rights of the eight youths with disabilities who were affected.

### *4.2.2 Discrimination in other goods and services*

As noted in the introductory section, there are other areas in which discrimination can occur. This section makes reference to some specific response mechanisms that can be resorted to in two of these areas, **education** and **health**.

But regardless of whether or not such mechanisms exist in a particular area, it is always possible to denounce discrimination through general channels established by the system:

- Firstly, there are some **specialised services for certain motives of discrimination** (racial or ethnic origin, disability, sexual orientation and gender identity) that can provide advice and proceed with complaints and claims (see the Annex of this Guide).
- Secondly, whenever a public administration is involved, in addition to the resources that can be used during administrative proceedings, there is always the possibility of a **complaint to the Ombudsman**, either from the State or from those Autonomous Communities where they exist (see Annex).
- In many cases there are sectorial regulations that prohibit discrimination and establish penalties for those who violate this prohibition, so that **a complaint of discrimination can be made to the competent authority** in the area concerned.
- And the last step which is always open is to resort to the **courts** to challenge the act or discriminatory measure and seek redress for damages suffered.

### 4.2.2.1 Discrimination in education

Within the area of education discrimination may occur in different moments<sup>18</sup>:

- In **access to education**; one of the main obstacles to equal treatment and non-discrimination are the admission and in so far also schooling criteria.
- During the **permanence in the education system** of the groups of students with greater vulnerability to discriminatory attitudes and deeds.

Various studies and organisations<sup>19</sup> active in the field of non-discrimination, have argued that different groups (LGTBI or the Roma population, for example) are those who most suffer the consequences of discrimination in education, in access to the different levels of education as well as during their permanence in the educational system.

Recent educational reform, through **Organic Law 8/2013 of the 9th of December for the improvement of the quality of education** changes the wording of Article 1 of Organic Law 2/2006 of the 3<sup>rd</sup> of May on Education and incorporates a new paragraph 1.b) that places the principles of equality of opportunities and of non-discrimination at the core of the Spanish Educational System. The wording of this article is as follows:

*«Equity, ensuring equal opportunities for full personality development through education, educational inclusion, equal rights and opportunities to help overcome any discrimination and universal access to education, and acting as a compensatory element to personal, cultural, economic and social inequalities, with particular attention to those inequalities resulting from any type of disability.»*

Thus, the principles of equal opportunity and non-discrimination become horizontal elements of the education legislation.

#### **Mechanisms to be used: where to go in case of discrimination in the area of education**

Organic Law 2/2006 provides two specific mechanisms that have different powers to intervene in cases of discriminatory incidents in the area of education. These are:

- a) **School Plans for Living Together.** Article 124 on Standards of *Organisation, operation and living together* provides for the drafting of these plans in each education centre: «The plans for living together shall be incorporated into the annual

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<sup>18</sup> Analytical Notebook «Todoimas», Ministry of Health, Social Policy and Equality (2011).

<sup>19</sup> Concerning the **LGBT** community: <http://www.felgtb.org/temas/laboral/noticias/i/3774/358/la-salida-del-armario-sigue-sin-ser-una-opcion-libre-por-el-miedo-a-la-discriminacion>; concerning **disability** see <http://www.un.org/esa/socdev/enable/documents/tccconvs.pdf> and [http://www.ite.educacion.es/formacion/materiales/126/cd/unidad\\_2/material\\_M2/sabermas1.pdf](http://www.ite.educacion.es/formacion/materiales/126/cd/unidad_2/material_M2/sabermas1.pdf); and **racial or ethnic origin**: Discrimination and the Roma Community: Analysis of collected cases. Fundación Secretariado Gitano (2005). Available in: <http://www.gitanos.org/publicaciones/discriminacion05/educacion.pdf>

general programme and will collect all activities that are planned in order to foster a good social climate within the school (...), and the implementation of actions for the peaceful resolution of disputes with particular attention to the actions for the prevention of gender violence, and to further equality and non-discrimination».

The corrective measures shall be proportionate to the misconduct. Behaviour that violates personal dignity of other members of the education community, having as a source or result discrimination or harassment based on gender, sexual orientation or identity, racial or ethnic origin, religion or beliefs or disability, or that are carried out against the most vulnerable students on account of their personal, social and educational characteristics have the rating of **gross misconduct** and imply the corrective action of temporary or permanent expulsion from the centre.

- b) **School Board.** Article 127 concerning the Powers of the School Board explicitly includes in paragraph g) the promotion of «measures and initiatives favouring good social climate in the centre, equality between men and women, equal treatment and non-discrimination on the grounds referred to in Article 84.3 of this Organic Law, the peaceful resolution of conflicts, and prevention of violence against women».

These are mechanisms that are part of the education centre. In the event that the discriminatory incident should be caused by the centre itself, people can demand the intervention of the **Education Inspection** or the **Ombudsman** (either state or regional when they exist, or even the Ombudsman for Minors that some regions have), or access the specialised mechanisms according to the relevant discrimination ground. Examples of such interventions are the resolutions such as that which the Ombudsman of Andalusia made with regards to complaint 09/4617 directed at the Ministry of Education, proposing an amendment of the rating criteria for the processes of schooling and admission of students in schools.

A case related to the internal regulations of schools and the School Board occurred in February 2010, when a 16 year old decided to wear the hijab. Over the following months four teachers of the institute providing the fourth year of secondary education, issued warnings for violation of the rules of the centre, which do not allow students to cover their heads, and the direction acted by forbidding the student to attend class with a veil. Soon after, the school allowed the minor to return (with veil) but only for five days, **until the School Board ratified the internal rules.** The girl moved to another Educational Institution, which amended its rules to prevent attendance of class with the head covered. Finally, she went to a third school that does allow in its regulations people to attend classes with a veil.

The family appealed against the sanction imposed by the school to the Education Council of the Community of Madrid considering that the scarf «does not hinder identification» of the child and that the use of the hijab is «a manifestation of religious freedom guaranteed by the Constitution». However, the Directorate of the Territorial Area of Madrid West ratified the measure as did the Deputy Counsellor of Educational Organisation. The family challenged this resolution of the Deputy Counsellor in court.

The appeal was rejected. The court deemed that through the decision the education center was fulfilling its regulations. «It is not possible to consider the mere fact of forbidding a person to attend classes with the head covered a breach of the principle of dignity of the person concerned; rather it has to be considered a regulation of life at school regarding the clothes to be used by all students».

**Judgment 35/2012 by Administrative Court number 32 of Madrid.**

**JUDGMENT OF THE SUPREME COURT 3257/2011 No. 603/2010 APPEAL PROCEDURE. Infringement of the Right to Education.**

The appellants in this instance, parents of children with Autism Spectrum Disorder (ASD), challenged by way of the procedure of judicial protection of fundamental rights what they considered to be the inactivity of the authorities of the Region of Valencia for not providing the necessary resources to the Classroom of Communication and Language of the Public School and a Centre for Infant and Primary Education in Valencia to ensure their children's education development. Such inactivity resulted in the lack of education staff with specific knowledge of ASD, in the absence of suitable materials, in the lack of coordination between institutions and the breach of the ratios that make the provision of a specially trained tutor for every 3 or 5 children mandatory. The plaintiffs considered these deficiencies to be a violation of the rights to equality and non-discrimination, to education and to the integration and Bill of Rights of Persons with Autism, of May 9<sup>th</sup> 1996 by the European Parliament. In their appeal they stated that ASD is a disorder that primarily affects communication, social interaction and the imagination of those who suffer, for this reason the person in question requires constant supervision and a set of specific services that enables him or her to acquire progressively higher levels of autonomy. They also said that affected children follow a combined model of education which they undergo for a certain time –different for each child, because they have different levels of competencies– in the regular classroom of the school they attend as well as in the Classroom of Communication and Language of the Public School. This classroom was created in 2006-07 without the necessary material resources and without spatial adequacy. In addition, education staff did not have specific training in ASD. All this resulted in the worsening of the children's education. They further claimed that the Administration breached the protocol established in the document of the Department of Health entitled «Good practice guidelines for the treatment of autism spectrum disorders», in which it is established that treatment should be individualised, structured, intensive and extensive to all contexts of the person and parent involvement. The judgment concludes «*Relating to appeal No. 694/2007, we declare the right to education has been infringed and recognise the appellants' right to have the education administration promptly remedy the shortcomings of the Communication and Language Classroom of the Public School*».

Finally, in the event of an open and deliberate discrimination, it is also appropriate to make a complaint for the offence of the discriminatory denial of services (Articles 511 and 512 of the Criminal Code) with the Security Forces, the Court or the provincial prosecutor.

#### 4.2.2.2 Discrimination in health

Discrimination in the area of health can occur both in access to medical assistance or certain treatments, as well as during them. In its report «Inequalities and multiple discrimination in healthcare» the European Fundamental Rights Agency (FRA) notes that according to the available data certain factors such as social status and economic situation, ethnic origin, age, gender, disability and migrant status affect the level of health of a person and their ability to access healthcare. In particular, elderly people from ethnic minorities, as well as women and children with disabilities are examples of vulnerable groups which are especially susceptible to unequal treatment in access to healthcare; in other words, they may be in a situation of multiple discrimination<sup>20</sup>. Also, age discrimination can play an important role in the area of healthcare<sup>21</sup>.

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<sup>20</sup> Available at: [http://fra.europa.eu/sites/default/files/frafactsheet\\_inequalititesmultidiscrimination\\_es\\_web.pdf](http://fra.europa.eu/sites/default/files/frafactsheet_inequalititesmultidiscrimination_es_web.pdf)

<sup>21</sup> <http://www.jano.es/noticia-demostrada-discriminacion-por-edad-el-21131>

## Specific response mechanisms in the field of healthcare

In cases when discrimination has occurred in the health sector, the following options are available:

- Formulate a complaint with **Patient assistance and information services** provided by the Autonomous Communities in the framework of their competencies in the area of health. These services generally have offices for attention to the public in all Hospitals as well as a centralised service. Their functions include to «*Enforce the rights of patients and their families covered by the existing rules and respond to and process any complaint, claim and/or suggestion from a customer, trying to solve the problem at that time by proposing a solution or passing the issue to the Directorate to obtain a solution as quickly as possible*».
- In some Autonomous Communities (Andalusia, Madrid, Catalonia, Valencia and the Basque Country) there is also a **Patient Ombud**, an organ of the health authorities available to manage complaints, claims, suggestions, proposals or comments received, with the main object of mediating in the conflicts raised by citizens as users of the health system.

## 4.3 Discrimination in public spaces and security

Discrimination in public spaces may in practice be of a very diverse nature. Often it consists in insults, threats and assaults in spaces such as streets, parks, bars, public transport etc., against people on account of their different ethnicity, sexual orientation, gender identity, disability, socioeconomic situation (homeless) or other grounds for discrimination. The more serious cases can even extend to crimes of injury, sexual aggression or homicide.

According to the Report on the *Evolution of hate crimes in Spain* in 2014 of the Ministry of the Interior<sup>22</sup>, by number of incidents the most frequent acts are against victims on account of their sexual orientation or gender identity, followed by racism/xenophobia and people with disabilities.

Another of the groups that often suffer this type of crime and other forms of discrimination is **the homeless**. In these cases people identify a phobia against or hatred of the poor and of discrimination due to socioeconomic situation. According to the recently published study by the Observatory of Hate Crimes against the Homeless «*Hatento*», one in three homeless people report having been insulted or having been the object of vexatious treatment and one in five homeless people have suffered physical aggressions<sup>23</sup>.

Such crimes are discussed in **Chapter 5 of this Guide on hate crimes**.

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<sup>22</sup> Available at: <http://www.interior.gob.es/documents/10180/1643559/Estudio+Incidentes+Delitos+de+Odio+2014.pdf/70073437-795d-4ce1-ACFC-ed92b02cf1a6>

<sup>23</sup> <http://hatento.org/wp-content/uploads/2015/06/informe-resultados-digital.pdf>

When the discriminatory acts do not constitute a crime (e.g. **less intense** conflicts in squares or public parks) it can be useful to approach **specialised services** according to the different discrimination grounds to request their intervention (see the Annex to this Guide), and if necessary mediation, in order to end the conflict and the discriminatory acts that are occurring. Also the municipalities or local bodies sometimes have social workers, street educators and intercultural mediators with the capacity to intervene in this regard.

Moreover, some citizens' associations have denounced a practice that may be discriminatory, and may also occur in public spaces in the framework of police prevention operations for the maintenance of public safety, when those situations involve **identity checks** based on personal characteristics such as ethnicity, colour, gender identity or socioeconomic status.

The legislation governing the actions of the Security Forces of the State conclusively prohibits all forms of discrimination. Thus, **Article 16.1 of the recently approved Organic Law 4/2015 of March 30th for the Protection of Public Safety** regulates police identifications establishing the following:

*«In the performance of their duties of investigation and crime prevention as well and for the punishment of criminal and administrative offences, the agents of the Security Forces may require the identification of persons in the following cases: a) When there are indications that they have been involved in an infringement. b) When, in view of the circumstances, it is considered reasonably necessary to check their identity in order to prevent the committal of a crime.*

*In such cases, officers may carry out the necessary verifications in the public space or the place where they have made the request, including identifying people whose face is not fully or partially visible through the use of a type of clothing or object that covers it, preventing or hindering the identification whenever necessary for the purposes indicated.*

*In practicing identifications the **principles of proportionality, equality of treatment and non-discrimination** on the grounds of birth, nationality, racial or ethnic origin, gender, religion or beliefs, age, disability, sexual orientation or identity, opinion or any other condition or personal or social circumstance will be respected.»*

Moreover, **Article 16.3 of the aforementioned Organic Law 4/2015** develops further the regulation of the **logbook-record** in which all the steps of police identification practiced have to be collected, which had already been addressed by Article 20.2 of the Organic Law 1/1992, and by Public Safety in Instruction 12/2007 of the Ministry of State Security. The new regulation reinforces guarantees establishing that:

*«In the offices referred to in paragraph 2 [police units] there will be a logbook-record to collect only issues concerning public safety. They consist of measures of identification performed, and the reasons, circumstances and duration of the same, and the information can only be communicated to the judicial authorities and the Public Prosecutor. The competent organ of the Administration shall submit on a monthly basis to the Public Prosecutor the extract of the measures of identification, stating the time spent on each. The entries in this logbook will be cancelled automatically after three years.»*

Thus, all identifications made by the Security Forces can be checked and verified by the Prosecutor.

Specifically regarding the measures of identification made against foreign citizens, this is governed by **Circular 1/2012** of the Police Directorate General, which states in its third paragraph *«the inappropriateness of transferring people to the police authorities for the mere fact that a documentary inspection has established an illegal stay in Spain, provided that their identity has been proven by an official document or a document deemed valid and sufficient for the purpose and supports an address that can be verified at the time of the identification»*.

Moreover, and in general, **Article 16.4** of the aforementioned Act 4/2015 establishes that *«persons in police custody for the purposes of identification should be issued upon their departure a document identifying the time period they were in custody, the cause of custody and the identity of the acting agents»*.

**CASE: Williams Lecraft c. Spain: Committee of Human Rights of the United Nations July 27<sup>th</sup> 2009.**

On December 6<sup>th</sup> 1992 in Valladolid railway station an officer of the National Police required Mrs. Williams Lecraft, a Spaniard of black race or ethnicity, to identify herself, but not so the other people who were present. In particular, the officer did not require her husband and son, who were not of black race or ethnicity, to identify themselves. Moreover, the agent himself acknowledged that he had identified her because he had been ordered to stop people «like her». Mrs. Williams reported the case and asked for State liability in courts for the moral and psychological damage she suffered by what she understood to be clear discrimination.

After seeing her application rejected in the ordinary judicial process, she resorted to the protection of the Constitutional Court, which in its **STC 13/2001 of the 29th of January**, with dissenting vote of Judge J. D. Campos González, dismissed the claim arguing, in essence, that the police action had used a racial criterion not *per se*, which would have been discriminatory, but as merely indicative of a greater statistical probability that the lady wasn't Spanish which was reasonable in the context of compliance controls regarding foreigners' regulations. Subsequently, Ms. Williams took the case to the Human Rights Committee of the United Nations, which concluded:

*«The Committee considers that identity checks carried out for public security or crime prevention purposes in general, or to control illegal immigration, serve a legitimate purpose. However, when the authorities carry out such checks, the physical or ethnic characteristics of the persons subjected thereto should not by themselves be deemed indicative of their possible illegal presence in the country. Nor should they be carried out in such a way as to target only persons with specific physical or ethnic characteristics. To act otherwise would not only negatively affect the dignity of the persons concerned, but would also contribute to the spread of xenophobic attitudes in the public at large and would run counter to an effective policy aimed at combating racial discrimination.»* (section 7.2) Continuing in section 7.4: *In the present case, it can be inferred from the file that the identity check in question was of a general nature. The author alleges that no one else in her immediate vicinity had their identity checked and that the police officer who stopped and questioned her referred to her physical features in order to explain why she, and no one else in the vicinity, was being asked to show her identity papers. These claims were not refuted by the administrative and judicial bodies before which the author submitted her case, or in the proceedings before the Committee. In the circumstances, the Committee can only conclude that the author **was singled out for the identity check in question solely on the ground of her racial characteristics** and that these characteristics were the decisive factor in her being suspected of unlawful conduct. Furthermore, the Committee recalls its jurisprudence that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose that is legitimate under the Covenant. In the case under consideration, the Committee is of the view that the criteria of reasonableness and objectivity were not met.* Therefore, the Committee ruled against Spain for violation of the International Covenant on Civil and Political Rights, which resulted in an apology from the Spanish Government to Mrs. Williams communicated both in writing and in person by the then Minister of Foreign Affairs. It should be recalled that according to Article 10.2 of the Spanish Constitution, *«the regulations relating to fundamental rights and freedoms recognised by the Constitution shall be interpreted in accordance with the Universal Declaration of Human Rights and the international treaties and agreements on the same subject that have been ratified by Spain»*.

## Response mechanisms in case of discriminatory identity check

If a person considers that she/he has been subject to a discriminatory identity check in violation of the law, she/he can resort both to the State and regional **Ombudsmen**, and to the **specialised services** in the area of racial discrimination or the relevant discrimination ground (see Annex).

Likewise, the incident can be reported through the channels that the Ministry of Interior offers citizens to make complaints concerning the services provided by members of the Security Forces.

In this regard, the **Ministry of the Interior** has prepared a **Complaints and Suggestions Form**, the purpose of which is to record the complaints made by citizens in relation to the operation of the administrative units (police bodies), which are dependent on the Ministry. In all the agencies, offices and centres of citizen attention open to the public, and dependent to the Ministry of the Interior (Police Stations, Civil Guard posts, etc.) there is a copy of the Complaints and Suggestions Form.

These complaints may be submitted in the following ways:

- In person at the offices of the agencies concerned.
- By post.
- Electronically: in the case of complaints, through the **Electronic Office of the Ministry of the Interior**<sup>24</sup>.

The complaints of citizens are reflected in writing in the Form, stating name, family name and address, for communication purposes, and signed at the end of the corresponding sheet. Once the complaint has been personally signed on the appropriate Form personally, a properly stamped copy of it will be handed out to the complainant.

If the complaint is submitted by mail and proof of residence is provided, the corresponding copy will be forwarded to the sender. Complaints by e-mail and Internet must be signed with the electronic signature of the person concerned.

Anonymous complaints (whether in person, written or electronic) shall not generate a response to the interested party, although they might trigger internal effects.

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<sup>24</sup> Order INT/949/2007 of the 30th of March, approving the complaints and suggestions form of the Ministry of the Interior (BOE no. 88 of the 12th of April). Available at:  
[https://sede.mir.gob.es/quejas/ACVT\\_LQs\\_rcd.html](https://sede.mir.gob.es/quejas/ACVT_LQs_rcd.html)  
<http://www.interior.gob.es/es/web/servicios-al-ciudadano/participacion-ciudadana/derechos-de-participacion-administrativa/quejas-y-sugerencias>

When complaints have been received in the affected agency, it shall, within twenty days and subsequent to clarifications that it deems to request from the citizen, inform her/him of the actions carried out and appropriate measures taken.

Finally, if the time period referred to in the previous paragraph expires and the citizen has not received any response from the Administration, she/he may resort to the following unit to find out the reasons that have led to the lack of response: the **Inspectorate of Personnel and Security Services** (issues related to the Civil Guard and the Police)<sup>25</sup>.

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<sup>25</sup> C/ Cea Bermúdez, 35-37, 28003 - Madrid; Telephone: 915372648-2649; Fax: 915372600.

# 5. Hate Crimes

Before going into the analysis of hate crimes a conceptual clarification of this term and the closely related concept of hate speech is needed.

- As stated in the «Report on hate crime incidents in Spain – 2014» prepared by the Secretary of State for Security of the Ministry of the Interior, although the Spanish criminal law does not use the term «**hate crime**», a working definition has been accepted, following the **Organisation for Security and Cooperation in Europe (OSCE)**, as meaning «any criminal offence, including offences against persons and property, where the victim, place or the object of the offence are selected because of their connection, relationship, affiliation, actual or presumed support or membership of a group that may be based on «race», national or ethnic origin, language, colour, religion, age, physical or mental disability, sexual orientation or other similar factors, whether they be real or perceived».
- In close connection with hate crimes is the so-called «**hate speech**». The **Committee of Ministers of the Council of Europe** in its **Recommendation (97) 20, of October 30<sup>th</sup> 1997 on «hate speech»** stipulates that the term shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.

The values and principles of democratic systems, such as equality and full respect for human dignity, as well as the model for peaceful coexistence itself, are seriously threatened by this type of behaviour of unquestionable severity and danger. It is also a very open criminal phenomenon, very transversal (including unlawful actions of a very diverse nature) and constantly evolving, largely due to the impact on this area of the process of technological development.

In Spain, the framework of hate crimes does not properly correspond to specific legal categories of our criminal law, but rather uses the word «hatred» as a common denominator, that in turn leads to discrimination and aversion and to types of behaviour that sometimes indicate new typical actions, while others are already categorised behaviours that are punishable under the Criminal Code or under administrative rules. We can establish two basic categories of offences:

1. **Any crime to which the generic aggravating circumstance under Article 22.4 of the Criminal Code is applicable**, i.e. «*committing the crime for racist or anti-Semitic motives or another kind of discrimination concerning ideology, religion or beliefs of the victim, ethnicity, race or nation of belonging, gender, sex, sexual orientation or identity, gender, illness or disability*»

The most common offences to which this aggravating circumstance is usually applied are:

- Crimes against life (arts. 138 and 139 CC).
- Crimes of injury (arts. 147 et seq. CC).

- Unlawful detention (arts. 163 et seq. CC).
- Crimes of threats (arts. 169 et seq. CC).
- Crime of threats against a collective (art. 170 CC).
- Crime of coercion (art. 172 CC).
- Crimes against moral integrity (arts. 173 et seq. CC).
- Crimes against sexual freedom and indemnity (arts. 178 et seq. CC).
- Crimes against honour (arts. 205 et seq. CC).
- Crimes against property (arts. 234 et seq. CC).

2. **Specific Crimes of discrimination, hate or intolerance** in which the discriminatory or hatred aspects are elements of the description of the crime itself.

Listed below are the offences for which this is the case, some of which have been affected by the recent amendment of the Criminal Code (**Organic Law 1/2015 of the 30th of March, amending Organic Law 10/1995, of November the 23rd, of the Criminal Code**), which entered into force on July 1<sup>st</sup> 2015.

- a) Crime of threat to certain groups of people, under Article 170.1 of the Criminal Code.
- b) Crime of torture for reasons based on any form of discrimination, under the second paragraph of Article 174.1 of the Criminal Code.
- c) Crime of disclosure of secrets, Article 197, paragraph 6 of the Criminal Code: disclosure of personal data concerning ideology, religion, beliefs, health, racial origin, sex life, or whether the victim is a minor or a disabled person.
- d) Crime of discrimination in public or private employment, Article 314 of the Criminal Code.
- e) Crimes traditionally associated with incitement to hatred, violence or discrimination referred to in Article 510 of the Criminal Code. This provision has been subject to a profound reform and addresses now three types of behaviour:
  - The encouragement or promotion of, or incitement to, hatred and discrimination for racist, anti-Semitic or other reasons regarding ideology, religion or beliefs, family situation, belonging of its members to an ethnicity, race or nation, national origin, gender, sexual orientation, illness or disability.
  - The production, distribution or sale of materials that encourage, promote or incite, directly or indirectly, to hatred, hostility, discrimination or violence against a group or a part thereof for the reasons mentioned above.
  - The denial, serious trivialisation or glorification of crimes of genocide, crimes against humanity or against persons and property protected in case of armed conflict, or of their authors.

Additionally, Article 510, second paragraph, of the Criminal Code, provides for several punishable offences:

- Crimes affecting the dignity of the person by humiliation, contempt or discredit of any of the groups referred to in the previous paragraph.
  - Offences relating to the dissemination, distribution or sale of materials that glorify or justify by any means of public expression or dissemination, crimes that have been committed against a group, a part thereof or against a particular person because of her/his belonging to this group.
- f) Crime of denial of public services to which someone is entitled on account of his or her ideology, religion or beliefs, membership of an ethnicity or race, national origin, gender, sexual orientation, family status, illness or disability (Article 511 CC) This is also applicable to associations, foundations, societies or corporations or to their members.
- g) Crime of denial of professional or business services to which someone is entitled (Article 512 CC).
- h) Crime of illicit association intended for those associations that encourage, promote or incite, directly or indirectly, hatred, hostility, discrimination or violence against people, groups or associations on account of their ideology, religion or beliefs, their belonging or that of its members to an ethnic group, race or nation, gender, sexual orientation, family status, illness or disability (Article 515, section 4 CC).
- i) Crimes against religious feelings (Articles 522-526 CC).
- j) Crime of genocide (Article 607 CC).
- k) Crimes against humanity (Article 607a CC).

## 5.1 Hate crimes through the Internet and social networks

Communication networks (Internet) and the development of social networks constitute a new challenge for the fight against discrimination and hate crimes, given their potential for promoting and propagating hatespeech and incitement of hatred. Thus, some organisations have complained that racism on the Internet is increasing alarmingly in Spain: the existence of more than 2000 websites, blogs and forums created by groups from the neo-Nazi ideology has been ascertained. Most of these spaces are run through servers in the United States, taking advantage of the fact that under the US Constitution this conduct is protected by the freedom of expression.

Freedom of expression is a fundamental right of any democracy, guaranteed by Article 10 of the European Convention on Human Rights and Article 20 of the Spanish Constitution. However, it does not provide protection to speeches advocating exclusion, speeches of sexist, racist and xenophobic, homophobic, intolerant nature and

speeches that promote hatred through images, prejudice and biased stereotypes of important groups of the population<sup>26</sup>.

It has to be stressed that the new Article 510.3 of the Criminal Code, after its reform through Organic Law 1/2015, regulating the crime of hate speech, establishes an aggravated treatment (penalty provided in its upper half) when the *acts have been carried out through a medium of social communication, via the Internet or the use of information technologies, so that they have become accessible to a large number of people*. Although as this Guide went to press there are no judgments applying this paragraph, given its recent entry into force, it contributes without any doubt to the possibility of an effective Criminal response to hate speech and hate crimes in general. In **section 5.3 of this chapter** on key recommendations, you'll find some **particularities that should be taken into account** when reporting hate crimes which have been committed via the Internet or social networks.

## Examples of hate crimes on social networks and the Internet

### Threats on social networks

A social network group called «Ibarra must die» claimed to be raising funds to hire a hitman. Esteban Ibarra is the president of the Movement against intolerance and has acted as popular accusation in numerous cases of Hate Crimes, including the trial held against Hammerskins-Spain. Following denunciation of this group, it was closed but others opened: «I hate Esteban Ibarra» or «I too think Esteban Ibarra must die» from which comments with a racist tinge were made towards him including the disposition to finance his murder and encouraging violence against his person.

Another group with 793 participants called «I hate Esteban Ibarra» was also detected, which promotes violence, racism and xenophobia and the realisation of numerous cases of attacks on the Internet. The Movement against Intolerance informed the government delegation and proceeded to denounce these groups in the Provincial Information Brigade of the Police Headquarters in Madrid, which communicated the complaint to the Court and investigated who the authors and promoters of these sites and groups on the Internet are. Moreover, the author of another site and a «Game» released on the internet «Kill Esteban Ibarra», was convicted by a final judgment to two years in prison for the crime of incitement to hatred and violence.

## 5.2 Discussion of the main hate crimes<sup>27</sup>

The ensuing discussion concerns the main hate crimes considered by our system, along with some comments and practical advice concerning the elements of each offence, how they are applied by the courts and how to act on them in case of trial.

**Article 22 4<sup>th</sup> paragraph: Generic aggravating circumstance on discriminatory grounds** (e.g. TS 22/04/2010. Murder of Carlos Palomino). Grounds limited and interpreted restrictively. Judgements that apply this aggravating circumstance as part of

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<sup>26</sup> See in this respect the Constitutional Court judgment STC235/2007, FJ 5<sup>th</sup>, citing the judgment *Ergogdu e Ince c. Turkey*, of 8<sup>th</sup> of July 1999 of the European Court of Human Rights: «Freedom of expression cannot provide protection to so-called "hate speech", that is, to any discourse which involves direct incitement to violence against citizens in general or against particular races or beliefs».

<sup>27</sup> Update according to the Organic Law 1/2015 of the 30<sup>th</sup> of March, which modifies Organic Law 10/1995, of the 23<sup>rd</sup> of November, of the Criminal Code.

the legality judgment (not of the guilt component) are numerous. It is very **important** for lawyers representing the particular or popular accusation to **invoke this article regardless of whether the crime is serious, less serious or a minor crime**, i.e. those constituting only minor offences prior to the reform of the Criminal Code.

Contrary to the belief that minor offences are incompatible with aggravating or mitigating circumstances, **there are numerous cases of convictions with the aggravation of Article 22 CC 4<sup>th</sup> paragraph**, and logically this is even more applicable now that the reform has deleted the category of minor offence and replaced it with that of minor crime.

**Article 170 CC: Crime of threats to collectives.** It is a crime of danger requiring the threats to be serious and that the passive subject is one of the groups listed for this type. Prior to the recent reform of the Criminal Code, painted graffiti threatening cult centres, associations, political parties or gay or lesbian institutions were often processed as a simple offence of spoiling property, under Article 626 CC, now decriminalised and considered as an administrative offence in the Law on Protection of Citizen Safety. In any case, what is relevant here - and what should trigger the necessary processing based on Article 170 CC - is not the spoiling, but the threatening will of the author or authors, which is why the application of this crime of threat must be claimed, regardless of the administrative infringement, thus focusing the object of the process and the effort to investigate the authorship, in particular as the evidence for it is concerned.

**Article 173 CC: Crime against moral integrity:** The right to be treated as oneself, as a free human being and never as a mere object. The Constitutional Court's judgment STC 120/1990 of the 27<sup>th</sup> of July provides a preliminary definition of the concept of moral integrity, when it states that under Article 15 of the Constitution «*the inviolability of the person is protected not only against attacks aimed at harming her/his body and spirit but also against all interventions against the same that lack the consent of its owner*». The STS (Judgement of the Supreme Tribunal) 294/2003 of the 16<sup>th</sup> of April, defines the elements of this crime as follows: A clear and unequivocal act of degrading content for the subject, occurrence of a physical or mental suffering and that the behaviour is degrading or humiliating, with special impact on the concept of human dignity of the person or victim.

In addition the **act has to be serious**, which makes a case by case analysis necessary. One isolated act can be sufficient, if it constitutes an action which severely damages the moral integrity of the subject, hence a continuous behaviour over time is not required. See Instruction 2/2012 of the High Prosecutor of Catalonia, and the following judgments: SAP Barcelona SAP (Judgement of the Provincial Court of Barcelona) 28/02/2010 (case of an Ecuadorean minor), SAP Valladolid 58/2008 of April 10<sup>th</sup> and STS (Supreme Court judgment) 819/2002 of the 8<sup>th</sup> of May.

**Article 174 CC: Crime of torture** committed by an authority or official, violating moral integrity. Requires that torture is based on some kind of discrimination.

**Article 175 CC: Crime against personal integrity committed by an authority or public official.** Requires a clear and unequivocal act of degrading content for the victim of the crime, physical or psychological suffering of the subject, behaviour that is degrading or humiliating and affects the concept of dignity of the person affected by the crime and that the perpetrator is a person of authority or official executing an act of abuse of office. Example: STS 543/2010, of the 2<sup>nd</sup> of June.

**Article 197 CC: Crime of discovery and revelation of secrets.** Concerns behaviour usually committed on the Internet, of computer intrusion or «Hacking», which consists of access or unauthorised surreptitious interference, to an Internet information communication system and the unauthorised use of the same and beyond. Example: access without consent of an employer to the computer of an employee thus discovering her/his sexual orientation and proceeding to her/his subsequent dismissal for this reason.

**Article 314 CC: Crime of discrimination in employment.** So far no convictions for this crime have occurred. It requires an act of discrimination (see introductory section of this Guide, and the section on discrimination in employment) of a serious nature (within the meaning of RDL 5/2000 of the 4<sup>th</sup> of August, on Infringements and Sanctions in the Social Order) and non-execution of a decision by the Labour and Social Security Inspection or judicial authority mandating to restore the situation of equality and repair economic damages.

**Article 510.1 CC: Crime of direct or indirect encouragement, promotion or incitement of hate,** hostility, discrimination or violence against a group, a part thereof or against a person determined by reason of their membership of that group, for racist, anti-Semitic or other reasons related to ideology, religion or beliefs, family situation, belonging of its members to an ethnic group, race or nation, national origin, gender, sexual orientation or gender identity, gender, illness or disability.

This provision has been radically modified by the reform of the Criminal Code. In its previous wording, «*incitement to discrimination, hatred or violence*» was interpreted in the sense of implying a specific and direct incitement to commit a crime. It is expected that with the current wording «*direct or indirect encouragement, promotion or incitement*», manifestations of hate speech that previously fell outside the criminal domain in accordance with this interpretation will be now understood as falling under the wording of Article 510.1 CC.

The only judgment of the Supreme Court concerning the former wording of this provision is the STS 12/04/2011 (library case Kalki or Centre of Indo-European studies), which acquitted of the crimes pursuant to articles 510.1 CC, 607.2 CC and 515 5<sup>th</sup> CC based on an ample interpretation of the rights to freedom of expression, ideology and conscience of Articles 16 and 20 EC. Currently - since 23/07/2012 - this issue is pending before the European Court of Human Rights (appeal 48756/12).

**Article 510.1.b. Crimes of production, processing, possession for the purpose of distributing or facilitating** third parties to access, disseminate or sell texts or any other type of material or media whose content is **suited to directly or indirectly**

**encourage, promote, or incite hatred**, hostility, discrimination or violence against a group, a part thereof, or against a person selected on account of her or his belonging to the group, for reasons of racism, anti-Semitism or other relating to ideology, religion or beliefs, family situation, belonging of members to an ethnic group, race or nation, national origin, gender, sexual orientation or identity, illness or disability.

**Article 510.1.c. Crimes of denial, trivialisation or public glorification of the crimes of genocide, crimes against humanity** or against persons or property protected in the event of armed conflict, **or glorification of the authors**, when they have been committed against a group or a part thereof, or against a person selected on account of her or his belonging to the group, for reasons of racism, anti-Semitism or other relating to ideology, religion or beliefs, family situation or members belonging to an ethnic group, race or nation, national origin, gender, sexual orientation or gender identity, illness or disability, when thereby a climate of violence, hostility, hatred or discrimination against the same is promoted or facilitated.

This provision reflects the changed content of former Article 607.2 of the Criminal Code (offence of denial of genocide), consistent with the **Plenary Judgment of the Constitutional Court 235/2007**, which resolved a question of unconstitutionality raised by the Third Section of the Court of Barcelona (case Pedro Varela Gueiss Part 1) and declared unconstitutional (with 4 dissenting opinions) the term «deny», considering that the mere «denial» of the National-Social Holocaust was framed within the fundamental right to freedom of expression. However, the Constitutional Court did consider that the conduct could be punishable if taking place as a form of incitement to hatred or hostility, which is why the current 510.1 c) criminalises denial, trivialisation or glorification linked to the **objective element of promoting or facilitating a climate of violence, hostility, hatred or discrimination**.

As to the objective element of these actions being required to be **public**, this does not imply the need for the dissemination to be done through the media, rather this can be done through any means, open or closed space, publications, conferences, demonstrations, meetings, music concerts, RAC / OI music or the Internet and social networks (the most common means of commission of such crimes). What is decisive is that such dissemination is directed to an undetermined plurality of people.

This regulation has important antecedents, the following of which have to be cited:

- STC 214/91 (Violeta Friedman case), in which the Constitutional Court stated that «in a social and democratic State subjected to the rule of law as the Spanish is, people belonging to those collectives have the right to live peacefully and be fully respected by the other members of the social community».
- SAP of Barcelona, Section Three of 5/3/2008- Pedro Varela Gueiss case, 1<sup>st</sup> part, issued following the judgment STC 335/2007.
- SAP of Barcelona, Section 2 of 26/04/2010. Pedro Varela Gueiss case 2<sup>nd</sup> part. This judgment conducts an extensive and detailed doctrinal and jurisprudential analysis of former Articles 607.2 CC and 510.1 CC.

**Article 510.2 CC: Crime of injury to people's dignity** through actions involving humiliation, contempt or discredit of any of the groups or part thereof, or any particular person because of her/his belonging to the group for racist, anti-Semitic or other reasons relating to ideology, religion or beliefs, family situation, the belonging of its members to an ethnic group, race or nation, national origin, gender, sexual orientation or identity, illness or disability, or producing, processing, possession for the purpose of distribution, facilitating third parties to access, disseminate or sell texts or any other type of material or media whose content is liable to affect the dignity of people by causing a serious humiliation, contempt or discredit of any of the above groups, a part thereof, or any particular person because of her/his belonging to the group.

In terms of the crime of false slanderous information on groups or associations for discriminatory reasons which was contained in the former **Article 510.2 CC**, doctrinally and in limited form it had been interpreted in its previous wording in connection with the classic crime of libel (Article 208 et seq. CC) requiring *animus injuriandi* added to generic intention. This requirement is confirmed by the Judgment of Section 2 of 07/22/2014 of the Provincial Court of Barcelona dismissing the appeal against the acquittal of the accused by Criminal Court No. 18 of Barcelona on 10/12/2013 (case Xavier García Albiol vs. Rumanian Roma people of Badalona).

**Article 510.2. b. CC: Crime of glorification or justification** by any means of public expression or **dissemination** of the crimes that have been committed against a group, a part thereof, or against a particular person because of their membership of the group, for racist, anti-Semitic or other reasons relating to ideology, religion or beliefs, family situation, the belonging of its members to an ethnic group, race or nation, national origin, gender, sexual orientation or identity, illness or disability, or those who have participated in its execution.

**Article 510a CC: Liability of legal persons.** When pursuant to Article 31a a legal person is responsible for the crimes included in the two preceding articles she/he shall be liable to the penalty of two to five years.

**Article 511 CC: Crime of denial of the benefits of a public service.** Requires that the perpetrator be an individual (a person who without having authority or being a civil servant official, performs a public function) in charge of a public service, or a civil servant, who denies a service to which a person or collective is entitled driven by the closed catalogue of cited discriminatory grounds.

The victim must «qualify» for the service, because if the benefit is denied in cases where the differential treatment is justified or has normative backing, such action will fall outside the scope of this crime.

**Article 512 CC: Crime of denial of services in the framework of a business or professional activity.** A special crime whose perpetrator can only be a professional or businessperson and his/her delegates who regularly operate in the market of goods or services, and act according to the closed catalogue of discriminatory cited discriminatory grounds. There is no offence if the denial is not performed in the aforemen-

tioned professional/business area (e.g. a private person who does not rent an apartment to a South American person for this reason).

It has to be stressed that there is no «right to discriminatory admission» (see the section of this Guide on discrimination in access to entertainment venues).

**Examples:** STS of 09/29/1998 confirms the conviction by the SAP of Murcia 14/07/1997 of an individual who as a car dealer refuses to sell a vehicle to a black person; SAP Alicante of 11/06/1999 condemning a pub doorman for preventing entrance to two black people for motive of race; SAP Barcelona of 15/01/2010 convicting of preventing access with the expression «here Gypsies and Moroccans do not enter»; SAP Valencia 23/02/2010 conviction for refusing entry to a pub to a group of people with Down syndrome; SAP Barcelona 8<sup>th</sup> Section of 08/01/2003 conviction after revocation of an earlier judgment of acquittal for denial of entry to two brothers for belonging to the Roma community to the nightclub «Nayandei-Tropicana-Party». The appeal against this judgment has been rejected by decision of the Constitutional Court TC 427/2004 of November 10<sup>th</sup>. Among many other important judgments of the Supreme Court are STS 21/05/2001 and STS 29/09/1998.

**Article 515 4<sup>th</sup> Section CC: Crime of illicit association.** Penalises the associations that promote or incite discrimination, hatred or violence against persons, groups or associations on account of the reasons listed (closed list).

The Supreme Court in STS of 06/07/2011 establishes the following requirements:

- Plurality of persons associated for carrying out an activity.
- Existence of a more or less complex organisation depending on the type of activity planned.
- Consistency or permanence such as a lasting and not merely transitory associative agreement.
- That the purpose of association is to promote or incite discrimination, hatred or violence against persons, groups or associations on account of the reasons listed.

The Supreme Court states that the mere status of co-delinquency such as that of people coordinated without a hierarchy does not imply the existence of an illicit or criminal association (STS of 01/03/2000); nor is the mere gathering of people to commit a crime sufficient for it (STS 12/09/2003). In such cases Articles 570a, b and c should be applied, which were added by the reform of the Criminal Code by Organic Law 5/2010 of June 22<sup>nd</sup> and which penalise organisations and criminal groups as part of the fight against organised crime.

As more representative examples, the Supreme Court, following the Jurisprudence of the European Court of Human Rights and the Constitutional Court and based on the judgments of the latter STC 214/1991, of November 11<sup>th</sup> (Violeta Friedman case) and STC 48/2003 of March 12<sup>th</sup>, and STC 176/1995 (Makoki case) establishes the limits to the right of association in terms of its manifestations of ideological freedom and ex-

pression in the respect and protection of the maintenance of public order protected by law, in the respect for the fundamental rights of others, in the rights to honour (to the personal dignity), to privacy, to one's own image and in the protection of youth and childhood.

Three important judgments can be highlighted in relation to this crime, the first two being a good study of the so-called «hate speech»:

- STS 372/2011 of 10<sup>th</sup> May («Blood and Honour» case), confirming the SAP of Madrid of 30/06/2010.
- STS 28/12/2011 (Hammerskin case).
- STS 224/2010 of the 3<sup>rd</sup> of March (in relation to terrorist offences but with a doctrine fully applicable to these offences).

**Articles 522 to 525 CC: Crimes against freedom of conscience and religious feelings.** Regarding these crimes it is important to understand what the **legally protected good** is, which is none other than freedom of conscience in its manifestation of religious, ideological and cult freedom of Article 16 SC, which establishes the obligation of public authorities to take into account the beliefs of Spanish society. It is intended to protect not only religious freedom, but also the intimate feelings associated with it.

The underlying reason is not the protection of a particular religious group, but rather the protection of the freedom of individuals, both religious and secular, in the exercise of their fundamental rights and acknowledge that there is a collective religious sentiment of those who profess a religion, a feeling that is also worthy of protection for a non-confessional State.

The **objective element** of this crime is the following: to make public derision (or tenacious ridicule) of dogmas, beliefs, rites or ceremonies of a religious affiliation; as **subjective element** it is required that the action has a purpose of causing offence, that is affronting, offending, humiliating or insulting; namely, that the perpetrator acts with the direct intention of offending a collective religious sentiment.

The jurisprudence follows **very restrictive criteria** of interpretation to exclude appreciation of the crime when it concerns behaviour with a predominantly satirical, provocative or critical content, giving ample room to the right of freedom of expression and artistic creation, which is why the majority of judgements are acquittals.

Examples:

- STS 668/93 of the 25<sup>th</sup> of March in which the Supreme Court confirmed the acquittal based on the lack of intention to offend in the defendant's conduct.
- SAP of Seville No. 553/2004 of June 7<sup>th</sup>, which acquitted on the grounds that no Catholic dogma, belief, ritual or ceremony was called into question, but rather a known image was used to shock and provoke a controversy which would be hard to achieve with a non-religious image.

- SAP of Valladolid No. 251/2011, of June 9<sup>th</sup> where it is argued that «the facts in view, and those in which it is intended to find criminal behaviour, highlight a secular and, if it is desired, an anticlerical position of the lecturer without this actually constituting mockery of the dogmas, beliefs, rites and ceremonies of the Catholic religion or vexation of those who profess or practice it, nor was an intention of offending the religious feelings of that confession appreciated».

## 5.3 Key Recommendations

### a) What to do in case of hate crimes consisting in aggression

The procedure for dealing with a victim of a hate crime consisting in aggression must include the following essential steps:

1. **Medical report of aggressions:** regardless of gravity, it is very important to go to an emergency doctor because these reports are transferred directly to the Duty Court. It is important to request a copy.

Later, you should visit a medical specialist (psychologist, dentist, ophthalmologist, trauma specialist, etc.) to get another medical report in consideration of future civil liability for the offence (In this regard, see also the section of this Guide concerning the victim).

2. **Testimonials:** It is very important to get the testimony of someone who has witnessed the events that occurred and also to contact a social organisation (immigrant support association, LGBT, disabled, etc.) and explain what has happened. The less contact or relationship the witness has with the victim the greater the credibility she/he will have when providing that testimony. Greater relevance and priority should be given to the most impartial witness.
3. **Image capture:** it is important to gather possible recordings by eyewitnesses of the facts or to request as quickly as possible the investigating Judge to obtain the images from whom it may concern (metro and railway stations, bank, video monitored areas, etc.), as they are often deleted within a very short time. This evidence can often be decisive and resolve the process.
4. **Submit the Denunciation to the Police Court, to the Security Forces<sup>28</sup> or Special Prosecutors:** In recent years the Spanish Public Prosecutor has been undergoing a process of modernisation and in this context we must frame the creation and operation of the Delegated Prosecutor for the Legal Protection of Equality and Against Discrimination by Decree of the State Attorney General, dated 10th October 2011<sup>29</sup>.

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<sup>28</sup> More information on how to report hate crimes to the Security Forces can be found at the following link: <http://www.interior.gob.es/es/web/servicios-al-ciudadano/delitos-de-odio/denunciar-un-delito-de-odio>.

<sup>29</sup> In the annex there is a list of the services of the different Provincial Prosecutors for the Legal Protection of Equality and against Discrimination.

If one approaches social entities such as associations or NGOs it is likely that their legal department can file a report on behalf of the victim.

Regarding the **reporting of hate crimes**, the following recommendations have to be considered:

- a) Provide **detailed information** about the acts suffered or those which have been witnessed, such as the author(s) of the act, place, witnesses, etc.
- b) **Literally describe the words and phrases uttered** by the author(s).
- c) If you believe the incident is **motivated** by race, religion, nationality, culture, sexual orientation, disability, etc. of the victim, **such circumstances and the reasons for this belief** (expressions, etc.) **should be noted** when making the complaint
- d) Itemise, as accurately as possible, **information on any brand, symbol, monogram, distinctive tattoo, or clothing** of the author(s) of the facts.
- e) If the victim has received any injury, however slight, she/he should go to hospital and request a **medical report** to attach to the complaint.
- f) Request an **interpreter**, if the victim does not understand the language or communicates using sign language.
- g) After the incident, if the complaint is not going to be filed immediately, it is recommended to **note or record all the information** about it. This will facilitate, at the time of capturing the facts during the complaint, collection of all the events with the greatest possible detail and accuracy.
- h) It must always be specified that there was **in no way previous provocation** by the victim.

**The deadline for reporting** an assault is that relating to the crime suffered or witnessed, but as an unwritten rule any aggression should be reported **immediately or as soon as possible** to facilitate the investigation of the case because the more time passes, the harder pursuit and clarification of the facts will be.

In general, the prescription time for minor offences and crimes of defamation and insult is one year, and in the case of all other crimes 5, 10, 15 or 20 years, depending on their maximum penalty. Crimes against humanity, genocide, committed against people and goods protected in armed conflict, and of terrorism resulting in the death of people are imprescriptible (Article 131CC).

#### b) **What to do in case of hate crimes consisting in threats**

Threats constitute a reportable assault, so that any threat shall constitute a crime. A different question is to assess whether the complaint based on the threats will lead to legal proceedings or otherwise will be provisionally dismissed.

The crime of threats is defined in **Article 169 of the Criminal Code**. It requires that the **harm** with which is threatened **constitutes a crime** of murder, injuries, abortion, against freedom, torture and against moral integrity, sexual freedom, privacy, honour,

heritage or socioeconomic order. The threat of a **harm that does not constitute a crime** is covered by Article 171 CC. The penalty is aggravated if the crime is performed by any means of communication or reproduction. In addition, Article 170 CC states that: *«If the threats of a harm constituting crime are aimed at frightening the inhabitants of a population, ethnic group or a large group of people and are serious enough to achieve this effect, the penalties provided for in the preceding article will be imposed in its higher level.»*

The practical questions to be considered relate to **authorship thereof and proof of their existence**.

- Regarding the **authorship of the threats**, when these are anonymous, their investigation corresponds to the police force, appointed for that purpose by the judge who will hear the case or acting upon the complaint filed at the police station. It will depend on them if the author can be identified. If the author is not determined, the case will be dismissed and will not result in trial. However, if the author is determined and the threat could really constitute a crime, this will lead to criminal prosecution.
- Once criminal proceedings are initiated, the next question to be addressed is the **proof of the existence of the threat**. In case of an oral threat, we must find out if someone has witnessed it (and therefore might declare in our favour at trial, for which we should request the name and phone number of the witness and provide those details to the court so that the person can be summoned to testify). And if the threat was in written form (letter, note email, etc.) it is essential to preserve the evidence.

#### c) **Particularities in cases of offences of incitement and other hate crimes conducted via the Internet, social networks or any technological means**

The existence of any blog, forum, website, bulletin board, etc. that is discriminatory should be reported to the **Technological Investigation Brigade (BIT) of the National Police**. One of the functions of the BIT is to ensure the safety of Internet users and citizens in general. Included in its remit are «Threats, libel, slander, etc. conducted by email, text messages, bulletin boards, forums, newsgroups, web pages, etc.

Similarly, the existence of this type of content can be denounced to the **Unit of Electronic Crimes (GDT)** of the Central Operational Unit of the Civil Guard. The Electronic Crimes Group was created to investigate, within the Central Operations Unit of the Civil Guard, all crimes committed via the Internet. On the link to the website of the GDT appears information on how to report a cybercrime:

In the framework of the Criminal process, we must ask the presiding judge to **place a preventive block on websites or social networking sites**.

In exercising the individual accusation<sup>30</sup> or the popular action<sup>31</sup>, in the investigatory phase it is necessary to request as a precautionary measure –regardless of the actions of the Public Prosecutor– the disruption of the service of the web pages, along with other measures.

To request the **precautionary block** it is advisable to draft a clear written request that is sufficiently reasoned, containing:

1. A **statement of the facts** that are being investigated with identification of the web pages and their **relevance to corresponding crimes**.
2. A summary of the investigation procedures followed so far and our request for measures of investigation and verification of offences of the websites in question, based on the following **legal reasons**:
  - a) **Article 13 of the Law of Criminal Procedure (LECrim)**: «As first proceedings are considered: to record evidence of the crime that could disappear, obtaining and putting in custody whatever may lead to prove the crime committed and to identify the author, to arrest where appropriate the alleged perpetrators of the crime, and to protect the offended or harmed by the same, their relatives or others, applying to this effect if need be the precautionary measures provided for by Article 544a or the protection order foreseen by Article 544b of this Act».
  - b) Articles 8.1 and 11.1 of **Law 34/2002, of July 11<sup>th</sup>, concerning services of the information society and electronic commerce**. Concerning its Article 8.1, where section c) is to be highlighted as a principle on which to base the adoption of the measure: respect for the dignity of the person and the principle of non-discrimination for motives of race, gender, religion, nationality, disability or any other personal or social circumstance.
  - c) The **reasoning of the proportionality and necessity** of the measures according to the reasoning of the judgments of the Constitutional Court 104/2006, 166/1999, of September 27<sup>th</sup> (FJ3a) and 299/2000, of December 11<sup>th</sup> (FJ2).
3. Furthermore it is relevant to request the implementation of other expert evidence in accordance with **Article 777 LECrim**. For example, the following can be requested:
  - The interruption of the service relative to the website, to which end an order is issued to service providers of the indicated websites that will be delivered to the Commissioner General of Information of the National Police, the Technology Research Brigade of the National Police (BIT) or the Electronic Crimes Unit of the Civil Guard (GDT).

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<sup>30</sup> The **accusation** that an **individual** makes with her/his legal representative to the competent authority against a person or persons determined by considering them responsible for a crime, in order for the relevant penalty to be applied.

<sup>31</sup> **Popular action** is defined in procedural law as the judicial action by which the public prosecution powers and in general any citizen is entitled to urge the justice administration to act in defence of collectives or diffuse interests.

- Alternatively, in the event that the service provider has no national presence and does not meet the abovementioned order, it will be addressed to the Ministry of Telecommunications to prevent access from Spain to the aforementioned websites.

## 5.4 Assistance to victims of hate crime

### 5.4.1 *Concept of victim*

For the definition of victim, this Guide resorts to the one provided in **Law 4/2015 of the Statute of Victims of Crime**, which in its Article 2 defines the general concept of a direct victim as «any natural person who has suffered harm or damage on his person or property, including physical or mental injury, emotional or economic damage directly caused by the execution of a crime».

**Primary victimisation:** Concept that unites harmful primary consequences caused by the offence and directly suffered by the victim, be they physical, economic, psychological or social.

**Secondary victimisation:** Additional abuse exercised against a person who has been subjected to discrimination, harassment or reprisal as a direct or indirect result of the deficits of interventions carried out by the responsible bodies, as well as by the actions of other agents involved.

**Repeat victimisation:** also called re-victimisation or multi-victimisation, it occurs when one person is the victim of more than one offence during a certain period of time. Often it involves greater vulnerability of the person, because it enhances their helplessness undermining the ability to wield appropriate responses in the face of a new criminal episode.

**Vulnerable or particularly vulnerable victim:** depending on her/his nature, the victim should be considered as vulnerable when she/he has a limited ability to prevent or mitigate the damages resulting from the offence (primary victimisation) or in her/his contact with the criminal justice system (secondary victimisation), or addressing the risks of further victimisation (repeat victimisation). These are victims who require preferential treatment and preeminent attention.

**Popular action:** The Spanish criminal procedural law is characterised, compared to that of other countries, by the fact that criminal action is public and all Spanish citizens can exercise it (Article 101 LECRIM). Article 125 of the Spanish Constitution grants **all citizens the right to exercise popular action**, i.e. it allows anyone regardless of whether they have been the direct victim of the crime, to exercise criminal action. It ultimately aims to promote the action of justice in defence of legality, ensuring **the protection of the public interest in the existence of facts allegedly constituting a public offence**.

## 5.4.2 Assistance and care for victims of hate crimes

When assisting a victim and having decided that the facts should be reported to the Security Forces, Court or Prosecutor's office, there are two options:

- a) Advise, orient and refer her/him to the appropriate **victim attention service**.
- b) Assume her/his defence and exercise the **private accusation action** from the initial complaint and in all phases of the process and in the subsequent and possible petitions. For this second option the following **key issues** have to be borne in mind:

- b.1) **The burden of proof in the penal system:** it must be clear that Criminal Law is based on minimum intervention and is subsidiary, exhaustive and governed by rule of law and above all: **the prosecution (prosecutor, private or popular accusation) has the burden of proof** i.e. it has to prove the facts constituting the crime «beyond reasonable doubt», since otherwise the presumption of innocence will apply.

Thus, the plaintiff has to provide rational indications of criminality during the investigation phase in order to obtain the opening of an oral trial, and once begun, he or she must prove the accusatory facts through sufficient and lawful evidence and with all guarantees, subject to the Court under the principles of oral procedure, publicity, concentration, immediacy and contradiction.

- b.2) **The instigation of procedure:** although traditionally viewed as a right of the accused, the victim (or damaged) is also entitled to a process without undue delay and to have her/his case viewed within a reasonable time.

Although criminal proceedings are governed by the principle of officialdom, practice inexorably shows that the procedure must always be driven forward as if it was ruled by «party disposition», like in the civil process. If this is not done, the cause does not progress, time and events are lost and the evidence will be diluted in favour of the alleged perpetrator.

- b.3) The need to **neutralise or minimise possible secondary victimisation** by providing correct and professional attention to the victim. We highly recommend the following actions:

- Ensure that the victim has to **tell her/his version of the facts the minimum number of times**. Often a victim has to tell her/his version as many as six times or more: once to the police, another time to the service assisting her/him, another to her/his lawyer, another to the forensic doctor, another to the investigating Judge and another at the act of oral procedure.
- If the victim contacts the assistance service or lawyer with the complaint already lodged with the police, who should **provide a copy**: he or she must tell us her/his version and then she/he must **declare in court presence and assisted by a lawyer**. A statement shouldn't be made before any other civil servant, as the victim has the right to tell her/his version to

a judge. One should also insist on it to favour the correct preparation of the process.

- Experience shows that when a **judge hears the victim's declaration**, the case is prepared very differently. Mere ratification of the complaint should not be sufficient, because that is not a true declaration before a judge. Rather, it is before the judge that the complaint lodged with the police has to be completed.
  - We should accompany the victim to a **visit by a forensic doctor** with all of the medical documentation we have and that was provided in the hospital or health centre. It is important to ensure that the same day the victim is to declare before the judge, she/he is visited by a forensic doctor, and the same day she/he could even participate in an identity parade (for example) to identify the alleged assailant and not defer such acts for subsequent days. The goal is for the victim to not have to tell their version of events again until the act of oral trial, and even if her/his statement in such an act were not possible (due to a lack of knowledge of the location, physical inability to attend or the victim being a minor), we must ensure that the declaration in the initial hearing is realised as evidence existing before trial («pre-constituted»), if possible.
  - This implies **taking a declaration from the victim in the presence of the Public Prosecutor and the defence of the accused persons and respecting the principle of contradiction**. If performed well, the day we go to trial, a reading of the victim's statement will be allowed to be part of the evidence to be considered by the judgment. Experience shows that on many occasions and after a process dilated in time, the victim, particularly if she/he is foreign, has returned home and no longer resides in Spain. It is important that her/his testimony has been taken as pre-constituted evidence.
  - If the victim contacts the assistance service or the lawyer without having lodged a complaint and without having gone to a doctor assuming this is necessary, firstly we will have her/him **visit a hospital or health centre**. Then we will hold an interview with the victim where we will gather in as much detail as possible all the facts and circumstances, as well as all the personal circumstances that he or she will have to substantiate at a later stage.
  - In many cases the victim must **have an interpreter** who understands and speaks her/his language. We should require the presence of an interpreter in all actions that the victim has to perform.
  - We should write the denunciation (or complaint) in the clearest but most detailed manner possible, with adequate and relevant supporting documentation, and proposing witnesses if there are any.
- b.4) Request measures **to avoid a confrontation of the victim and the accused, ensuring the privacy of the victim and her/his family and guaranteeing the accused and the people around her/him cannot recognise the victim or access any personal information**.

It is important, especially in severe cases, to request that the trial be held behind closed doors and that the statement of the victim at the oral trial is made either behind a screen or even by video conference or similar systems.

The hearing behind closed doors should be an exception, it is only requested in extreme cases in which the privacy of the victim and his family should be protected, and the use of a screen or other method (video conferences) should be requested in cases with vulnerable or particularly vulnerable victims, so as to avoid visual confrontation between the victim, the accused and witnesses.

From the first statement at police headquarters the implementation of Organic Law 19/1994 of December 23<sup>rd</sup> should be requested for the protection of witnesses and experts in criminal cases, to ensure that both victims and witnesses are protected from the outset and neither the defendant nor those around her/him may know their identities or any personal information.

- b.5) **Pressing need to keep the victim informed at all times.** The victim is entitled to be informed of all the proceedings and at all times, this being an essential obligation whenever he/she asks for it. Victims need to be informed. Experience shows that the victims who have had information throughout the process perceive a greater sense of justice when the Judgement is issued, even when they disagree with its content.

Besides being informed at all stages of the process, we must ensure that the victim is notified of the judgment even if she/he has not taken part in the process, in order to get information about the personal situation of the defendant/accused and even about the condemned's prison situation (temporary leaves, progressions or regressions in the penalty grade and conditional release).

Of course, the victim should also be informed of the precautionary measures taken (protection and restraining orders, and precautionary measures of personal and real nature adopted with respect to the accused).

- b.6) **Treatment of the victim should always be correct, sufficiently empathic and professional.**

Practice and experience show that victims have **different reasons for not reporting the facts to the authorities**: the belief that reporting «will not help at all», a lack of confidence in the Security Forces or public officials, distrust or fear of the police, fear of being expelled from the country for not having a residence permit or being in an irregular situation, fear of reprisals, lack of knowledge of her/his legal rights, shame (feelings of guilt, stigmatisation, victimisation only by their identity), denial or minimising the severity of the acts, fear of revealing her/his sexual orientation, ethnic, religious or political affiliation, etc.

As professionals we must perform the difficult task of neutralising these reasons for not reporting while having respect for the will of the victim if she/he decides not to report or even to quit the process as private accusation.

The victim must be treated properly and in an empathic manner. The victim must be heard and should leave with the feeling of being well advised and that «her/his lawyer» will do everything in her/his power to protect the victim's legitimate interests and that regardless of the success or otherwise of the claim, the attorney will have made every rigorous technical effort in defence of the victim's legitimate rights.

It is important to have the necessary degree of empathy with the victim, but it must be made clear that an excessive degree of empathy could make us lose our objectivity and technical rigour that her/his defence legally requires.

We must speak to the victim in a clear, understandable and realistic manner, without creating false expectations, treating her/him with respect and without paternalism, since it is she/he who is responsible for taking decisions.

It always depends on the type of victim that we have in front of us, but generally, we must make clear to the victim that she/he should provide us with the facts and that we are the professionals who will work to prove them in the process and demand possible reparations.

Where possible and over time we must make the victim understand that the attack suffered (depending on the severity of it) cannot become the only centre of her/his life, and that one day in the future he/she must be ready to «turn the page».

- b.7) The **execution of the judgment** as an essential aspect of reparation to the victim. Everybody is aware that without an executed judgement there is no reparation *in integrum* for the victim. We should always work for that full reparation, especially by completing proper investigation regarding the assets of the accused/defendant/convicted and the fulfilment of the civil liability for the offence. Precautionary measures for the assurance of future civil responsibility are advisable.

In cases of special seriousness and of insolvency of the condemned, special attention should be paid to the possibilities offered by **Law 35/1995 of December 11th, for Help and Assistance to victims of violent crime and crimes against sexual freedom.**

We should even take into consideration the **Public Prosecutor's Circular 2/1998 of the 27th of October about public aid to victims of intentional violent crimes and crimes against sexual freedom.** Attention is drawn to the fact that, according to the same, «the investigation should not be closed without having obtained proof of the identity of the victims and the physical and psychological harm they have suffered, even if the criminal procedure is bound to be filed for other reasons (death of responsible, rebellion or dismissal), whenever this evidence allows to obtain public assistance».

### 5.4.3 *Victim support by social organisations and exercise of popular accusation*

Some NGOs, whether they be community organisations in relation to a particular group or transversal in defence of fundamental rights and freedoms, have been making an intense effort in recent years, both in denouncing acts of discrimination and hate crimes and in working on issues of assistance, counselling and humanitarian support for victims of all forms of intolerance. Their main activities can be synthesized as follows:

1. **Complaints** to the Hate Crimes Service of the Provincial Prosecutors, especially regarding those crimes constituting acts of provocation or incitement to hatred and of violence on the Internet and social networks, in terms of racism, xenophobia, anti-Semitism, Islamophobia, anti-Romaism, homophobia and other forms of intolerance.
2. **Support for the victims**, either directly, through the provision of legal services or a lawyer for this purpose, or indirectly, through advice given to the private professional or lawyer assigned to represent these victims, in terms of guidance for judicial-criminological proceedings or advising throughout the proceedings of the criminal case. This results, among other advantages, in mitigating or neutralising what is known as the «**syndrome of victim loneliness**».
3. Exercise of **Popular Action (or Popular Accusation)**. Although this is hampered by the surety requirements of the Courts and professional costs, it allows to complement the prosecutor's intervention in criminal proceedings, and even accompany private action in cases of special need or high social interest. It is especially used in cases of «**strategic litigation**», selected for their relevance to the defence of fundamental rights and freedoms of people and groups who are victims of various forms of intolerance, including attacks on the offices of NGOs and leaders and activists of associations related to victims.

Especially noteworthy is the **jurisprudence** achieved in this way in the area of **illicit association** for hate crimes, such as court judgments of the Supreme Court condemning international racist organisations with delegations in Spain, such as *Hammerskin*, headquartered in the US, and *Blood and Honour*, whose epicentre lies in Britain. The Public Prosecutor and the Popular Action exercised by the organization *Movimiento contra la Intolerancia* (Movement against Intolerance) obtained the first judgments in the European Union outlawing international racist organisations.

#### **Crime of injuries with aggravating circumstances of racism and ambush. Intervention of popular accusation.**

Miwa Buene, black Congolese immigrant, was beaten and ridiculed on April 10<sup>th</sup> 2007 in Alcalá de Henares by Robert A. V., citizen of Alcalá de Henares (Madrid). After insulting him with expressions like «black shit» «go to your country» «Spain is not a zoo» and similar, he hit him causing him cervical trauma with vertebral dislocation C4-C5. He had broken his neck, spine and burst his cervical vertebrae, which caused immediate quadriplegia for life. The association *Movimiento contra la Intolerancia* intervened in the process as popular accusation. After his arrest and detention, the offender was convicted and sentenced to 10 years in prison and court costs, including those of the private and popular accusations. The judgment applied the aggravating circumstance of racism explaining that it was not necessary to belong to any group to act with this motivation; and also the aggravating circumstance of ambush. **The contribution of the popular action** is expressly recognised in the judgement. (Judgment of the Provincial Court of Madrid, 17<sup>th</sup> Section, No. 717/10.).

# Annex 1

## General and specialised resources in equal treatment and non-discrimination

The following two annexes to this Guide list different resources to which to resort in case of discriminatory incidents and hate crimes. These resources can be grouped into various categories:

- Firstly, services **specialising in certain discrimination grounds** (racial or ethnic origin, disability, sexual orientation and gender identity) at **state level** that can provide advice and process complaints and claims and in some cases carry out mediation and negotiation.
- Secondly, **regional** and **local** resources, sorted by discrimination grounds covered and territory.
- Thirdly, whenever a Public Service is involved in the discrimination incident, in addition to the administrative appeals, there is always the possibility of filing a **complaint with the Ombudsman**, either of the State or of those Autonomous communities where this institution exists. A list of the **Regional/Autonomous ombudsmen** is included.
- In the case of opting for the **criminal procedure**, a list of the **services of the Provincial Prosecutor for the legal protection of equality of treatment and against discrimination** is included, where a complaint may be lodged, besides the possibility of doing so at the police station or the corresponding duty court.
- With regard to the **specific needs of assistance** that victims may have, we include firstly the **Offices for Crime Victim Assistance**, under the Ministry of Justice, and the correspondent autonomous offices. Law 4/2015 of the 27<sup>th</sup> of April, entrust them, among other tasks, with **assessing the needs of special protection** that victims may have, paying special attention to crimes committed for racist, anti-Semitic or other reasons regarding ideology, religion or beliefs, family status, ethnicity, race or nation, national origin, gender, sexual orientation or gender identity, illness or disabilities.
- Finally, the annex offers a list of the offices, emails and telephone numbers of **social organizations** which offer **assistance services for victims** of hate and discrimination crimes.

## Annex 1.1 Resources for discrimination at State level

Name of service	Motive and area	Description of service	How to access service
<b>Defensor del Pueblo (Ombudsman)</b>	Fundamental rights in relation to Public Authorities	High Commissioner of the Parliament charged with defending the fundamental rights and public liberties of citizens through the supervision of the activities of public authorities	<ul style="list-style-type: none"> <li>- <b>By Internet:</b> using this form</li> <li>- <b>E-mail:</b> registro@defensordelpueblo.es</li> <li>- <b>In person:</b> in the citizen assistance centre on Zurbano Street No.42, Madrid.</li> <li>- <b>By fax:</b> Submit a signed document to +34 913081158</li> <li>- <b>By post:</b> Submit a signed document to: The Ombudsman, Zurbano Street, 42 - 28010 Madrid.</li> <li>- <b>Information Telephone number:</b> 91 432 79 00</li> </ul> <p>There is a <b>24 hour service</b> (914327900) and a free telephone number for general information (900101025).</p>
<b>Servicio de Atención a las Víctimas de Discriminación Racial o Étnica/ Consejo para la Eliminación de la Discriminación Racial o Étnica. (Assistance Service to victims of racial or ethnic discrimination / Council for the elimination of racial or ethnic discrimination)</b>	Racial or ethnic origin in the following areas: <ul style="list-style-type: none"> <li>- education,</li> <li>- health,</li> <li>- provision of social services,</li> <li>- housing and general,</li> <li>- offer of and access to goods and services,</li> <li>- access to employment, self-employment, and exercise of profession, affiliation and participation in union and business organisations, working conditions, promotions, professional, and vocational training.</li> </ul>	Provides independent assistance to the victims of racial or ethnic discrimination, either directly or indirectly, when pursuing their claims. To this end the Council has assistance centres in all Autonomous Communities where people who believe that they have been victims of racial or ethnic discrimination may consult with a professional in the field of equal treatment and receive counselling about her/his case.	Free telephone number: 900 203 041 Telephone number for advice: 00 34 91 524 35 51 Fax number for advice: 00 34 91 524 68 91 E-mail: info@asistenciavictimasdiscriminacion.org info@gualdadyndiscriminacion.msssi.es consejo-sessi@msssi.es <b>Web:</b> www.asistenciavictimasdiscriminacion.org
<b>Office of Attention to Disability (OADIS)</b>	Disability in the following areas: <ul style="list-style-type: none"> <li>- Transport (metro, train, bus, plane...).</li> <li>- Telecommunications and Society of Information (television, telephone, Web pages...).</li> <li>- Goods and services at the disposition of the public.</li> <li>- Public urban spaces, Infrastructure and buildings (installation of elevator, Video porters, ramps...).</li> <li>- Relations with Public Authorities (accessibility to offices, to forms...).</li> <li>- Administration of Justice.</li> <li>- Cultural Patrimony.</li> </ul>	The Office of Attention to Disability is an organ of the National Council for Disability, and it is permanent and specialised, charged with the promotion of equality of opportunities, non-discrimination and universal access for people with disabilities.	<b>Telephone:</b> 91 822 65 12 / 13 / 14 / 23 / 25 <b>Fax:</b> 91 209 03 59 / 91 524 68 98 <b>Web:</b> http://www.oadis.msssi.gob.es <b>E - mail:</b> oadis@msssi.es

## Annex 1.2 Regional and local resources for discrimination

Name of Service	Autonomous/ Local Authority	Ground / Area	Description of the service	How to access
<b>Information and Assistance to Homosexuals and Transsexuals of the Community of Madrid</b>	Community de Madrid	LGTB	Areas: reception and information, Social Care, Psychological Care; Group Attention: Legal Care, Awareness raising and training. Opening hours: Monday to Friday from 9am to 9pm. Summer hours (June 15 <sup>th</sup> to September 15 <sup>th</sup> ): 8am to 3pm.	Address: C/ Alcalá 22, 5.º Dcha, Madrid Telephone appointments: 91 701 07 88; E-mail: piaht@madrid.org
<b>Berdindu</b>	Basque country	LGTB	Information and customer service of the Basque Government on issues related to sexual and gender diversity.	ARABA: Address: Zapateria, 39 01001 Vitoria-Gasteiz Telephone: 945257077 E-mail: berdindu.araba@aldarte.org  BIZKAIA: Address: Bizkaia Berastegui, 5 - 5.º dptos. 8 y 9.º 48001 Bilbao Telephone: 944 237 296; E-mail: berdindu.bizkaia@aldarte.org;  GUIPUZKOA: Address: Zabaleta, 47 - entresuelo A-B 20002 Donostia-San Sebastián Telephone: 943 451 722 E-mail: berdindu.gipuzkoa@gehitu.org
<b>Eraberean</b>		Racial and ethnic origin Sexual orientation and gender identity	Network led by the Department of Employment and Social Policy of the Basque Government to combat discrimination due to racial, national or ethnic origin and sexual orientation and gender identity. It operates throughout the regional territory and has a focus on the private sphere.	Network access is via the 14 institutions and organisations that are part of it. In the Network's website one can consult addresses and contact information for each organisation in the three provinces: <a href="http://www.eraberean.net">www.eraberean.net</a>
<b>Disability Ombudsman</b>	Alcorcón (Madrid)	Disability	Current opening times are from 9am to 2pm Monday to Friday.	Address: Plaza de España, n.º2, 1.º Alcorcón E-mail: defensordiscapitado@ayto-alcorcon.es Telephone: 911127940
<b>Office for non-Discrimination</b>	Barcelona	All	Areas: Information and basic guidance on Human Rights; Conflict Resolution where there has been discrimination; Legal and psychological counselling. Opening hours: Monday, Wednesday and Friday from 9am to 2pm, Tuesdays and Thursdays from 9am to 6pm.	Telephone: 934132000; Short text messages: 933042421; E-mail: ond@bcn.cat Address: C/Ferran 32; 08002 Barcelona

## Annex 1.3 Regional Ombudsmen

Name	Job title	Autonomous Community	City	Address	Contact information
D. Jesús Maeztu Gregorio de Tejada	Ombudsman for Andalucía	Andalucía	Sevilla	C/ Reyes Católicos 21; 41001 Sevilla	Telephone: 954 21 21 21 defensor@defensor-and.es
D. Rafael Ribó i Massó	Ombudsman for Cataluña	Cataluña	Barcelona	Passeig de Lluís Companys, 7; 08003 Barcelona	Telephone: 900 124 124 / 933 01 80 75 sindic@sindic.cat
D. José Julio Fernández Rodríguez	Ombudsman for Galicia	Galicia	A Coruña	Rua do Hórreo 65; 5700 Santiago de Compostela (A Coruña)	Telephone: 981 56 97 40; valedordopobo@teletelino.es
D. Jerónimo Saavedra Acevedo	Deputy of the Community of the Canary Islands	Canarias	Las Palmas de Gran Canaria	C/ Pérez Galdós 25-27; 38700 Santa Cruz de Tenerife	Telephone: 922 41 60 40; diputadodelcomun@diputadodelcomun.com
D. Íñigo Lamarca Iturbe	Ararteko	País Vasco	Álava	C/ Prado 9; 01005 Vitoria/Gasteiz (Álava)	Telephone: 945 13 51 18; defensorpv@ararteko.net
D. Fernando García Vicente	Justice of Aragon	Aragon	Zaragoza	C/ Don Juan de Aragón 7; 50001 Zaragoza	Telephone: 976 39 93 54; eljusticia@eljusticiadearagon.es
D. José Cholbi Diego	Ombudsman for the Community of Valencia	Com. Valenciana	Alicante	C/ Pascual Blasco 1; 03001 Alicante	Telephone: 900 21 09 70 / 965 93 75 00 sindic_greuges@gva.es
D. Francisco Javier Enériz Olaechea	Ombudsman for the Community of Navarra	Navarra	Pamplona	C/ Emilio Arrieta, 12 - Bajo; 31002 Pamplona	Telephone: 948 20 35 71; info@defensornavarra.com

## Annex 1.4 Directory of offices of the Assistance Service to Victims of Racial or Ethnic Discrimination of the Council for the Elimination of Racial or Ethnic Discrimination

FREE TELEPHONE: 900 20 30 41

[info@asistenciavictimasdiscriminacion.org](mailto:info@asistenciavictimasdiscriminacion.org)

[www.igualdadynodiscriminacion.es](http://www.igualdadynodiscriminacion.es)

Autonomous community	City	Address	Contact details	Entity participating in the management of the service
Andalucía	Sevilla	C/ Doña María Coronel, 14.41003	Telephone: 954 31 33 33/44 sevilla.social@accem.es	ACCEM
Aragón	Zaragoza	C/ Agustina de Aragón 47,(L1 y 2)	Telephone: 976205787 fsgaragon@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation)
Asturias	Gijón	Avda. del Llano, 27. Bajo. 33209	Telephone: 985 16 56 77 asturias.juridico@accem.es	ACCEM
C. La Mancha	Ciudad Real	Avda. de la Mancha, 9. 13001	Telephone: 926 92 04 95	Foundation CEPAIM
C. La Mancha	Toledo	Travesía Barrio del Rey, 2-1. 45001	Telephone: 925 25 72 35 clm.juridico1@mpdl.org	Movimiento por la Paz - MPDL (Movement for Peace)
C. Valenciana	Valencia	C/ Juan Fabregat 5 bajo. 46007	Telephone: 96 392 53 02	Foundation CEPAIM
Castilla y León	Valladolid	C/ Fray Luis de León 14. 47002	Telephone: 983 309 915 valladolid.nodiscriminacion@redacoge.org	RED ACOGE
Cantabria	Santander	C/ José María Cossío, 31 Bajo. 39011	Telephone: 942 32 22 81 fsgsantander@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation)
Cataluña	Barcelona	C/ Pere Vergés, 1. 08020	Telephone: 93 305 71 73 cat.juridica@mpdl.org	Movimiento por la Paz - MPDL (Movement for Peace)
Extremadura	Mérida	Avda. Juan Carlos I. 52. Bajo-Dcha. 05800	Telephone: 924 30 39 79 fsgmerida@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation)
Galicia	Lugo	Ronda del Carmen 50. 27004	Telephone: 982 26 54 22 fsglugo@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation)
Islas Baleares	Palma de Mallorca	C/ Arquitecto Bennasar, n.º 73. 07004	Telephone: 971 29 50 00 orluve@cruzroja.es	Spanish Red Cross
Islas Canarias	Palma de G. Canaria	C/ Lord Byron, n.º 9. 35005	Telephone: 928 29 33 74 rumade@cruzroja.es	Spanish Red Cross
La Rioja	Logrono	C/ Beneficiencia 2, 26005	Telephone: 941 22 52 12 mayoral.rioja@cruzroja.es	Spanish Red Cross
Madrid	Madrid	C/ Ahijones s/n 28018	Telephone: 914 22 09 60 fsg@gitanos.org igualdadetrato@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation) - Central coordinating office.
Madrid	Madrid	C/ Mesón de Paredes n.º 39. 28012	Telephone: 915 30 71 99 solidaridadmci@gmail.com	Movimiento contra la Intolerancia (Movement against Intolerance)
Madrid	Madrid	C/ Marques de Lema, 13. sot 1	Telephone: 91 598 51 56 madrid@cepaim.org	Foundation CEPAIM
Melilla	Melilla	C/ Duquesa de la Victoria, 3-1.º 52004	Telephone: 952 68 01 68 melilla@mpdl.org	Movimiento por la Paz - MPDL (Movement for Peace)
Murcia	Murcia	C/ Alberto Sevilla 1, Bque 1, Esc 5. 30011	Telephone: 968 271 652/968 248 121 murcia.nodiscriminacion@redacoge.org	RED ACOGE
Navarra	Pamplona	C/ San Blas, n.º 2. 31014	Telephone: 948 38 26 80 fsgpamplona@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation)
País Vasco	Vitoria	C/ Antonio Machado 48-52 Bajo, 01010	Telephone: 945 21 37 89 fsgvitoria@gitanos.org	Fundación Secretariado Gitano (Roma Secretariat Foundation)

## Annex 1.5 Offices for the Assistance to People with Disabilities

AUTONOMOUS COMMUNITY	DENOMINATION	COMPETENCIES	CONTACT
 ANDALUCIA	<b>Discapacidad Responde</b> <a href="http://www.discapacidadenandalucia.es/?p=3758">http://www.discapacidadenandalucia.es/?p=3758</a>	<p>A service for the Andalusia citizenship in general and in particular for persons with disabilities and their families. It is a permanent service which will meet demands for information 365 days a year, with coverage of 24 hours a day seven days a week. Using any of these pathways, citizens receive a quick response to their questions about the Centres of Assessment and Guidance, Recognition of Degree of Disability, Official Cards of Degree of Disability and Parking for people with disabilities, as well as response and information times for information and certificates, among others. The requests for personal information will be transferred to the Centre of Assessment and Orientation from where handling the and recording will be performed, in a personalised fashion and via telephone, e-mail, mail, personal appointment, etc., in compliance with the Law on protection of personal data, the required information will be provided.</p>	<p>Telephone of <i>Discapacidad Responde</i> (902 455 564)  <i>Salud Responde</i> (Health) (902 505 060),            E-mail: <a href="mailto:saludresponde@junta-deandalucia.es">saludresponde@junta-deandalucia.es</a>            Telephone-fax 953 018 715, services available for people with hearing disabilities</p>
 CANARIAS	<b>Portal of disability</b>	<p>Information about the diverse resources and services put in place at the disposition of the group of people with disabilities  <a href="http://www.gobiernodecanarias.org/ccdpsv/politicassociales/discapacidad/">http://www.gobiernodecanarias.org/ccdpsv/politicassociales/discapacidad/</a></p>	<p><a href="http://www.gobiernodecanarias.org/ccdpsv/politicassociales/discapacidad/">http://www.gobiernodecanarias.org/ccdpsv/politicassociales/discapacidad/</a></p>
 COMUNIDAD VALENCIANA	<b>Disability Ombudsman Directorate General of people with disabilities</b>	<p>The Disability Ombudsman is a commissioned organ of the Valencia government to defend the rights of the disabled with physical, mental and sensory disabilities, and especially to contribute to their promotion and full integration into society.</p> <p>The tasks of the Disability Ombudsman are the following:</p> <ul style="list-style-type: none"> <li>- Receiving and processing complaints of discrimination, delays or other abnormalities suffered by the disabled, obtaining information from the competent administrative bodies.</li> <li>- Analyse the performance of public administrations and private initiative in relation to compliance with the legislation on social and labour integration for the disabled with physical, mental and sensory disabilities, and advising the competent authorities of the detected irregularities or malfunctions.</li> <li>- To account for its actions to the Valencia Government, to which it can raise any proposals or recommendations deemed appropriate in order to integrate the disabled.</li> </ul>	<p><a href="http://www.bsocial.gva.es/web/discapacitados">http://www.bsocial.gva.es/web/discapacitados</a>            Telephone: 961 24 75 53            Fax: 961 24 77 21            E-mail: <a href="mailto:andres_juacam@gva.es">andres_juacam@gva.es</a></p>

AUTONOMOUS COMMUNITY	DENOMINATION	COMPETENCIES	CONTACT
 EXTREMADURA	<b>The Extremadura Service of Promotion of the Autonomy and Assistance to Dependency (SEPAD) of the Extremadura Government</b>	<p>The Extremadura Service of Promotion of Autonomy and Assistance to Dependency guarantees people with disabilities a framework of care that includes attention for children and adults in the framework established for:</p> <p>Strengthening the network of care for people with disabilities.</p> <p>Serving people with disabilities using the criteria established in the Framework of Disability Care of Extremadura (MADEX), strengthening the quality of services.</p> <p>Developing actions aimed at coordinating, managing and ordering centres for people with disabilities, with self-management and concerted/subsidised activities.</p> <p>Adapting the rules on disability in the Autonomous Community of Extremadura and placing it in the area of the International Convention on the Rights of People with Disabilities.</p> <p>Seeking normalisation and social inclusion of persons with disabilities, through social empowerment and development of personal autonomy.</p>	Central Services: Avenida de las Américas, n.º 4, 06800, Mérida (Badajoz) Territorial Management: BADAJOZ Ronda del Pilar, 5 06002 Badajoz CÁCERES Plaza Hernán Cortés, 1 10001 Cáceres Centralita SEPAD: Telephone 924 00 85 30 <a href="http://sepad.gobex.es/es/web/sepad/las-personas/discapacidad/lineas-de-actuacion">http://sepad.gobex.es/es/web/sepad/las-personas/discapacidad/lineas-de-actuacion</a>
	<b>Office of the Ombudsman for people with disabilities</b>	<p>The Office of the Ombudsman for Persons with Disabilities of the Autonomous Community of Extremadura is created as a necessary Instrument to promote the defence of rights and interests of the disabled.</p> <p>The objective is to inform public institutions of the needs and general difficulties of the group of people with disabilities, and analyse behaviours and actions that could be detrimental to their rights or interests, showing situations worthy of protection or liable to regulation.</p> <p>It acts autonomously collaborating with public powers in achieving social welfare and effective and total personal fulfilment and social integration of people with disabilities, performing a role of advice and proposal in all other matters affecting their rights and interests.</p> <p>The Council of Health and Dependency, will collaborate and promote that the rest of Councils that comprise the Extremadura Government collaborate in a similar fashion in securing the objectives pursued.</p> <p><b>Functions</b></p> <ul style="list-style-type: none"> <li>– Promote the defence of the rights of people with disabilities in the Autonomous Community of Extremadura.</li> <li>– Collaborate with public authorities in achieving the welfare of people with physical, intellectual and sensory disabilities.</li> <li>– Issue reports on the reality, situation and needs of people with disabilities in the Autonomous Community of Extremadura.</li> <li>– Make suggestions, proposals or recommendations on matters affecting the rights inherent to the disabled.</li> <li>– Promote respect for the rights of people with disabilities and compliance with current regulations on disabilities.</li> <li>– Report any deficiencies and irregularities detected in the exercise of the functions and affect the rights of people with disabilities, raising solutions for those problems.</li> <li>– Issue reports, in cases where it is deemed appropriate, on the draft policy provisions that could be presented.</li> <li>– Approach the competent bodies proposing approval and when appropriate modifications to the current regulations.</li> <li>– Perform activities for the dissemination and disclosure of the rights and needs of people with disabilities, promoting social awareness campaigns.</li> </ul>	Telephone: 924 49 19 14 <a href="mailto:registro@defensordeldiscapacitado.org">registro@defensordeldiscapacitado.org</a>

AUTONOMOUS COMMUNITY	DENOMINATION	COMPETENCIES	CONTACT
 GALICIA	<b>Portal of Welfare / Disability</b>	Direct help, early intervention, action plans	Department of Work and Well-being – General Secretary of Social Policies Administrative offices - San Caetano, s/n 15781 Santiago de Compostela traballoebenestar.xunta.es Telephone:981 54 00 76/ 981 54 18 07 Emergency telephone: 900333666
 COMMUNITY OF NAVARRA	<b>Area of Disabilities</b>	In this area you can find all the information the Government of Navarra offers to people with diminished possibilities for education, employment or social integration as a result of a deficiency in their physical, mental or sensory abilities. <a href="http://www.navarra.es/home_es/Temas/Asuntos+sociales/Discapacidad/">http://www.navarra.es/home_es/Temas/Asuntos+sociales/Discapacidad/</a>	On the website there is a form for consultations and suggestions. <a href="http://www.navarra.es/home_es/Temas/Asuntos+sociales/Discapacidad/">http://www.navarra.es/home_es/Temas/Asuntos+sociales/Discapacidad/</a>
 REGION OF MURCIA	<b>Health and Social Policies</b>  <b>Regional Observatory of Disability</b>  The collection of consultations or complaints from people with disabilities on the subject of equality of opportunities, non-discrimination and universal accessibility does not fall within the remit of the Observatory. Those competencies can be partially found at the Inspectorate of Social Services of the Murcia region, according to Decree No.3/2015 of 23rd January, regulating the authorisation, accreditation, registration and inspection of entities, Centres and Social Services of the Autonomous Community of Murcia and establishing the basic typology thereof.	<b>Areas</b> <ul style="list-style-type: none"> <li>– Health and prevention</li> <li>– Early intervention</li> <li>– School integration and special education</li> <li>– Integral rehabilitation</li> <li>– Work and employment training</li> <li>– Accessibility and new technologies</li> <li>– Social services</li> <li>– Leisure, culture and free time</li> <li>– Inter-department coordination</li> </ul> <b>Functions</b> <ul style="list-style-type: none"> <li>– Collect and analyse information from the available sources</li> <li>– Formulate recommendations and proposals to improve indicators and information systems</li> <li>– Evaluate the impact of measures on the subject of disability</li> <li>– Propose the realisation of studies and reports.</li> <li>– Propose the dissemination of statistics, studies, reports, documents, technical regulations and innovative experiences</li> <li>– Any other function or activity in order to achieve the specified objectives</li> </ul>	Department of Work and Social Policies Avda. de la Fama, 3 - 30003 Murcia Telephone: 968 36 54 81 Fax: 968 36 51 74 E-mail: ord@listas.carm.es <a href="http://www.carm.es/web/pagina?DCONTENIDO=5137&amp;IDTIPO=11&amp;RASTRO=c883\$m5801">http://www.carm.es/web/pagina?DCONTENIDO=5137&amp;IDTIPO=11&amp;RASTRO=c883\$m5801</a>

# Annex 2

Where to report hate crimes

Resources for victims of hate crimes

## Annex 2.1 Where to report hate crimes

### a) **State Security Forces. Telephone numbers for reports:**

- Civil Guard 900 100 062
- National Police 900 100 091

Since 2014 there is a specific police protocol in place which establishes how to handle cases that could potentially be hate crimes.

### b) **Autonomous police bodies:**

- **General Police Body of the Canary Islands:** <http://www.gobiernodecanarias.org/cgpoliciacanaria/>
- **Ertzaintza:** <https://www.ertzaintza.net/>
- **Mossos d'Esquadra:** <http://mossos.gencat.cat/ca/denuncies/>

They have a specific protocol of action in case of hate crimes, available in the following document: Procedure for crimes motivated by hate or discrimination.

- **Police of Navarra:** [http://www.navarra.es/home\\_es/Temas/Seguridad/Cuerpo+de+la+Policia+Foral+de+Navarra/](http://www.navarra.es/home_es/Temas/Seguridad/Cuerpo+de+la+Policia+Foral+de+Navarra/)

### c) **Duty Courts.**

d) **Provincial Prosecutors.** Listed below are the specialised services of the Provincial Prosecutors' Offices on the subject of hate and discrimination crimes.

## Annex 2.2 List of Services of the Provincial Prosecutors for Legal Protection of Equality and against Discrimination

NAME	PROSECUTOR	PROVINCE	AUTONOMOUS COMMUNITY	ADDRESS
D. DAVID CALVO LÓPEZ	Provincial Prosecutor of Almería	Almería	Andalucía	Reina Regente, 4 (04001)
D. ANDRÉS ÁLVAREZ MEDIALDEA	Provincial Prosecutor of Cádiz	Cádiz	Andalucía	Cuesta de las Calesas, s/n (11006)
D. JUAN JOSÉ GARCÍA CRIADO	Provincial Prosecutor of Córdoba	Córdoba	Andalucía	Plaza de la Constitución, 4 (14004)
D. FRANCISCO J. HERNÁNDEZ GUERRERO	Provincial Prosecutor of Granada	Granada	Andalucía	Avda. del Sur, s/n, Edificio LA Caleta, 7.º-18071
DOÑA PATRICIA RODRÍGUEZ LASTRAS	Provincial Prosecutor of Huelva	Huelva	Andalucía	Alameda Sundheim, 26, 21003
D. CRISTÓBAL JIMÉNEZ JIMÉNEZ	Provincial Prosecutor of Jaén	Jaén	Andalucía	Arquitecto Berges, 16, (23007)
SRA. DOÑA MARÍA TERESA VERDUGO MORENO	Provincial Prosecutor of Málaga	Málaga	Andalucía	Fiscal Luis Portero García, s/n (2971)
DOÑA CARMEN ESCUDERO MORA	Provincial Prosecutor of Sevilla	Sevilla	Andalucía	Avda. Menéndez Pelayo, 2 (41004)
D. FELIPE ZAZURCA GONZÁLEZ	Provincial Prosecutor of Huesca	Huesca	Aragón	Moya, 4 (22002)
D. JORGE MORADELL ÁVILA	Provincial Prosecutor of Teruel	Teruel	Aragón	Plaza San Juan, 6. (44.001)
DOÑA YOLANDA CANTÓN RAYADO	Provincial Prosecutor of Zaragoza	Zaragoza	Aragón	Coso, 1 (50003)
D. ALBERTO RODRÍGUEZ FERNÁNDEZ	Provincial Prosecutor of Oviedo	Oviedo	Asturias	Comandante Caballero, 3 (33071)
D. JOSÉ DÍAZ CAPPÀ	Provincial Prosecutor of Palma de Mallorca	Palma de Mallorca	Baleares	Plaza del Mercat, 12 (07001)
D. JOSÉ ANTONIO DÍAZ RODRÍGUEZ	Provincial Prosecutor of Las Palmas de Gran Canaria	Las Palmas de Gran Canaria	Canarias	Plaza de San Agustín, 6 (35001)
DOÑA ENRIQUETA DE ARMAS ROLDÁN	Provincial Prosecutor of Santa Cruz de Tenerife	Santa Cruz de Tenerife	Canarias	Avda. del Tres de Mayo 3 (38003)
D. ENRIQUE SARABIA MONTALVO	Provincial Prosecutor of Santander	Santander	Cantabria	Avda. Pedro San Martín, s/n.- 39007
D. JAVIER RODRÍGUEZ PÉREZ	Provincial Prosecutor of Ávila	Ávila	Castilla y León	Plaza de la Santa, 2 (05001)
D. SANTIAGO MENA CERDÁ	Provincial Prosecutor of Burgos	Burgos	Castilla y León	Paseo de la Isla, 6 (09071)
D. AVELINO FIERRO GÓMEZ	Provincial Prosecutor of León	León	Castilla y León	Cid, 20 (24003)
DOÑA M.ª LOURDES RODRÍGUEZ REY	Provincial Prosecutor of Palencia	Palencia	Castilla y León	Plaza Abilio Calderón s/n.- (34001)
D. ANTONIO VIEIRA MORANTE	Provincial Prosecutor of Salamanca	Salamanca	Castilla y León	Plaza de Colón, s/n (37071)
DOÑA BEATRIZ DE RAMOS VILARIÑO	Provincial Prosecutor of Segovia	Segovia	Castilla y León	San Agustín, 28 (40071)
DOÑA MARÍA JOSÉ BURGOS MONGE	Provincial Prosecutor of Soria	Soria	Castilla y León	Aguirre, 3. (42002.)
DOÑA ESTER PÉREZ JEREZ	Provincial Prosecutor of Valladolid	Valladolid	Castilla y León	Angustias 21, (47003)
D. RAFAEL CARLOS DE VEGA IRAÑETA	Provincial Prosecutor of Zamora	Zamora	Castilla y León	El Riego, 5-3.º (49004)
DOÑA MARÍA ISABEL PEÑARRUBIA SÁNCHEZ	Provincial Prosecutor of Albacete	Albacete	Castilla la Mancha	San Agustín, 1 (02001)
D. JESÚS CABALLERO KLINK	Provincial Prosecutor of Ciudad Real	Ciudad Real	Castilla la Mancha	Eras del Cerrillo, 3 (13071)

NAME	PROSECUTOR	PROVINCE	AUTONOMOUS COMMUNITY	ADDRESS
D. JOSÉ ERNESTO FERNÁNDEZ PINOS	Provincial Prosecutor of Cuenca	Cuenca	Castilla la Mancha	Gerardo Diego, 8.-16004
DOÑA DOLORES GUIARD ABASCAL	Provincial Prosecutor of Guadalajara	Guadalajara	Castilla la Mancha	Dr. Fernando Iparra-guirre, 10 (19071)
D. LUIS IBAÑEZ CUESTA	Provincial Prosecutor of Toledo	Toledo	Castilla la Mancha	Plaza del Ayuntamiento, 3 (45002)
D. MIGUEL ÁNGEL AGUILAR	Provincial Prosecutor of Barcelona	Barcelona	Cataluña	Gran Vía de les Corts Catalanes, 11 - 08075
D. VÍCTOR PILLADO QUINTAS	Provincial Prosecutor of Girona	Girona	Cataluña	Plaza de la Catedral, 2, 17071
D. JORGE LUCIA MORLANS	Provincial Prosecutor of Lleida	Lleida	Cataluña	Canyeret, 1-4.º (25071),
DOÑA ANA BELÉN FARRERO RÚA	Provincial Prosecutor of Tarragona	Tarragona	Cataluña	Av. Luís Companys, 10, (43005)
D. JULIO LÓPEZ ORDIALES	Provincial Prosecutor of Badajoz	Badajoz	Extremadura	Avda. de Colón, 4 (06001)
DOÑA CARMEN BARQUILLA BERMEJO	Provincial Prosecutor of Cáceres	Cáceres	Extremadura	Ronda de San Francisco, s/n - 10002
D. LUIS VÁZQUEZ SECO	Provincial Prosecutor of A Coruña	A Coruña	Galicia	Calle del Capitán Juan Varela, s/n 15007
D. JAVIER REY OZORES	Provincial Prosecutor of Lugo	Lugo	Galicia	Plaza de Avilés, s/n (27002)
D. FLORENTINO DELGADO AYUSO	Provincial Prosecutor of Ourense	Ourense	Galicia	Pza. Concepción Arenal, s/n -32071
D. SERVANDO CAIÑO DA SILVA	Provincial Prosecutor of Pontevedra	Pontevedra	Galicia	Francisco Tomás y Valiente, s/n (36001)
DOÑA ANA ISABEL GARCIA LEON	Provincial Prosecutor of Madrid	Madrid	Madrid	Capitán Haya, 53 - 9.º 28071
D. JOSÉ MARÍA ESPARZA ARANDA	Provincial Prosecutor of Murcia	Murcia	Murcia	Ronda de Garay, 5.-30003
DOÑA MARÍA CRUZ GARCÍA HUESA	Provincial Prosecutor of Pamplona	Pamplona	Navarra	San Roque, 4 -31001
D. LUIS MARÍA FERNÁNDEZ GÓMEZ DE SEGURA	Provincial Prosecutor of Logroño	Logroño	La Rioja	Víctor Pradera, 2.-26001
DOÑA ANA ÁVILA TABLADO	Provincial Prosecutor of Vitoria	Álava	País Vasco	Av. Gasteiz, 18- 01008
DOÑA M.ª IDOYA ZURIARRAIN FERNÁNDEZ	Provincial Prosecutor of San Sebastián	Guipúzcoa	País Vasco	Teresa de Calcuta, 1 (20071)
DOÑA ANA LAURA NÚÑEZ PORTILLO	Provincial Prosecutor of Bilbao	Vizcaya	País Vasco	Barroeta Aldamar, 10 (48001)
D. RAMÓN SILES SUAREZ	Provincial Prosecutor of Alicante	Alicante	Valencia	Plaza del Ayuntamiento, s/n (03002)
D. DIEGO JUAN MONTAÑÉS LOZANO	Provincial Prosecutor of Castellón	Castellón	Valencia	Bulevar Blasco Ibáñez, 3 (12003)
DOÑA CARMEN ANDREU ARNALTE	Provincial Prosecutor of Valencia	Valencia	Valencia	Avda. del Saler, 14, Ciudad de la Justicia (46071)

## Annex 2.3 Offices for the Assistance to Victims of Crime

**Article 23 of Law 4/2015** of April 27<sup>th</sup> on the Statute of Victims of Crime entrusts the **Offices of Assistance to Victims** with **assessing the special needs of protection of victims**, giving special consideration to crimes committed with racist or anti-Semitic motives or others related to ideology, religion or beliefs, family situation, belonging of their members to an ethnic group, race or nation, national origin, gender, sexual orientation or identity, illness or disability.

**Article 28** defines the functions of the Office of Victim Assistance, among which is the coordination of the different bodies, institutions and organisations providing support services to the victim.

### State Offices for the Assistance to Victims of Crime

AUTONOMOUS COMMUNITY	ADDRESS	TELEPHONE	FAX
<b>C. A. DE ILLES BALEARS</b>			
PALMA DE MALLORCA	Vía Alemania, 5 semisótano Edificio de los Juzgados 07003 PALMA DE MALLORCA <b>victimas.mallorca@justicia.es</b>	971678611	971725550
IBIZA	Avda. Isidor Macabich, 4 07800 Eivissa <b>victimas.ibiza@justicia.es</b>	971195044	971316925
MAHON	c/ Antoni Joan Alemany, n.º 2 Mahón 07701 <b>victimas.mahon@justicia.es</b>	971368501	971364819
<b>C. A. DE CASTILLA Y LEÓN</b>			
AVILA	C/ Ramón y Cajal, 1 Edificio Nuevo de los Juzgados 05001 AVILA <b>victimas.avila@justicia.es</b>	920 359038	920 359038
BURGOS	Avda. Reyes Católicos, 53 Edificio Nuevo de los Juzgados 09006 BURGOS <b>victimas.burgos@justicia.es</b>	947 284440 947 284441 (Psychology)	947 284442
LEÓN	Avda. del Ingeniero Sáenz de Miera, 6 – planta baja Edf. Nueva Oficina Judicial 24009 LEÓN <b>victimas.leon@justicia.es</b>	987 895263	987 895175
PALENCIA	C/ Menéndez Pelayo, 2 - semisótano 34001 PALENCIA <b>victimas.palencia@justicia.es</b>	979 167756	979 702822
PONFERRADA	Avda. de las Huertas del Sacramento, 14 – planta baja Edificio de los Juzgados 24402 PONFERRADA (LEÓN) <b>victimas.ponferrada@justicia.es</b>	987 451294	987 416285
SALAMANCA	Plaza de Colón, 8 – planta baja Edificio Nuevo de los Juzgados 37001 SALAMANCA <b>victimas.salamanca@justicia.es</b>	923 284554	923 284770
SEGOVIA	C/ San Agustín, 28 - 2.ª planta Palacio de Justicia 40001 SEGOVIA <b>victimas.segovia@justicia.es</b>	921 462462	921 463239
SORIA	C/ Aguirre, 3 – 2.ª planta Palacio de Justicia 42002 SORIA <b>victimas.soria@justicia.es</b>	975 214930	975 227908

AUTONOMOUS COMMUNITY	ADDRESS	TELEPHONE	FAX
VALLADOLID	C/ de las Angustias, 40 - 44 - planta baja Edificio Nuevo de los Juzgados 47003 VALLADOLID <b>victimas.valladolid@justicia.es</b>	983 413460	983 413325
ZAMORA	C/ San Torcuato 7 Bajo Palacio de Justicia 49004 ZAMORA <b>victimas.zamora@justicia.es</b>	980 559461	980 559726
<b>C. A. DE CASTILLA-LA MANCHA</b>			
ALBACETE	C/ San Agustín, 1 - planta baja derecha Palacio de Justicia 02001 ALBACETE <b>victimas.albacete@justicia.es</b>	967 596642	967 596642
CIUDAD REAL	C/ de las Eras del Cerrillo, 3 - 1.ª planta Edificio Nuevo de los Juzgados 13071 CIUDAD REAL <b>victimas.ciudadreal@justicia.es</b>	926 278850	926 278851
CUENCA	C/ Gerardo Diego, 8 Edificio Nuevo de los Juzgados 16071 CUENCA <b>victimas.cuenca@justicia.es</b>	969 247071	969 247241
GUADALAJARA	Plaza Fernando Beladiez, s/n - 6.ª planta. Palacio de Justicia 19001 GUADALAJARA <b>victimas.guadalajara@justicia.es</b>	949 209970	949 209593
TOLEDO	C/ Marqués de Mendigorria, 2 Edificio de los Juzgados 45003 TOLEDO <b>victimas.toledo@justicia.es</b>	925 396022	925 396024
<b>C. A. DE EXTREMADURA</b>			
BADAJOS	Avda. Antonio Masa Campos, 9 - 1.ª planta 06005 BADAJOZ <b>victimas.badajoz@justicia.es</b>	924 260783	924 205282
MÉRIDA	Avda. de las Comunidades, s/n Palacio de Justicia 06800 MÉRIDA (BADAJOZ) <b>victimas.merida@justicia.es</b>	924 304080	924 300511
CÁCERES	Ronda de San Francisco, s/n - 3.ª planta Edificio de los Juzgados 10002 CÁCERES <b>victimas.caceres@justicia.es</b>	927 620295	927 620182
PLASENCIA	C/ Juez Marino Barbero s/n Palacio de Justicia 10600 PLASENCIA (CÁCERES) <b>victimas.plasencia@justicia.es</b>	927 427514	927 415505
<b>C. A. DE LA REGIÓN DE MURCIA</b>			
MURCIA	Avda de la Justicia, s/n Ciudad de la Justicia Fase II 30011 MURCIA <b>victimas.murcia@justicia.es</b>	968 229264	968 229275
CARTAGENA	C/ Ángel Bruna, 21 - 2.ª planta Palacio de Justicia 30204 CARTAGENA (MURCIA) <b>victimas.cartagena@justicia.es</b>	968 326131	968 326143
<b>CIUDAD AUTÓNOMA DE CEUTA</b>			
CEUTA	C/ Serrano Orive, s/n Palacio de Justicia 51001 CEUTA <b>victimas.ceuta@justicia.es</b>	956 513295	856 200972
<b>CIUDAD AUTÓNOMA DE MELILLA</b>			
MELILLA	Plaza del Mar, s/n Edificio V Centenario/ Torre Norte, 5.ª planta dcha. 52001 MELILLA <b>victimas.melilla@justicia.es</b>	952 698965	952 698967

## Autonomous Offices for the Assistance to Victims of Crime

AUTONOMOUS COMMUNITY	ADDRESS	E-MAIL	PHONE	FAX
<b>C. A. DE ANDALUCÍA</b>	<a href="http://www.juntadeandalucia.es/organismos/justiciaeinterior/areas/asistencia-victimas/servicio.html">http://www.juntadeandalucia.es/organismos/justiciaeinterior/areas/asistencia-victimas/servicio.html</a>			
ALMERÍA	Carretera de Ronda, 120, bloque A-2.º Ciudad de la Justicia.	<a href="mailto:almeria.sava.iuse@juntadeandalucia.es">almeria.sava.iuse@juntadeandalucia.es</a>	950204005	950204002
GRANADA	Avda. del Sur, 1, 1.º Edificio de los Juzgados de la Caleta.	<a href="mailto:granada.sava.iuse@juntadeandalucia.es">granada.sava.iuse@juntadeandalucia.es</a>	662679167	958028758
JAÉN	C/ Cronista González López, 3, bajo. Juzgado de 1.ª Instancia.	<a href="mailto:jaen.sava.iuse@juntadeandalucia.es">jaen.sava.iuse@juntadeandalucia.es</a>	953331375	953010753
CÓRDOBA	Plaza de la Constitución, 4. Juzgado de Guardia.	<a href="mailto:cordoba.sava.iuse@juntadeandalucia.es">cordoba.sava.iuse@juntadeandalucia.es</a>	957002460	957002464
SEVILLA	C/ Menéndez Pelayo, 2. Edf. Audiencia Provincial.	<a href="mailto:sevilla.sava.iuse@juntadeandalucia.es">sevilla.sava.iuse@juntadeandalucia.es</a>	955005010	955005011
CÁDIZ	Cuesta de las Calesas, s/n. Edf. Audiencia Provincial.	<a href="mailto:cadiz.sava.iuse@juntadeandalucia.es">cadiz.sava.iuse@juntadeandalucia.es</a>	956011630	956011612
HUELVA	Alameda Sundheim, 28. Palacio de Justicia.	<a href="mailto:huelva.sava.iuse@juntadeandalucia.es">huelva.sava.iuse@juntadeandalucia.es</a>	959106881	959013869
MÁLAGA	C/ Fiscal Luis Portero García, s/n. Ciudad de la Justicia.	<a href="mailto:malaga.sava.iuse@juntadeandalucia.es">malaga.sava.iuse@juntadeandalucia.es</a>	951939005	951939105
CAMPO DE GIBRALTAR	Plaza de la Constitución, s/n. Palacio de Justicia	<a href="mailto:algeciras.sava.iuse@juntadeandalucia.es">algeciras.sava.iuse@juntadeandalucia.es</a>	662978605	956027607
<b>C. A. DE ARAGÓN</b>	<a href="http://www.aragon.es/DepartamentosOrganismosPublicos/Departamentos/PresidenciaJusticia/AreasTematicas/AJ_AdministracionJusticia/ci.002_Sedes_Organos_Administrativos_Judiciales.detalleDepartamento#section7">http://www.aragon.es/DepartamentosOrganismosPublicos/Departamentos/PresidenciaJusticia/AreasTematicas/AJ_AdministracionJusticia/ci.002_Sedes_Organos_Administrativos_Judiciales.detalleDepartamento#section7</a>			
HUESCA	C/ Moya, 4. Edificio Audiencia Provincial.	<a href="mailto:victimas.huesca@justicia.es">victimas.huesca@justicia.es</a>	974290141	974290141
TERUEL	Plaza San Juan, 6. Palacio de Justicia.	<a href="mailto:victimas.teruel@justicia.es">victimas.teruel@justicia.es</a>	978647543	978647543
ZARAGOZA	Avenida Ranillas, 89-97. Ciudad de la Justicia. Edif. Fueros de Aragón, esc. A, planta 1.ª	<a href="mailto:victimas.zaragoza@justicia.es">victimas.zaragoza@justicia.es</a>	976208459	976397731
<b>C. A. DEL PRINCIPADO DE ASTURIAS</b>	<a href="http://www.asturias.es/portal/site/justicia/menuitem.1569d9d59b54a86b015fd20378414ea0/?vgnnextoid=ac816d9a84a7d210VgnVCM1000008714e40aRCRD&amp;vgnnextchannel=c6273fa2c851d210VgnVCM1000008714e40aRCRD&amp;i18n.http.lang=es">http://www.asturias.es/portal/site/justicia/menuitem.1569d9d59b54a86b015fd20378414ea0/?vgnnextoid=ac816d9a84a7d210VgnVCM1000008714e40aRCRD&amp;vgnnextchannel=c6273fa2c851d210VgnVCM1000008714e40aRCRD&amp;i18n.http.lang=es</a>			
GIJÓN	Plaza del Decano Eduardo Isabeta, s/n.	<a href="mailto:victimas.gijón@justicia.es">victimas.gijón@justicia.es</a>	985197204	
OVIEDO	C/ Comandante Caballero, s/n.		985968937	
<b>C. A. DE CANTABRIA</b>	<a href="http://pmcc.cantabria.es/web/direccion-general-justicia/detalle/-/journal_content/56_INSTANCE_DETALLE/16602/1905161">http://pmcc.cantabria.es/web/direccion-general-justicia/detalle/-/journal_content/56_INSTANCE_DETALLE/16602/1905161</a>			
SANTANDER	Avda. Pedro San Martín, s/n. Complejo Judicial «Las Salesas».	<a href="mailto:oavictimas.santander@juscantabria.es">oavictimas.santander@juscantabria.es</a>	942357145	942357100
<b>C. A. DE CANARIAS</b>	<a href="http://www.gobiernodecanarias.org/opencms8/opencms/igualdad/inicio/informacion_servicios/servicios_recursos_igualdad/centros_atencion/lanzarote.html">http://www.gobiernodecanarias.org/opencms8/opencms/igualdad/inicio/informacion_servicios/servicios_recursos_igualdad/centros_atencion/lanzarote.html</a>			
ARRECIFE DE LANZAROTE (LANZAROTE)	C/ Salvador Allende, s/n.	<a href="mailto:victimasdeldelito.antoniam@cabildodelanzarote.com">victimasdeldelito.antoniam@cabildodelanzarote.com</a>	928806302	928804200
<b>C. A. DE CATALUÑA</b>	<a href="http://justicia.gencat.cat/ca/departament/adreces_i_telefons">http://justicia.gencat.cat/ca/departament/adreces_i_telefons</a>			
BARCELONA	Gran Vía de les Corts Catalanes, 111.	<a href="mailto:victimasbarcelona.dj@gencat.cat">victimasbarcelona.dj@gencat.cat</a>	935548700	935549064
GIRONA	Placa de Josep Maria Lidón Corbí, 1.	<a href="mailto:victimagir@gencat.cat">victimagir@gencat.cat</a>	972942567	972942376
LLEIDA	C/ Del Canyeret, 21-23.		973725505	973725741
TARRAGONA	Avda. del President Lluís Companys, 10.	<a href="mailto:victimatarragona.dji@gencat.net">victimatarragona.dji@gencat.net</a>	977220922	977920108
TORTOSA	Plaza dels estudis, s/n.	<a href="mailto:sgtebre.dj@gencat.cat">sgtebre.dj@gencat.cat</a>	977448088	

AUTONOMOUS COMMUNITY	ADDRESS	E-MAIL	PHONE	FAX
<b>C. A. VALENCIANA</b>	<b><a href="http://www.sinmaltrato.gva.es/donde-acudir-oficina-atencion-victimas-delito">http://www.sinmaltrato.gva.es/donde-acudir-oficina-atencion-victimas-delito</a></b>			
ALICANTE	Avd. Aguilera, 53. Palacio de la Justicia.	<a href="mailto:avd_ali@gva.es">avd_ali@gva.es</a>	965935714	965935824
ALCOY	C/ Casablanca, 1-5. (Retén Policía Local).	<a href="mailto:oav_alc@gva.es">oav_alc@gva.es</a>	965549052	965537183
BENIDORM	Passeig dels tolls, 2. Palacio de Justicia.	<a href="mailto:avd_ben@gva.es">avd_ben@gva.es</a>	966878822	
DENIA	Plaza de Jaume I, s/n. Palacio de Justicia.	<a href="mailto:avd_den@gva.es">avd_den@gva.es</a>	966428319	966428319
ELCHE	C/ Eucaliptus, s/n. Palacio de Justicia.	<a href="mailto:avd_elx@gva.es">avd_elx@gva.es</a>	966917073	
GANDIA	Plaza Rei Jaumel, 6, bajo	<a href="mailto:avd_gan@gva.es">avd_gan@gva.es</a>	962959528	962959578
ORIHUELA	Plaza de Santa Lucía, s/n. Palacio de Justicia.	<a href="mailto:avd_ori@gva.es">avd_ori@gva.es</a>	965359588	
TORREVEJA	C/ Patricio Zammit, 50, 1.º Palacio de Justicia.	<a href="mailto:avd_tor@gva.es">avd_tor@gva.es</a>	966926520	
CASTELLÓN	Bulevar Blasco Ibáñez, 10.	<a href="mailto:avd_cas@gva.es">avd_cas@gva.es</a>	964621685	964621937
VILLARREAL	C/ Matilde Salvador, 2. Ciudad de la Justicia.	<a href="mailto:avd_vil@gva.es">avd_vil@gva.es</a>	964738273	
VINARÒS	Avda. Libertad, s/n.	<a href="mailto:avd_vin@gva.es">avd_vin@gva.es</a>	964450082	964455105
VALENCIA	Avda. del Profesor López Piñero, 14. Ciutat de la Justicia.	<a href="mailto:avd_val@gva.es">avd_val@gva.es</a>	961927154	961927155
ALZIRA	Ronda Algemesí, 13. Edificio de los Juzgados.	<a href="mailto:avd_alz@gva.es">avd_alz@gva.es</a>	962418954	
PATERNA	Avda. Vicente Mortes, 114. Palacio de Justicia.	<a href="mailto:avd_pat@gva.es">avd_pat@gva.es</a>	963108393	
REQUENA	C/ Honrubia, s/n. Palacio de Justicia.	<a href="mailto:avd_req@gva.es">avd_req@gva.es</a>	962300326	
TORRENT	C/ 6 de diciembre, 11.	<a href="mailto:avd_torrent@gva.es">avd_torrent@gva.es</a>	961552223	961926800
UTIEL	C/ García Berlanga, 60 bajo (Retén Policía Local).	<a href="mailto:avd_utiel@gva.es">avd_utiel@gva.es</a>	962173126	962174506
<b>C. A. DE GALICIA</b>	<b><a href="http://cpapx.xunta.es/servizos-de-atencion-a-vitima-e-a-cidania">http://cpapx.xunta.es/servizos-de-atencion-a-vitima-e-a-cidania</a></b>			
A CORUÑA	C/ Monforte, s/n. Edf. Nuevo de los Juzgados - Decanato.	<a href="mailto:ciudadan-e-vitimas.coruna@justicia.es">ciudadan-e-vitimas.coruna@justicia.es</a>	981182179	
FERROL	C/ Coruña, 55, bajo.	<a href="mailto:ciudadan-e-vitimas.ferrol@justicia.es">ciudadan-e-vitimas.ferrol@justicia.es</a>	981337339	981337507
OURENSE	Plaza Concepción Arenal, s/n.	<a href="mailto:ciudadan-e-vitimas.ourense@justicia.es">ciudadan-e-vitimas.ourense@justicia.es</a>	988687186	988687188
PONTEVEDRA	C/ Francisco Tomás y Valiente, s/n.	<a href="mailto:ciudadan-e-vitimas.pontevedra@justicia.es">ciudadan-e-vitimas.pontevedra@justicia.es</a>	986805908	986805908
LUGO	C/ Armando Durán, s/n.	<a href="mailto:ciudadan-e-vitimas.lugo@justicia.es">ciudadan-e-vitimas.lugo@justicia.es</a>	982889063	982889064
SANTIAGO DE COMPOSTELA	C/ Viena s/n.	<a href="mailto:ciudadan-e-vitimas.santiago@justicia.es">ciudadan-e-vitimas.santiago@justicia.es</a>	981540358	881997118
VIGO	C/ Lalín, 4 planta baja. Edificio Nuevo.	<a href="mailto:ciudadan-e-vitimas.vigo@justicia.es">ciudadan-e-vitimas.vigo@justicia.es</a>	986817851	986817850
<b>C. FORAL DE NAVARRA</b>	<b><a href="http://www.navarra.es/home_es/Temas/Justicia/Atencion+a+victimas/">http://www.navarra.es/home_es/Temas/Justicia/Atencion+a+victimas/</a></b>			
PAMPLONA	C/ Monasterio Irache, 22, bajo.	<a href="mailto:oasistencia.victimas.delito@cfnavarra.es">oasistencia.victimas.delito@cfnavarra.es</a>	848421387	848421386
<b>LA RIOJA</b>	<b><a href="http://www.larioja.org/npRioja/default/defaultpage.jsp?idtab=821408">http://www.larioja.org/npRioja/default/defaultpage.jsp?idtab=821408</a></b>			
CALAHORRA	Avda. de Numancia, 26.		941145346	
HARO	Plaza Castañares, s/n. Edificio Cid Paternina. Sede Juzgados.		941305626	
LOGROÑO	C/ Muro de la Mata, 8, principal.		941214734	941287117
<b>C. A. DEL PAÍS VASCO</b>	<b><a href="http://www.justizia.net/atencion-al-publico?cpartjud=&amp;ctipoorg=1241022436126&amp;bbuscardirtel=Buscar">http://www.justizia.net/atencion-al-publico?cpartjud=&amp;ctipoorg=1241022436126&amp;bbuscardirtel=Buscar</a></b>			
BILBAO	C/ Ibáñez de Bilbao, 3.	<a href="mailto:sav48-1@aju.ej-gv.es">sav48-1@aju.ej-gv.es</a>	900400028	944016646
SAN SEBASTIAN	Plaza Teresa de Calcuta, 1, 1.ª planta.	<a href="mailto:sav20-1@aju.ej-gv.es">sav20-1@aju.ej-gv.es</a>	900100928	943004376

AUTONOMOUS COMMUNITY	ADDRESS	E-MAIL	PHONE	FAX
VITORIA	Avda. Gasteiz, 18, planta baja.	<b>sav01-1@aju.ej-gv.es</b>	900180414	945004837
BARAKALDO	Plaza Bide Onera, s/n, planta baja.	<b>sa48-bk1@aju.ej-gv.es</b>	944001031	944001066
<b>C. A. DE MADRID</b>				
MADRID	C/ Julián Camarillo, 11. Juzgados de lo Penal.	<b>savictiasmadrid@gmail.com</b>	900150909	914931468
ARANJUEZ	C/ Patio de los Caballeros, s/n.		918916042	918929550
COSLADA	C/ Colombia, 29.		916694181	916697097
FUENLABRADA	C/ Rumanía, 2.		915580118	
LEGANÉS	Plaza Comunidad de Madrid, 5.		913307516	913307516
MÓSTOLES	C/ Luis Jiménez de Asúa, s/n.		916647221	916647221

## Annex 2.4 Social organizations providing assistance to victims of hate and discrimination crimes

Organisation	Address	Telephone	E-mail	Web	Area of discrimination
<b>Movimiento contra la Intolerancia</b> <sup>1</sup>	C/ Mesón de Paredes, 39. 28012 Madrid.  <b>Delegations:</b> – Madrid. – Zaragoza. – Valencia. – Valladolid. – Sevilla. – Málaga.	901101375  915285104 976319552 963735096 983374507 954543063 952608957	<a href="mailto:solidaridadmci@gmail.com">solidaridadmci@gmail.com</a>	<a href="http://www.movimientocontralaintolerancia.com/html/telefonoVictima/telefonoVictima.asp">http://www.movimientocontralaintolerancia.com/html/telefonoVictima/telefonoVictima.asp</a>	<b>Hate crimes in general.</b>
<b>Assistance Service to victims of Racial or Ethnic Discrimination (Council for the Elimination of Racial and Ethnic Discrimination)</b> <sup>2</sup>		900203041	<a href="mailto:info@asistenciavictimasdiscriminacion.org">info@asistenciavictimasdiscriminacion.org</a>	<a href="http://www.igualdadynodiscriminacion.org">www.igualdadynodiscriminacion.org</a>	<b>Racial or Ethnic origin</b>
<b>Association ARI-Perú.</b>		915645603	<a href="mailto:asociacion@ari-peru.org">asociacion@ari-peru.org</a>	<a href="http://www.ari-peru.org">http://www.ari-peru.org</a>	<b>Racial or Ethnic origin</b>
<b>Federación SOS Racismo</b>	<b>Cataluña</b> Rambla de Santa Mònica, 10, 1.º 08002 Barcelona.  <b>Aragón</b> Calle Espoz y Mina, 6. 50003 Zaragoza.  <b>Guipúzcoa</b> P. Zarategi 100 - Txara 1, sótano. 20015 Donostia.  <b>Navarra</b> Zapateria, 31,1. 31001 Iruñea/Pamplona  <b>Madrid</b> C/ Lavapiés, 13, local. 28012 Madrid.  <b>Galicia</b> C/ Alcalde Lens, 34, 1.º C. 15010 A Coruña.	934126012  976290214  943245627  948211521  915592906  684018788	<a href="mailto:sosracisme@sosracisme.org">sosracisme@sosracisme.org</a>  <a href="mailto:denuncias@sosracismoaragon.es">denuncias@sosracismoaragon.es</a>  <a href="mailto:sosarrazakeria@euskalnet.net">sosarrazakeria@euskalnet.net</a>  <a href="mailto:sosracismonavarra@nodo50.org">sosracismonavarra@nodo50.org</a>  <a href="mailto:info@sosracismogalicia.org">info@sosracismogalicia.org</a>	<a href="http://www.sosracisme.org">http://www.sosracisme.org</a>  <a href="http://www.sosracismoaragon.es">http://www.sosracismoaragon.es</a>  <a href="http://www.sosracismo.org">http://www.sosracismo.org</a>  <a href="http://www.sosracismo.org">http://www.sosracismo.org</a>  <a href="http://www.sosracismomadrid.es">http://www.sosracismomadrid.es</a>  <a href="http://www.sosracismogalicia.org">http://www.sosracismogalicia.org</a>	<b>Racial or Ethnic origin</b>
<b>Unión Romani</b>		93127745	<a href="mailto:u-romani@pangea.org">u-romani@pangea.org</a>	<a href="http://www.unionromani.org">http://www.unionromani.org</a>	<b>Racial or Ethnic origin.</b>
<b>Federación Estatal de Lesbianas, Gays, Transsexuales y Bisexuales</b>	C/ Infantas, 40. 28004 Madrid	913604605	<a href="http://www.felgtb.org/consultas-y-denuncias/denuncia">http://www.felgtb.org/consultas-y-denuncias/denuncia</a> <a href="mailto:info@felgtb.org">info@felgtb.org</a>	<a href="http://www.felgtb.org/">http://www.felgtb.org/</a>	<b>Sexual orientation and Gender identity</b>

<sup>1</sup> *Movimiento contra la Intolerancia* (Movement against Intolerance) is a member of the *Consejo de Víctimas de Delitos de Odio y Discriminación (COVIDOD)* (Council of Victims of Hate and Discrimination Crimes), created in 2014 with the aim of solidarity with the victims of discrimination, hatred, hostility and violence for reasons of intolerance and of promoting their social, legal, political and institutional defence. E-mail: covidod@gmail.com. Tel. 915285104. Other organizations included in this table which are also members of COVIDOD are: Ari-Peru, CESIDA, FELGTB, Foundation Triángulo, Federation of Jewish Communities of Spain, Citizen Platform against islamophobia and Unión Romani.

<sup>2</sup> Table 4 of Annex 1 contains a list of the offices of social organisations that are part of the **Assistance Service to Victims of Racial or Ethnic Discrimination** (Acem, Cear, Red Cross, Cepaim, Roma Secretariat Foundation, MPDL, Movement against Intolerance, *Red Acoge*), sorted by Autonomous Community.

Organisation	Address	Telephone	E-mail	Web	Area of discrimination
<i>Colegas</i>	<p><b>COLEGAS - MADRID</b> <b>Sede Centro</b> C/ Carretas, 33, 2.º Derecha E. 28012 Madrid.</p> <p><b>COLEGAS - MADRID</b> <b>Sede Sur</b> C/ Madrid, 71, 4.º A. 28901 Getafe.</p> <p><b>MÁLAGA</b> C/ Victoria, 8, 1.ª A 29012 Málaga.</p> <p><b>TORREMOLINOS</b> La Nogalera, local 307. 29620 Torremolinos.</p> <p><b>MARBELLA</b> Avenida Fuente Nueva. 29670 Marbella.</p> <p><b>SEVILLA</b> C/ Calle Imagen. 41003 Sevilla.</p> <p><b>HUELVA</b> Calle de Marina, 19, 21001 Huelva.</p> <p><b>VALENCIA</b> C/ Guillén de Castro, 9, 5.ª 46007 Valencia.</p>	<p>915211174</p> <p>916964203</p> <p>951003814</p> <p>952382634 - 672439258</p> <p>653336086</p> <p>653336086</p> <p>653336086</p> <p>607929460</p>	<p>confederacioncolegas@gmail.com</p> <p>colegagetafe@gmail.com malaga@colegaweb.org</p>	<p><a href="http://www.colegaweb.org">http://www.colegaweb.org</a></p>	<p>Sexual orientation and Gender identity</p>
<i>Fundación Triángulo</i>	<p><b>Madrid</b> C/ Meléndez Valdés, 52. 1.º D. 28015 Madrid.</p> <p><b>Andalucía</b> C/ Yuste, 9, B. 41002 Sevilla.</p> <p><b>Badajoz</b> C/ Arco Agüero, 20, 1.º B. 06002 Badajoz.</p> <p><b>Cáceres</b> C/ Viena, 4, 1.º B. 10001 Cáceres.</p> <p><b>Mérida</b> C/ Villafranca de los Barros s/n (Centro Asociativo «fondo SUR» 06800 Mérida.</p> <p><b>Castilla y León</b> Plaza del Ocho, 2, 1.º D. 47001 Valladolid.</p>	<p>915930540</p> <p>954218082</p> <p>924260528</p> <p>672151140</p> <p>924259358</p> <p>983395494</p>	<p>correo@fundaciontriangulo.es</p> <p>andalucia@fundaciontriangulo.es</p> <p>valladolid@fundaciontriangulo.es</p>	<p><a href="http://www.fundaciontriangulo.org">http://www.fundaciontriangulo.org</a></p>	<p>Sexual orientation and Gender identity</p>
<i>Observatorio Contra la Homofobia</i>	<p>C/ Verdi 88, local. 08012 Barcelona.</p>	<p>932172669</p>	<p>och.observatori@gmail.com</p>	<p>Direct Access to the online complaint form: <a href="http://observatorio-contra-homofobia.blogspot.com.es/p/den.html">http://observatorio-contra-homofobia.blogspot.com.es/p/den.html</a></p>	<p>Sexual orientation and Gender identity</p>
<i>COGAM</i>	<p>C/ de la Puebla, 9. 28004 Madrid.</p>	<p>911 838555</p>	<p>sos@cogam.es</p>	<p><a href="http://www.cogam.es">http://www.cogam.es</a></p>	<p>Sexual orientation and Gender identity</p>

Organisation	Address	Telephone	E-mail	Web	Area of discrimination
<i>CESIDA. State coordinator VIH/AIDS</i>	C/ Juan Montalvo, 6. 28040 Madrid.	915223807	contact@infosida.es	<a href="http://www.cesida.org">http://www.cesida.org</a>	Salud / VIH-SIDA
<i>Federación de Comunidades Judías de España</i>		914466232	fcje@fcje.org	<a href="http://www.fcje.org/">http://www.fcje.org/</a>	Religión
<i>Citizen Platform against Islamophobia</i>			plataformacontralislamofobia@gmail.com	<a href="https://plataformaciudadanacontralislamofobia.wordpress.com/">https://plataformaciudadanacontralislamofobia.wordpress.com/</a>	Religión
<i>CERMI</i>	C/ Recoletos, 1, Bajo. 28001 Madrid	914290317 Fax	consultas@cermi.es	<a href="http://www.cermi.es/es-ES/orientacion/Paginas/Inicio.aspx">http://www.cermi.es/es-ES/orientacion/Paginas/Inicio.aspx</a>	Discapacidad
<i>HATENTO Observatorio de Delitos de Odio contra Personas sin Hogar</i>	C/ Cartagena, 80. 28080 Madrid.			<a href="http://hatento.org/contacto">http://hatento.org/contacto</a>	Delitos de odio contra Personas sin Hogar



GOBIERNO  
DE ESPAÑA

MINISTERIO  
DE SANIDAD, SERVICIOS SOCIALES  
E IGUALDAD

SECRETARÍA  
DE ESTADO DE SERVICIOS SOCIALES  
E IGUALDAD

INSTITUTO DE LA MUJER  
Y PARA LA IGUALDAD DE OPORTUNIDADES

