



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



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Ms Leire PAJÍN

Minister of Health, Social Policy and Equality

Strasbourg, 09 May 2011

Dear Minister,

Further to my visit to Spain from 4 to 6 April 2011, I would like to take the opportunity to follow up on my constructive dialogue with the Spanish authorities concerning the protection of the human rights of Roma in Spain.

During my visit, I identified a number of good practices at regional and national level which could serve as examples in Spain as well as in other European countries. These include the adoption at national level of the Roma development programme and the Action Plan for the Development of the Roma Population 2010-2012. In addition to these positive measures, I also identified a number of issues where the protection of the human rights of Roma could be improved. The specific issues on which I would like to focus herein are access to employment, adequate housing and health care, quality education, and the fight against discrimination and anti-Gypsyism.

Access to employment for Roma

Ensuring access to employment is essential to the improvement of living conditions for the Roma. The ACCEDER Programme has been facilitating Roma access to the labour market since 2000. With the support of the European Social Fund and the Spanish government, several local and regional authorities and private entities have financed this programme implemented by the *Fundación Secretariado Gitano* (FSG). I was pleased to learn that over the past ten years more than 58 000 Roma have taken part in this programme, leading to almost 40 000 employment contracts for Roma. I am also aware that other measures were adopted to facilitate the employment of Roma, particularly in relation to self-employment and itinerant work.

However, I understand that the current economic downturn affecting Spain may endanger the improvements which have been achieved. The number of unemployed Roma has increased since many of them worked in precarious conditions. According to FSG/ACCEDER data, in 2009 the employment rate of Roma people in 2009 was reduced 35% (compared to previous years) while for the general population the employment rate only decreased 18%. I was informed by FSG that the number of cases for the ACCEDER program has increased drastically over the last two years. Roma who are newcomers in the labour market as well as persons who previously benefited from the ACCEDER programme and are now unemployed encounter greater difficulties in finding employment. In times of economic difficulties, it is crucial to provide assistance to social groups whose living conditions face particular risks. I recommend that the Spanish government maintain its political and financial support to existing programmes, including ACCEDER, as well as taking other steps to ensure that Roma will not be disproportionately affected by the current economic situation.

Adequate housing for Roma and health care

During my visit I had the opportunity to meet with representatives of the IRIS (*Instituto de Realojamiento e Integración Social*) programme as well as to discuss the interesting housing programme developed by the Autonomous Community of Madrid with Roma beneficiaries. I have noted that more than 2 000 Roma families who previously lived in shantytowns were relocated to

apartments over the past 10 years thanks to this programme. With the important financial and human involvement of the regional authorities, almost all major shantytowns in the Madrid region have disappeared and their inhabitants, mostly Roma, have been relocated.

However, despite these efforts, Roma live in disproportionate numbers in segregated and substandard dwellings. Civil society reports indicate that 12% of Roma in Spain live in substandard housing and 4% live in shantytowns. The Galician and Andalusian Ombudspersons have noted that the insufficient availability of publicly-subsidised housing and discriminatory attitudes among property owners were some of the obstacles encountered by Roma in gaining access to adequate housing. Migrant Roma encounter even harsher living conditions, as I witnessed during my visit to the "El Gallinero" district in Madrid. NGOs also reported cases of collective evictions of foreign Roma from their settlements. I therefore recommend that the Spanish national and regional authorities develop adequate programmes to eradicate the remaining shantytowns in Spain, and offer adequate accommodation to all Roma people.

The enduring specific situation in the 14 km road of Cañada Real Galiana on the outskirts of Madrid should be addressed. Ordinary houses, warehouses and small factories as well as more rudimentary dwellings have been built there without authorisation over the last decades. Spaniards, including a large group of Roma and migrants live in Cañada Real Galiana. The 2009 report of the Spanish Ombudsman pointed out serious problems due to the social, educational, public health and security problems arising in this settlement. I was informed that the Madrid Autonomous Community adopted a specific law on 15 March 2011 regarding this area. With this law, the municipalities which are responsible for this zone were given a two-year deadline to clarify the legal status of the different constructions present along the Cañada Real Galiana. Following the above deadline, the Madrid Autonomous Community will have the power to decide and take action *in lieu* of the municipalities.

The intention of the local and regional authorities to finally find a solution regarding this area is welcomed. However, the procedures applied seem to create anxiety and difficulties for the population concerned and the associations working with them. During my visit there, I was informed that NGOs working locally encounter difficulties in carrying out social work. Therefore, it is necessary that all the stakeholders, including NGOs and residents, are consulted in this remapping process and are regularly informed about the decisions taken. If it is decided that some of the dwellings should be demolished, their inhabitants should be offered sustainable alternative solutions before any evictions take place.

As regards health care, a study published by your Ministry indicated that life expectancy for the Roma population is at least 8 years below the national average and is 10 years below the national average in cases of extreme marginalisation. Infant mortality among Roma is 1.4 times higher than the national average, with insufficient numbers of children being vaccinated and inadequate paediatric follow-up. In its Recommendation Rec(2006)10 on *better access to health care for Roma and Travellers in Europe*, the Council of Europe Committee of Ministers underlined that decent housing and a satisfactory sanitation infrastructure is a *sine qua non* for the improvement of the health status of Roma. I invite your authorities to fully implement this Recommendation in order to improve the health conditions of Roma living in Spain. The active involvement of Roma in all relevant processes and raising awareness of diversity among health-care workers are essential issues to be considered in this context. Targeted awareness-raising campaigns, intercultural mediation and peer education are also necessary.

Access to quality education for Roma children

I noted that considerable progress has been made towards achieving the full education of Roma children at primary level. Enrolment of Roma children in primary education in Spain is seen by all stakeholders as successful, given that 94% of Roma children are reported to attend schools. Nonetheless, if enrolment is no longer an issue at primary education level, an important challenge remains regarding secondary school education. Indeed, 76% of Roma have completed only

primary school education, in comparison to 36% among the overall Spanish population. Among the Roma children who begin secondary education, 80% of them drop out before completing it. While five out of ten Spaniards complete at least secondary education, only about one out of ten Roma reaches the same educational level. As a consequence of this dropout rate, seven out of ten Roma over the age of fifteen are completely or functionally illiterate. This figure is 4.6 times higher than among the general population.

As noted by the European Commission against Racism and Intolerance (ECRI) in its 2010 report on Spain, the vast majority of Roma children attend public state schools, since access to publicly-funded private schools is limited by mechanisms disadvantaging them. As Roma communities are generally concentrated in certain districts, "segregation in education" arises in fact from the geographical segregation in housing. In a number of cases, these schools are materially and substantially substandard which can have an impact on the quality of education received. I therefore recommend that the Spanish government take all measures necessary for providing quality education in every school, including those hosting mainly Roma children.

I was informed that several programmes have been developed in order to reduce school dropout rates, including one by the FSG. I was also pleased to meet several representatives of Roma women NGOs that promote education and insisted on the specific role that mothers play in this area. Measures are necessary to prevent children from dropping out including by assisting those in need of support and working with parents and the community to promote the importance of education. I am convinced that the efforts already undertaken regarding Roma children's attendance in primary schools should be continued to ensure adequate enrolment rates at secondary school and university levels. The Council of Europe has developed a number of useful tools in the framework of its "*Education for Roma Children in Europe*" project including teaching kits and training programmes. I am confident that these instruments could assist the Spanish authorities in developing further measures to ensure that more Roma children complete compulsory education.

Fight against discrimination and anti-Gypsyism

Spain has adopted several laws against discrimination and ratified Protocol No. 12 to the European Convention on Human Rights in 2008. In October 2009 the Council for the Promotion of Equal Treatment and Non-Discrimination on the Grounds of Racial or Ethnic Origin was established. I had the opportunity to hold a discussion with its President in Madrid. Despite the lack of financial and human resources, this relatively young institution has published several reports regarding discrimination and has gained the support of civil society. In January 2011 the Spanish government presented a comprehensive draft bill on equal treatment which seeks to complete gaps in legislation, covering fields such as legal protection for victims of discrimination and general public awareness-raising. The new draft legislation should also transform the existing Council into a fully independent equality body with wider competencies. In this regard, I would like to draw your attention to my *Opinion on national structures for promoting equality* (CommDH(2011)2). It contains a number of recommendations on the mandate and the role of these institutions that could be of interest when adopting the above bill.

In addition to the reinforcement of the legislative and institutional framework to combat discrimination, further efforts are necessary to eliminate deep-seated prejudices towards the Roma. According to information received during the visit, 50 per cent of the Roma population has felt discriminated against at least once. They are often viewed negatively by the rest of society. Legislation on combating discrimination should be accompanied by guidance for law enforcement authorities, public officials and civil servants at national and local level as to the effective implementation of the law. In this context, I recall the useful guidelines contained in the Council of Europe Committee of Ministers' Recommendation CM/Rec(2008)5 on *policies for Roma and/or Travellers in Europe* and invite your government to adopt the necessary measures to fully implement them.

Intolerance against Roma is reportedly increasing due to the economic crisis. According to a 2010 FSG report, the economic crisis and the expulsion of Romanian Roma from France and Italy have led to a wave of xenophobia and discrimination, spread through racist political discourse and the media. The 2010 ECRI report on Spain noted that intolerance especially affects migrant Roma from Eastern Europe, "who suffer from double discrimination on accounts of being both immigrants and Roma". I recommend that the Spanish government adopt the necessary measures to prevent intolerance, including by implementing ECRI's General Policy Recommendation N° 3, on *combating racism and intolerance against Roma/Gypsies*.

Anti-Roma rhetoric in Spanish political discourse is limited. However, many of my interlocutors were concerned by the statement made in Badalona by a local politician accusing Roma people and immigrants from Romania and other countries of creating constant troubles for local neighbours. Of particular concern has been the fact that the leader of the above politician's party provided support to the statement made. In its judgement *Féret v Belgium* (16 July 2009), the European Court of Human Rights clearly recognised that though freedom of expression is particularly important for elected representatives, it was crucial for politicians to avoid any discriminatory comment that might foster intolerance, especially in the electoral context. Hopefully the coming local and regional elections and the 2012 national campaign will not be new sources of concern, and any discriminatory statements will be appropriately countered in accordance with Spanish law.

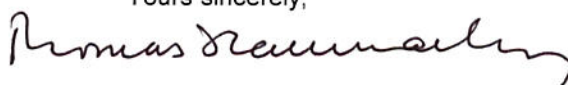
Certain Spanish media also propagate negative stereotypes about immigrants and Roma, associating them with illegality, deviance and lack of adaptation. According to the Union Romani, several media in the Valencia Autonomous Community regularly give a negative image of Roma. Material aimed at fighting negative stereotypes in the media has been developed by civil society, including the FSG, and public institutions. This material should be further promoted in order to prevent the stigmatisation of the Roma community.

The Open Society Justice Initiative documented the prevalence of ethnic and racial profiling by Spanish police authorities, and several municipal police forces have developed projects to fight discriminatory profiling. I had the opportunity to meet with local authorities and representatives of the police in Fuenlabrada where measures were taken to promote diversity and fight discrimination. The municipal police force implements a programme to improve police accountability with regard to stop and search activities. I was informed that the initiative is successful both in terms of decreasing ethnic profiling and of making the police more effective. Therefore, I encourage the Spanish government to adopt the necessary measures to stop racial or ethnic profiling by the police, using the Fuenlabrada initiative as well as others developed in Girona and Catalonia as models for local and national Spanish police forces.

In the context of the fight against deep-seated prejudices, it is necessary to increase knowledge of the Roma culture among the majority population. I therefore welcome the work of the Institute of Roma Culture in the promotion of the Roma culture, languages and tradition. Better knowledge of Roma culture and history will prevent the spreading of numerous prejudices in society. In this framework, your authorities could take a further step by implementing the Council of Europe *Dosta!* campaign at national level. The translation into Spanish of the Council of Europe *Factsheets on Roma History* and their systematic dissemination would provide a further tool for teachers, pupils, decision makers and the general public to promote the facts about Roma, their history and culture.

Looking forward to receiving your reply and continuing a constructive dialogue, I remain,

Yours sincerely,



Thomas Hammarberg