

# **Franet National contribution to the Fundamental Rights Report 2020**

**Spain**

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## Franet country study: policy and legal highlights 2019

<p><b>Issues in the fundamental rights institutional landscape</b></p>	<p><b>Creation of Sustainable Development Council:</b> On 23 February 2019, by the <a href="#">PCI/169/2019 Order of 22 February, creating the Sustainable Development Council</a>. It complements the governance structure for the implementation of the Agenda 2030 for Sustainable Development in Spain.</p> <p><b>The Council of Ministers approved to forward the revised European Social Charter of the Council of Europe to the General Courts for future ratification and subsequent implementation.</b></p>
<p><b>EU Charter of Fundamental Rights</b></p>	<p>The Judicial Courts and especially the <b>Supreme Court have been identified as the actors that have most used the Charter over the past ten years</b>. The data bases checked shows the existence of <b>a growing trend in the use of the EU Charter</b>.</p> <p>The academic sector would be the second actor when organizing different academic events, research projects, doctoral theses and publications.</p>
<p><b>Equality and non-discrimination</b></p>	<p><b>New legal amendments on equality and working conditions, conciliation rights and social protection rights:</b> a <a href="#">Royal Decree-Law 6/2019, of 1 March, of urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation</a>. It is in force since 8 March 2019.</p>
<p><b>Racism, xenophobia &amp; Roma integration</b></p>	<p><b>Launch of a National Action Plan to combat Hate Crimes</b> by the Ministry of Interior. It represents a new approach and focuses on the work and response of the Spanish Security Forces in cases of hate crimes and incidents. It encompasses four fundamental pillars: training of the Spanish Security Forces, prevention, and assistance to victims and response to this type of crimes. <b>Against Roma (AntiRoma) criteria is included as a new and specific one.</b></p>
<p><b>Asylum &amp; migration</b></p>	<p><b>Support measures Catalonia for minors and young who previously were in custody:</b> <a href="#">Law of 2019 related to social benefits of an economic nature</a>. The financial benefit for young people who have been one year in custody will become 12 months instead of 6 months as it was previously.</p>
<p><b>Data protection and digital society</b></p>	<p><b>Constitutional Court stresses Protection of personal data and the principle of legal certainty:</b> <a href="#">Judgement of 22 May 2019, issued against an Appeal for Unconstitutionality</a>, brought by the national Ombudsman against the Law of the general electoral regime. The issues discussed were: the protection of personal data, principle of legal certainty, the negative aspects of the ideological freedom and the right to political participation. <b>It provokes the nullity of the legal provision that makes it possible to collect personal data by political parties on the citizens' political views.</b></p>
<p><b>Rights of the child</b></p>	<p><b>Law amendment for the integral protection of children and adolescents against violence:</b> <a href="#">Draft organic law for comprehensive protection of children and adolescents from violence</a>. It responded to the urgent need to introduce into the legal system the commitments made by Spain in the integral protection of children and adolescents against violence. Although by the end of 2019 was not adopted yet.</p>
<p><b>Access to justice, including victims of crime</b></p>	<p><a href="#">Law 3/2019, of 1 March, on improving the orphaning status of the daughters and sons of victims of gender-based violence and other forms of violence against women, creates the provision of orphan hood on behalf of the sons and daughters of the denouncing woman as a consequence of the violence against the women.</a></p>
<p><b>Convention on the Rights of Persons with Disability</b></p>	<p><b>Establishment of a specialized disability Prosecutor's Office:</b> the Spanish Ministry of Justice did establish within the State Attorney General's Office, <a href="#">a specialized disability prosecutor's office</a> for the protection of disabled and elderly persons.</p> <p><b>European Commission pursue infringement procedures against Spain in relation to the Digital Single Market:</b> <a href="#">Spain failed to effectively implement the rules on the 112 emergency number (Directive 2002/22/EC)</a>, in particular by ensuring equivalent access for disabled users.</p>

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

On 11 January 2019, it did enter into force in the Valencian Autonomous Community (*Comunidad Valenciana*) a new **Law on the equality of LGTBI persons**<sup>1</sup>. One of its priority objectives is to promote the visibility of people with intersex variations or with differences in sexual development. Their poor public presence is due, among other reasons, to the low number of associations' network to fight for the rights. For example, they do not have a specific representative organization in the field of the Valencian Community.

On 1 February 2019, **the Council of Ministers approved to forward the revised European Social Charter of the Council of Europe to the General Courts for future ratification and subsequent implementation**<sup>2</sup>. Its final ratification is attending the new constitution of the National Parliament and Congress after last national general elections in November 2019. The revised European Social Charter entails the incorporation, in a single document, of the rights contained in the original European Social Charter, its 1988 Additional Protocol, as well as new provisions extending the protection of human rights in the areas of employment housing, education, social protection, and non-discrimination, with a special emphasis on vulnerable groups such as children, elderly people, migrants, and people with disabilities.

On 7 March 2019 it was published the **Royal Decree-Law 6/2019, of 1 March, of urgent measures to ensure equal treatment and opportunities between women and men in employment and position** (*Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación*)<sup>3</sup>. It does incorporate many legal amendments that addressed three major issues: equality and working conditions, conciliation rights and social protection rights.

Equal pay. In cases of nullity of contractual clauses for wage discrimination the worker shall be entitled to receive the remuneration corresponding to work for equal value. It does also incorporate the definition of work for equal value in the European legislation. The law is also improved to ensure the absence of discrimination in the definition of professional groups.

Protection of working persons in employment. The presumption of the nullity of the dismissal of the pregnant worker during the probationary period is incorporated, thus taking up European case-law

Rights of conciliation and promotion of co-liability. The right to request the accommodation of the day for reasons of conciliation is collected (if the reason is the children, until the fulfilment by them of 12 years) and a procedure by which the company must negotiate with the worker their application having to reason their decision. This amendment is welcome and also brings up doctrine from the CJEU and the internal courts themselves.

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<sup>1</sup> Spain, Valencian Autonomous Community (*Comunidad Valenciana*) (2018), [Law 23/2018, of 29 November on the equality of LGTBI persons](#) (*Ley 23/2018, de 29 de noviembre, de igualdad de las personas LGTBI.*), 29 November 2018.

<sup>2</sup> Spain, Presidency of the Government (*Presidencia del Gobierno*) (2019), "[Carta Social Europea \(revisada\)](#)" Press release, 1 February 2019.

<sup>3</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Royal Decree-Law 6/2019, of 1 March, of urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation](#) (*Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación*), 1 March 2019.

The permit will be of equal duration for both parents, although the extension will be carried out with a transition period: 8 weeks in 2019 12 weeks in 2020 16 weeks in 2021 The six weeks following birth will be mandatory for both, and on a day Complete. After the first six weeks, the rest may be distributed at will. Interrupted or uninterrupted, full or part-time - subject to agreement with the company-, until the baby is 12 months old.

Social protection. It does incorporate a new benefit for the case of co-responsible breastfed baby care exercise. The half-hour reduction between the 9th and twelve months of the child (accessed if both parents enjoy such leave with the same duration and scheme) is supplemented for one of the parents with an equivalent benefit. This benefit has entered into force for the cases that occur, after its suspension in 2012, social security contributions for non-professional caregivers are recovered. Its recovery was very necessary to compensate for the unprotecting caused by the obvious deficiencies of our dependency protection system and that causes the interruption of the contribution race of many people who are removed from work or they find obstacles to finding it

On 27 March 2019 **Spain participated, through the Institute of Women and for Equal Opportunities** (*Instituto de la Mujer y para la Igualdad de Oportunidades, IMIO, in its acronym in Spanish*) **in the Committee for the draft of the Recommendation of the Council of Europe to prevent and combat sexism.** A definition of sexism is included for the first time in an international text and Guidelines to Prevent and Combat Sexism, which include general and specific tools and measures in certain priority areas, such as language and communications, the internet, social media and sexist hate speech, media, advertising, the workplace, the public sector, the judiciary, educational institutions, culture and sport and the private sphere.

On 10 April 2019, the Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la eliminación de la discriminación racial y étnica*) published a **Recommendation to Prevent the Use of Discriminatory, Racist or Xenophobic Speech in Election Campaigns** (*Recomendación para evitar el uso de discursos discriminatorios, racistas o xenófobos en las campañas electorales*)<sup>4</sup>. In this recommendation, the Council expresses its concern at possible messages of a racist, xenophobic or anti-Roma nature, and to hate speech and segregated and exclusionary expressions that may be poured into the context of election campaigns. The Council advocates responsibility for electoral political action and urges political parties and other actors involved to ensure that the plurality and diversity of Spanish society does not become a throwing weapon that encourages segregation and difference, rather than promoting inclusive cohabitation speeches for all. The Council, in its first performance following the appointment of its new presidency and after five years of inactivity, sees these forthcoming elections as a great opportunity to show commitment and respect for social diversity and the constitutional principle of equal treatment and non-discrimination. Noting the rise across Europe of political parties that encourage exclusion, hatred of the different, rejection of child minorities, immigrants and refugees, alert to what could be a serious involution in rights and freedoms guaranteed in a democratic and plural society like the Spanish

### **Research findings, studies or surveys on either experiences of discrimination or rights awareness**

Until 19 May 2019, the José Ortega y Gasset University Institute (*Instituto Universitario José Ortega y Gasset*) conducted, on behalf of the Observatory of Racism and Xenophobia (*Observatorio del Racismo y la Xenofobia, OBERAXE, in its Spanish acronym*), **a survey on xenophobia, hostility**

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<sup>4</sup> Spain, Council for the Elimination of Racial or Ethnic Discrimination (*Consejo para la eliminación de la discriminación racial y étnica*) (2019), [Recommendation to Prevent the Use of Discriminatory, Racist or Xenophobic Speech in Election Campaigns](#) (*Recomendación para evitar el uso de discursos discriminatorios, racistas o xenófobos en las campañas electorales*), 10 April 2019.

**and discrimination towards Muslims** to get a greater understanding of the situation in the country around this issue.

On 17 June 2019 it was presented by the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **the** annual CERMI report on human rights and disability in Spain for 2018 (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2018*)<sup>5</sup>. It was carried out thanks to the support of the Caixa Foundation. It does report that in 2018 there were 22 cases of beatings, sexual assaults and abuse against persons with disabilities. It concluded that this is a vulnerable and unprotected group facing violence that also finds difficulties in seeking reparation and justice.

On 9 September 2019, the State Federation of Lesbians, Gays, Trans and Bisexuals (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*, FELGTB, in its Spanish acronym) presented data from **a survey conducted to a sample of transsexual people aged between 16 and 24 years across Spain**. It revealed that almost 60% (58%) suffered transphobia at school. Based on the data collected, it was decided to **launch the campaign named as Nora and her dwindling backpack** (*Campaña Nora y su mochila menguante*), addressing the whole society in general and the educational community in particular to raise awareness of the reality of transsexual children and young people. It also aim of highlighting the importance of education in affective-sexual diversity, family and gender. The research was not representative because it was based on a limited sample but it provided significant data. It revealed that, after being the victim of these assaults, only 15% of those surveyed found support in teachers and 20% did not find support in no one. Another finding was that transsexual children and young people experience more violence and are less happy than the rest of the students.

It was developed through a quantitative methodology through a non-random chain sampling. Initially entities and people accessible to the population under study were contacted requesting them a chain of participation and contrasting the veracity of the responses and counting on the necessary permits received. The object of study was based on the definition of the educational context. The collection of information was carried out through an online application with a standardized questionnaire with the following blocks of questions:

- Socioeconomic and geogenetic identification: country of origin, level of education, situation in relation to activity, orientation and gender identity and age of abandonment of the studies.
- Experience in the educational stage: experience of treatment received from a gender perspective, characteristics of the specific support received as a transsexual person.
- Transphobia analysis: characteristics of transphobia, duration of transphobia, relationship with the educational stage, characterization of aggressors, measures taken from schools.

The online questionnaire was distributed among transsexual people aged 16 and over who have received education in Spain. This survey involved 205 people, including those aged between 16 and 24, resulting in 73 questionnaires completed, with a total of 27 questions, which have generated 56 variables. The information was collected from 19 July to 8 August 2019.<sup>6</sup>

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<sup>5</sup> CERMI, (2019), [Annual CERMI report on human rights and disability in Spain for 2018](#) (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2018*), Madrid, CERMI.

<sup>6</sup> The State Federation of Lesbians, Gays, Trans and Bisexuals (*Federación Estatal de Lesbianas, Gais, Trans y Bisexuales*) (2019), [Nora campaign and her dwindling backpack \(Campaña Nora y su mochila menguante\)](#), press release, 9 September 2019.

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

On 8 January 2019, the **Ministry of Justice published an** Draft Organic Law on comprehensive protection of children and adolescents from violence (*Anteproyecto de Ley Orgánica de protección integral a la infancia y la adolescencia frente a la violencia*)<sup>7</sup>, which was sent to the State Attorney General's Office, and which contains an amendment to the fourth aggravating circumstance of article 22 of the Criminal Code, which it would be worded as follows: "Committing the crime on racist, anti-Semitic or other discrimination regarding the ideology, religion or beliefs of the victim, ethnicity, race or nation to which he belongs, his sex, age, orientation, identity, gender, gender reasons, reasons for aporophobia or social exclusion, the disease suffered or your disability or any other reason based on discriminatory prejudice, regardless of whether such conditions or circumstances occur effectively in the person on which the conduct falls" (*Cometer el delito por motivos racistas, antisemitas u otra clase de discriminación referente a la ideología, religión o creencias de la víctima, la etnia, raza o nación a la que pertenezca, su sexo, edad, orientación, identidad sexual o de género, razones de género, razones de aporofobia o de exclusión social, la enfermedad que padezca o su discapacidad o cualquier otro motivo basado en un prejuicio discriminatorio, con independencia de que tales condiciones o circunstancias concurren efectivamente en la persona sobre la que recaiga la conducta*). This draft included dispositions which amends 11 laws. It does establish a very broad concept of violence that encompasses any form of physical, psychological or emotional harm or abuse, including sexual assault or abuse, physical punishment, simple neglect or negligent treatment. All types of violence are punished whatever form of commission, including that carried out through information and communication technologies.

On 20 February 2019, the **NGO SOS Racisme Catalunya presented its report Appearance is not a motive. Police identifications by ethnic profile in Catalonia** (*L'aparença no és motiu. Identificacions policials per perfil ètnic a Catalunya*)<sup>8</sup>, framed in the campaign Stop of Stopping me (*Parad de pararme*), which was drawn up from the analysis of the public data of the Mossos d'Esquadra and the local police in Barcelona, Badalona, Lleida, Salt, Salou and Terrassa. With these figures, the organization has denounced institutional discrimination and disproportionality as part of what they defined as an existing institutional racism. It was highlighted that more than half (54.1% ) of the total identifications made by the Mossos fall on foreign persons, even though this group accounts for only 13.7% of the population in Catalonia.

Three out of four random identifications of the Catalan police (*Mossos d'Esquadra*) have been made to foreign nationals. Up to 77% of the 138,000 people identified in the so-called "police crossing checks" and in the "citizen and judicial security operations" carried out by the Catalan police throughout 2017 did not have Spanish nationality.

On 15 January 2019, the Ministry of Interior (*Ministerio del Interior*) launched the National Action Plan to combat Hate Crimes (*Plan de Acción de Lucha Contra Los Delitos de Odio*)<sup>9</sup>. It represented a new approach and focuses on the work and response of the Spanish Security Forces in cases of hate

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<sup>7</sup> Spain, Ministry of Justice (*Ministerio de Justicia*) Ministry of Interior (*Ministerio del Interior*) Ministry of Health, Consum and Social Welfare (*Ministerio de Sanidad, Consumo y Bienestar Social*), [Draft Organic Law for comprehensive protection of children and adolescents from violence](#) (*Anteproyecto de ley orgánica de protección integral a la infancia y la adolescencia frente a la violencia*), 8 January 2019.

<sup>8</sup> SOS Racisme Catalunya (SOS Racismo Cataluña), (2019), [Appearance is not a motive. Police identifications by ethnic profile in Catalonia](#) (*L'aparença no és motiu. Identificacions policials per perfil ètnic a Catalunya*), Barcelona, SOS Racisme Catalunya

<sup>9</sup> Spain, Ministry of Interior (*Ministerio del Interior*), (2019), [National Action Plan to combat Hate Crimes](#) (*Plan de Acción de Lucha Contra Los Delitos de Odio*), 15 January 2019.

crimes and incidents. It encompasses four fundamental pillars: training of the Spanish Security Forces, prevention, and assistance to victims and response to this type of crimes. Against Roma (*AntiRoma*) criteria and indicator is included as a new and specific one. Moreover, specific procedures and digital tools are developed to counter these crimes and hate speech, also in social media. In addition, this Action Plan sets the foundations to continue a robust collaboration with civil society groups to jointly defend the democratic values that unite us and rep-resents a renewed guide to promote the fight against hate conducts that generate a limitation of fundamental rights and freedoms. The purpose is also to reduce under-reporting, which is intended to make the State Security Forces and Corps, FCSEs (*Fuerzas y Cuerpos de Seguridad del Estado*, FCSEs, in its acronym in Spanish) more aware of the aggressions detected. The Ministry of the Interior also points to virtual space and social networks as the area in which the complaint by groups and assaulted persons has grown the most.

**On February 2019 and in line with the Objectif 4.7 of the Action plan to combat hate crimes, certain campaigns on the online networks started to be implemented on the first trimester of 2019 such as: the second edition of the [campaign #SomosMás, against hatred and radicalism](#) (*#SomosMás, contra el odio y el radicalismo*) that is an initiative of "YouTube Creators for Change" (Google/Youtube) supported by the Government of Spain through the participation of several ministries. This initiative aimed to raise awareness of hate speech and violent radicalism, and to promote positive messages of tolerance and social inclusion in the network. One of the two axes of work is training, with workshops aimed at young people in all the Autonomous Communities and which include the development of teaching owed material and role-playing games. The other axis of action is awareness raising, with the implementation of a communication campaign with collaborations of creators that will help amplify positive messages through their videos. #SomosMás aimed for the 2018/2019 academic year to exceed the figures of the previous edition and train 30,000 students from 250 centers distributed in 17 Autonomous Communities, for which it will have the collaboration of 700 educators. It will also have the support of 8 new YouTube ambassadors who will use their channels to promote change and address hate speech and intolerance on the network. Some of the collaborating youtubers are [Ro en la red](#), [Ande Asiul](#) y [Koko DC](#).**

On 14 May 2019, the State Attorney General's Office published on guidelines for interpreting hate crimes under article 510 of the Criminal Code (*Circular de la Fiscalía General del Estado (7/2019)*). After the developments introduced in the Criminal Code by Organic Law 1/2015, of March 30 as well as in 2018, some problems still remains and then some proposed modifications were introduced. This publication pursue the setting of interpretative guidelines for the various criminal figures encompassed in the new Article 510 of the Criminal Code (hereinafter, CC) following the reform carried out by Organic Law 1/2015 of 30 March, which entered into force on 1 July 2015<sup>10</sup>.

The criminal code reform did not though supposed the inclusion of a single category of hate crimes, may be found expressions of it disseminated throughout the CC and which involve interpretative difficulties in other criminal modalities related to this matter. The various offences contained in the new Article 510 CC still present in their typicality diffuse contours that undoubtedly make them difficult to detect and which, perhaps, do not allow the full range of behaviours presented by the phenomenon of the « exclusionary intolerance', in expression of STC No 177/2015 of 22 July. Similarly, manifestations of this punishable discrimination can be considered as follows: threats to certain groups provided for in Article 170.1 CC, the crime of torture on the basis of discrimination of Article 174.1 CC, the crime of discrimination in the Article 314 CC, the offence of discriminatory refusal of public services in Article 511 CC and its corresponding scope is within the scope of

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<sup>10</sup> Spain, State Attorney General's Office (*Fiscalía General del Estado*), [Circular 7/2019, on guidelines for the interpretation of hate crimes under article 510 of the Criminal Code](#) (*Circular 7/2019, sobre pautas para interpretar los delitos de odio tipificados en el art. 510 CC*), 14 May 2019.

professional or business activities provided for in Article 512 CC, the crime of unlawful association to promote or to discriminate against the offences against religious sentiments provided for in the arts. 522 to 524 CC, or the offence of derision or old age provided for in Article 525 CCs.

On 9 September 2019, the 2019 Public Prosecutor's Report (*Memoria de la Fiscalía 2019*)<sup>11</sup> was officially presented. Regarding data collection of hate crimes, the **Special Prosecutors' Offices for hate crime and discrimination**, hate crimes and incidents increased by 11.6% compared to the 2017 Prosecutor's Office's 2017 report. 26% out of these had a racist and xenophobic motivation. This Report contains data relating to hate and discrimination crimes in 2018. During that period, the total number of hate and discrimination criminal investigations pursued by the Public Prosecutor were 809, specifically for the following reasons: threats to certain groups (32); employment discrimination (2); incitement to hatred/violence/discrimination (89); offensive information dissemination (220); refusals of services (35); illegal association for discrimination (1); offending religious feelings (14); offences against mental integrity (31); and others (114). In addition, the Special Prosecutors' Offices for hate crime and discrimination suggests, in its report, the reform of the Criminal Code to mitigate the sanctions imposed by courts when such crimes are committed through social networks, because tweeters who had posted messages with racist, homophobic or anti-Semitic content have been sentenced to imprisonment in the recent years.

**The collection of statistical data remains one of the outstanding tasks.** Again, the Delegated Prosecutors comment in their respective reports on the difficulty of keeping a reliable statistical record, among other reasons because of the difficulties of registering it and the difference in applications in various communities. While the official records seems to be improving every year, but still have major flaws. The statistical figures provided by the Prosecutors' Offices and those issued by the Secretary of State for Security will always be different, and this is because the Security Forces record "incidents" of hatred, a concept that is broader than that of crimes, and because it is sufficient that any of the persons involved in the incident suspect, or mention a motive of hatred or discriminatory, so that the fact is recorded as such, even if such a motivation is subsequently discarded.

On 15 October 2019 took place the launch of the [CLARA Project: Local Communities of Learning Against Racism](#) (*Comunidades Locales de Aprendizaje contra el Racismo la Xenofobia y los discursos de odio*). The project is co-financed by the European Commission's Rights, Equality and Citizenship Programme 2014-2020. It will be implemented between the 2 September 2019 and 1 September 2021. The project is coordinated by the International Relations Section of the Municipal Police of Madrid (*Sección de Relaciones Internacionales de la Policía Municipal de Madrid*) together with ten partner organizations including the Monitoring Centre for Racism and Xenophobia (*Observatorio Español del racismo y la Xenofobia*, OBERAXE, in its Spanish acronym) and the formal representations of the municipal police from different locations in Spain. It aimed at improving the capacities of local authorities, municipal police and communities to prevent, identify and combat racist and xenophobic incidents, speeches and hate crimes through local learning communities (*comunidades locales de aprendizaje*, CLAPs in its Spanish acronym). It will be complemented by the development of a model of monitoring and victims support for these type of crimes. It will take into consideration and include good practices and lessons learned from other European local experiences.

**With respect to research findings, studies or reports on experiences of discrimination in 2019**, it is important to mention that for the time being the Council for the Elimination of

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<sup>11</sup>Spain, Prosecutors' Offices (*Fiscalía General del Estado*) (2019), [2019 Public Prosecutor's Annual Report](#) (*Memoria de la Fiscalía 2019*), Madrid, 9 September 2019.

Racial or Ethnic Discrimination (*Consejo para la eliminación de la discriminación racial y étnica*) - the national body established in 2003 by Article 33 of the [Law on Fiscal, Administrative and Social Order Measures in order to ensure the application of equal treatment and non-discrimination](#)<sup>12</sup> has not so far produced any publication related to the subject in 2019.

On 21 March 2019 the **Spanish NGO Movement Against Intolerance** (*Movimiento contra la Intolerancia*) published [The Special Raxen Report 2018](#) (*El Informe Raxen especial 2018*)<sup>13</sup> that points to a radicalization of positions in the public sphere that fuels identity hatred in an international context conducive to its expansion. The monitoring embodied in the report results in around 4,000 incidents or assaults related to hate crimes during 2018 and indicates the proliferation and implementation of racist and xenophobic groups in all the Autonomous Communities. It also highlights that up to 1,000 Internet sites have been located that offer xenophobic and intolerance content and raises more than 10,000 people of ultra and neo-Nazi ideology in Spain. The covered topics are: Public Administrations, Hate Crimes, Discrimination, Gender/Sexual Orientation, Gypsies, Immigration, Justice, Legislation, Racism/Xenophobia, Religion and Beliefs.

On March 2019, **The Madrid Municipal Police Diversity Management Unit** (*Unidad de Gestión de la diversidad de Policía Municipal de Madrid*) launched the **Campaign #Tacha El Odio** together with different social entities of the city such as: La Rueca, ACCEM, Foundation Pluralism and Coexistence, Arcopoli, COGAM, La Merced Migrations, Salam Project, Rumiñahui, Stop Haters, Fundación Secretariado Gitano, Famma, CEAR, Rais Hogar Yes, Full Inclusion, Sos Racismo, Realities, Bokatas, Movement Against Intolerance, within the framework of the European project Local Voices. It is [a campaign](#) to enhance the diversity of the city to make it clear to hate-incited people have no space. This type of discourse puts at serious risk the coexistence of a diverse city like Madrid. A diversity, which brings wealth and value to the city, and poses no danger or risk to it despite what some extremist groups want to maintain.<sup>14</sup>

On 11 June 2019, it was published **the annual Ombudsman's report** that reflects the management of the activities and actions carried out throughout 2018 (pages 292 to 295)<sup>15</sup>. The main issues highlighted covered: The visibility of the situation of the Roma community in Spain as one of the central issues for this institution; the actions related to the need to eradicate police identification based on ethnic profiling; the continuation of the supervision of the media's treatment of persons with disabilities; the accessibility of the digitization process being carried out by public administrations and the action of the security forces with the persons with disabilities; in the area of discrimination on the basis of sex or sexual orientation, the monitoring of the Administration's action in relation to hate speech as well as the action initiated concerning the requests for registration of the name commonly used, in the cases of transgender child(ren).

In October 2019, it was published **the national report on the evolution of hate crimes incidents in Spain. 2018** (*Informe sobre la evolución de los incidentes relacionados con los delitos de odio en España*). The report reflects a 12.6% increase in hate crimes compared to 2017, with a total recorded

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<sup>12</sup> Spain, Ministry of the Presidency (*Ministerio de la Presidencia*) (2003), Law on Fiscal, Administrative and Social Order Measures (*Ley 62/2003, de 30 de diciembre, de medidas fiscales, administrativas y del orden social*), Press release, 31 December 2003.

<sup>13</sup> Movement Against Intolerance (*Movimiento contra la Intolerancia*), (2019), *The Special Raxen 2018 Report* (*El Informe Raxen especial 2018*), Madrid, Movement Against Intolerance.

<sup>14</sup> Spain, Madrid Local Police (*Policía Municipal de Madrid*), (2019), [“Barbero y Valiente presentan ‘Tacha el odio’, la nueva campaña de Policía Municipal”](#), press release, 8 February 2019.

<sup>15</sup> Spain, National Ombudsman (*Defensor del Pueblo Nacional*), (2019), [Annual Report 2018. Activities and actions carried out throughout 2018](#) (*Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018*), Madrid, National Ombudsman.

1,557 hate crimes over the year. It included two new categories of discrimination: discrimination on grounds of illness and generational or age discrimination. It does not provide any specific information on crimes of Islamophobia or hate crimes against the Muslim population. Other issues of relevance is the decrease of crimes in the fields of "religious beliefs or practices" and "sexual orientation and gender identity"; the high number of crimes recorded under the categories of "ideology", "racism/xenophobia" and "sexual orientation and gender identity", that constituted an 86.7% of the total crimes collected. The majority of victims who suffer this type of crime are people belonging to the male sex (more than 63%), and between 26 to 50 years of age (50.5%). The profile of the author arrested/investigated for "hate crimes" indicates that he is mainly male (84.5%). Most of the authors of these facts fall within the range of 18 to 40 years (60.4%).<sup>16</sup>

On 16 October 2019, **the Moroccan Association** (*Asociación Marroquí*) **has launched the first Spanish app to combat Islamophobia**, within the National Programme for the Prevention of Islamophobia, coordinated by the Moroccan Association for the Integration of Immigrants. It was co-financed by the Asylum, Migration and Integration Fund (AMIF), together with the Andalusian Government (*Junta de Andalucía*), as part of the call of the programmes aimed at immigrants from third countries. The app is free and anonymity and maximum security, persons who are victims of and/or witnessed Islamophobia attacks will be able to report the facts. To do this, they will only have to download the application and proceed to cover a form that includes issues related to the fact to be reported.

In addition, other reports relating to Racism, xenophobia and related intolerance must be mentioned in this context.

**In 2019** FRIDA Project Evaluation Report of Training for the Prevention and Detection of Racism and Xenophobia in Classrooms (*Formación para la prevención y detección del racismo y la xenofobia en las aulas*)<sup>17</sup>. This is an analysis of the potential impact of the project on the Autonomous Communities in which it has been carried out, as well as the identification specific needs to continue the prevention of racism, xenophobia and other forms of intolerance in school. It does shows the involvement and acceptance that it has had by the education managers of the different administrations that is reflected, for example, in the promotion of teacher training in racism, xenophobia and other forms of intolerance in some communities, such as Castilla y León or Castilla-La Mancha; the incorporation, by the Valencian Community, of information on the motivation of the incidents that are reported to its PREVI registration system; or the inclusion by the Ministry of Education and Vocational Training of the prevention and treatment of intolerance in its Cohabitation Plan. In addition, the evaluation describes proposals for future actions, identified by education managers from different Autonomous Communities who have participated in it, which will allow to take advantage of the synergies that have occurred between the administrations and society and contribute to deepening the new methods of educational integration illustrated by the project.

The **Monitoring Centre for Racism and Xenophobia** (*Observatorio Español del racismo y la Xenofobia*, OBERAXE, in its Spanish acronym) **published Perceptions, discourses and attitudes towards immigrants in a Madrid neighbourhood** (*Percepciones, discursos y actitudes hacia las*

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<sup>16</sup> Spain, Ministry of Interior (Ministerio del Interior) (2019), [The national report on the evolution of hate crimes incidents in Spain. 2018](#) (*Informe sobre la evolución de los incidentes relacionados con los delitos de odio en España*), Madrid, Ministry of Interior.

<sup>17</sup> The Monitoring Centre for Racism and Xenophobia (*Observatorio Español del racismo y la Xenofobia*, OBERAXE, in its Spanish acronym), (2019), [FRIDA Project Evaluation Report of Training for the Prevention and Detection of Racism and Xenophobia in Classrooms](#) (*Formación para la prevención y detección del racismo y la xenofobia en las aulas*), Madrid, FRIDA Project.

*personas inmigrantes en un barrio de Madrid*)<sup>18</sup>. This study aims to deepen, from a qualitative perspective, knowledge of motivations reasons for changes and new trends in Spanish public opinion that explain racism and xenophobia. It does include several sections: Data and Statistics, Discrimination, Employment, Immigration, Integration, Racism/Xenophobia, Awareness Raising. This study addresses a delimited context, the Madrid district of Puente de Vallecas, which has sought to identify the social sectors, key issues and discourses they hold and explain the favourable or unfavourable opinion towards people refugees and migrants in general. The district of Puente de Vallecas has been the space chosen for research for its socially complex character, representative of many other neighbourhoods that have suffered the impact of the economic crisis and a cultural crisis because it is the mirror of many a working-class neighbourhoods in the transformation of large cities, in Spain and in Europe. It is a first diagnosis that allows to conceptually demarcate the terrain and know the main currents of opinion, feelings and trends that can help describe the social climate of the neighbourhood. The research methodology was to identify informants who are not part of the cultural, trade union or neighbourhood fabric, nor are they in common public spaces. They lead private lives and their sources of information, their intellectual worlds, their personal networks, they are multiple and hugely fragmented and contradictory. Hence, finding subjects to do fieldwork has been a delicate task that has required an approximation.

**The annual report on Foreign Internment Centres 2018**, (*Centros de Internamiento de Extranjeros*, CIE, in its Spanish acronym) was **prepared by the Jesuit Service to Migrants-Spain** (*El Servicio Jesuita a Migrantes-España*, SJM-E, in its Spanish acronym) is entitled '**Discrimination of Origin** (*Discriminación de Origen*). It stated that in 2018 two-thirds of the persons interned had Maghreb origin (36% from Morocco and 32% from Algeria), indicating discriminatory treatment of migrants in the CIEs. In addition, they continue to be concerned about the serious shortcomings in different aspects of the functioning of the centres, detected by THE ICE teams who visit the internal people in five of the centres (Madrid, Barcelona, Valencia, Algeciras and Tarifa). Lack of early detection of vulnerable persons (physical diseases, mental health), structural and hygiene deficiencies, detention of child (ren), barriers to the application for international protection and access to NGOs, absence of translation and interpretation, etc.

It is important to mention that the Monitoring Centre for Racism, Xenophobia and Intolerance in Sports (*Observatorio de la Violencia, el Racismo, la Xenofobia y la Intolerancia en el Deporte*) has not published the statistical report concerning the 2017-2018 nor the 2018-2019 sports season, Violence and racism at sports events (*Violencia en los espectáculos deportivos*), which this Monitoring Centre has been publishing annually since 2002.

On 28 May 2019 Government Commission against violence, racism, xenophobia and intolerance in sport (*Comisión Estatal contra la Violencia, el Racismo, la Xenofobia y la Intolerancia en el Deporte*) published the CEVRIX-Proposals-processed-season-2017-2018 (*CEVRIX-Propuestas-tramitadas-temporada-2017-2018*)<sup>19</sup> prepared by the Statistics and Studies Division of the Technical General Secretariat of the Ministry, which [includes a selection of the most relevant statistical results](#) in the sports field based on the multiple statistical sources available. The interest of this work is to provide

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<sup>18</sup> The Monitoring Centre for Racism and Xenophobia (*Observatorio Español del racismo y la Xenofobia*, OBERAXE), (2019), [Perceptions, discourses and attitudes towards immigrants in a Madrid neighbourhood](#) (*Percepciones, discursos y actitudes hacia las personas inmigrantes en un barrio de Madrid*), Madrid, Ministry of Labour, Migration and Social Security.

<sup>19</sup> Spain, Government Commission against violence, racism, xenophobia and intolerance in sport (*Comisión Estatal contra la Violencia, el Racismo, la Xenofobia y la Intolerancia en el Deporte*) (2019), [CEVRIX-Proposals-processed-season-2017-2018](#) (*CEVRIX-Propuestas-tramitadas-temporada-2017-2018*), 28 May 2019.

a useful tool for an objective knowledge of the situation of the sports sector in Spain and its evolution<sup>20</sup>.

On 7 November 2019, it was published an **Analysis of cases and sentences in the field of Racism, Xenophobia, LGTIBphobia and other forms of Intolerance 2014-2017** (*Análisis de casos y sentencias en materia de Racismo, Xenofobia, LGTIBfobia y otras formas de Intolerancia*)<sup>21</sup>. The study analyses judgements related to hate crimes handed down in the period 2014 to 2017. The cases prosecuted have been analyzed according to a number of variables such as the characteristics of the persons investigated and the victims, as well as the procedural and material aspects contained in the aforementioned judgements. The study thus provides a sample review of the final decisions issued by our country's judicial bodies in hate crime proceedings. Among the most notable findings would be the complexity of the existing databases defined as much more complex than expected. And the issue that has caused the greatest difficulty has been the diversity of crimes and the multiplicity of penalties that may be imposed on each accused person in each case of hatred.

## **2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia**

On May 2019, [the Local Action Plan: Addressed To Local Authorities And Proximity Police For Tackling Racism, Xenophobia And Other Forms Of Intolerance](#) (*Plan de Acción Local: Dirigido A Las Autoridades Locales Y Policía Municipal Para Luchar Contra El Racismo, La Xenofobia Y Otras Formas De Intolerancia*)<sup>22</sup> **is published**. The document, framed in the European project Proximity has been coordinated by the Finnish Ministry of Justice, partner of the project, and is available in its English and Spanish. The Purpose of the Protocol/Action plan was to raise awareness among local actors, especially proximity police, about hate crimes and specifically racism, xenophobia and other forms of intolerance and their prevention; to Present good/promising practices that have already been used in the project partner countries to develop action at Local level; To involve local actors in addressing the general challenges and providing well-defined guidance on how to solve problems and improve the operation that could possibly be exploited in their context; To raise awareness about victims' rights amongst proximity police and local actors. The manual begins by explaining how a hate crime is identified and followed by an approach to legislative, coordination and good community relations frameworks that includes the subject, as well as a description of the tools to develop networks of associations to effectively deal with hate crimes. The Plan concludes with practical examples and development annexes.

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<sup>20</sup> Spain, Ministry of Culture and Sports (*Ministerio de Cultura y Deporte*), (2019), [Yearbook of Sports Statistics 2019](#) (*Anuario de Estadísticas Deportivas 2019*), Madrid, Ministry of Culture and Sports.

<sup>21</sup> The Monitoring Centre for Racism and Xenophobia (*Observatorio Español del racismo y la Xenofobia*, OBERAXE), (2019), [Analysis of cases and sentences in the field of Racism, Xenophobia, LGTIBphobia and other forms of Intolerance 2014-2017](#) (*Análisis de casos y sentencias en materia de Racismo, Xenofobia, LGTIBfobia y otras formas de Intolerancia*), Madrid, Ministry of Labour, Migration and Social Security.

<sup>22</sup> Spain, Ministry of Justice of Finland, (2019), [the Local Action Plan: Addressed To Local Authorities And Proximity Police For Tackling Racism, Xenophobia And Other Forms Of Intolerance](#), Madrid, Ministry of Labour, Migration and Social Security.

## Chapter 3. Roma integration

### 1. Measures and developments addressing Roma/Travellers segregation

On 15 January 2019, the Ministry of Interior (*Ministerio del Interior*) launched **the National Action Plan to combat Hate Crimes** (*Plan de Acción de Lucha Contra Los Delitos de Odio*)<sup>23</sup>. It represents a new approach and focuses on the work and response of the Spanish Security Forces in cases of hate crimes and incidents. It encompasses four fundamental pillars: training of the Spanish Security Forces, prevention, and assistance to victims and response to this type of crimes. Against Roma (*AntiRoma*) criteria and indicator is included as a new and specific one.

Between the 14 and the 25 January 2019, **the United Nations Special Rapporteur on minority issues, Fernand de Varennes, made his official visit to Spain**. The general objective of the visit was therefore to take a closer look at existing legislation, policies and practices for the protection and promotion of the rights of persons belonging to national, ethnic, religious or linguistic minorities. It wanted to explore minority-related issues in areas of particular importance such as education, the use of minority languages, housing, employment, administration and justice, access to health and other public services, the participation of minorities in political processes, and efforts to combat hate speech and other forms of intolerance aimed at minorities, including Islamophobia and antiquity. He also wanted to get a better idea of the regulatory framework that regulates human rights in general, and in particular those of minorities, including the latest amendments to the laws, rules and other relevant mechanisms in this area. Among the findings most relevant is that despite commendable and unquestionable efforts and advances in the field of education, and the highest literacy rate, in recent years, about 64% of Roma children have not yet completed secondary education mandatory, while for the general population this figure is around 13% (*A pesar de los encomiables e incuestionables esfuerzos y avances en el campo de la educación, y el mayor un índice de alfabetización, en los últimos años, alrededor del 64% de los niños gitanos aún no completan la educación secundaria obligatoria, mientras que para la población general esta cifra está entorno al 13%*)<sup>24</sup>

On 22 March 2019, a delegation of NGO representatives from **the Standing Committee of the State Council of the Roma People** (*Consejo Estatal del Pueblo Gitano*) and **the Khetane Platform presented their Decalogue of State Council of the Gypsy People's Organizations for Political Parties** (*Decálogo De Las Organizaciones Del Consejo Estatal Del Pueblo Gitano Para Los Partidos Políticos*)<sup>25</sup>. It addresses the state-level political parties running for the National General Election on April 28<sup>th</sup>. Among the issues raised were: To have a better and better impact on active employment policies; To invest more and better available resources; Economic policies that promote social rights, the fight against poverty and social exclusion; Gender-specific policies for Roma women that ensure effective and real equal treatment; More and better impact on active employment policies; Invest more and better available resources. Economic policies that promote social rights, the fight against poverty and social exclusion; Gender-specific policies for Roma women that ensure effective and real equal.

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<sup>23</sup> Spain, Ministry of Interior (*Ministerio del Interior*), [National Action Plan to combat Hate Crimes](#) (*Plan de Acción de Lucha Contra Los Delitos de Odio*), 15 January 2019.

<sup>24</sup> United Nations (UN), Office of the High Commissioner (OHCHR) (2019), "[Declaración del Relator Especial de las Naciones Unidas sobre cuestiones de las minorías, Fernand de Varennes, sobre la conclusión de su visita oficial a España 14-25 de enero de 2019](#)", press release, 25 January 2019

<sup>25</sup> The State Council of the Roma People (*Consejo Estatal del Pueblo Gitano*), (2019), [Decalogue of State Council of the Roma People's Organizations for the Political Parties](#) (*Decálogo De Las Organizaciones Del Consejo Estatal Del Pueblo Gitano Para Los Partidos Políticos*), Madrid, The National Council of Gypsy People.

## Measures and developments addressing Roma/Travellers segregation registered by reports published by civil society or public bodies.

In March 2019 it's published the report **Discrimination and Roma Community** 2018 Annual Report FSG (*Discriminación y Comunidad Gitana Informe Anual FSG 2018*)<sup>26</sup> addressed by the Foundation for the Roma Secretariat (*Fundación del Secretariado Gitano*, FSG in its Spanish acronym) compiles 232 cases of discrimination on grounds of ethnic origin that have been registered by the 54 offices FSG has throughout Spain<sup>27</sup>. In addition to social intervention with Roma families, in 2018 they incorporated new approaches that help to provide a more comprehensive response to the Roma people with which we work, through political advocacy, the fight against discrimination, the introduction of the approach to rights and a strong push for the promotion of interculturality and participation." It was the first year of the launch of our new Strategic Plan 2017-2023 and, therefore, activity in traditional areas such as employment, education or the fight against poverty and social exclusion was strengthened, promoting new initiatives and innovation programs.

On 22 March 2019, the Social Welfare regional government department (*Conserjería de Bienestar Social*), published **the** Decree 13/2019, March 18, of the Regional Council of the Roma People (*Decreto 13/2019, de 18 de marzo, del Consejo Regional del Pueblo Gitano*)<sup>28</sup>. The Council is established as an advisory and consultative collegiate body of the autonomous community of Castilla La Mancha, which aims to promote and involve the Roma association movement in the design and development of policies to combat the poverty and social exclusion on an integral basis, aimed at promoting the equal opportunities of this population and to which the functions established in this decree correspond.

On 11 June 2019, it was published the annual Ombudsman's report<sup>29</sup> that reflects the management of the activities and actions carried out throughout 2018<sup>30</sup>. It does state that it was decided that the visibility of the situation of the Roma community in Spain is one of the central issues for this institution, and the school segregation and the police ethnic profile were defined as two worrying problems. Once again, the Administration stresses the impossibility of providing statistical data of ethnic origin, citing the legal limitations of collecting data on the ethnic origin of the students. The report indicates that the investigation continues because of the abuses suffered by a group of Roma women who exercised begging in the Plaza Mayor of Madrid, by the followers of a football club of Dutch origin. The report indicates that the investigation process with the Dutch authorities has not yet been completed. The Roma Secretariat Foundation (*Fundación del Secretariado Gitano*, FSG in its Spanish acronym) made a complaint to the Public Prosecutor's Office about this incident, which requested a year in prison for each fan. The Netherlands Embassy also publicly apologised for this.

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<sup>26</sup> Foundation for the Roma Secretariat (*Fundación del Secretariado Gitano*), (2019), [Discrimination and Roma Community 2018 Annual Report FSG](#) (*Discriminación y Comunidad Gitana Informe Anual FSG 2018*), Madrid, *Fundación del Secretariado Gitano*.

<sup>27</sup> Spain, Roma Secretariat Foundation (*Fundación del Secretariado Gitano*) (2019), "[Discriminación y Comunidad Gitana Informe Anual FSG 2018](#)", Press release, 3 October 2019.

<sup>28</sup> Spain, Castilla La-Mancha, the Social Welfare regional government department (*Conserjería de Bienestar Social*) (2019), [Decree 13/2019, March 18, of the Regional Council of the Roma People](#) (*Decreto 13/2019, de 18 de marzo, del Consejo Regional del Pueblo Gitano*), 22 March 2019.

<sup>29</sup> Spain, National Ombudsman (*Defensor del Pueblo Nacional*), (2019), [Annual Report 2018. Activities and actions carried out throughout 2018](#) (*Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018*), Madrid, National Ombudsman.

<sup>30</sup> Spain, National Ombudsman (*Defensor del Pueblo Nacional*), (2019), [Annual Report 2018. Activities and actions carried out throughout 2018](#) (*Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018*), Madrid, National Ombudsman.

The Dutch authorities identified the perpetrators and PSV imposed a ban on them from visiting the football field for 3 years.

**The FOESSA Foundation for the Promotion of Social Studies and Applied Sociology** (*Fundación FOESSA Fomento de Estudios Sociales y Sociología Aplicada*) **published in the VIII FOESSA Report 2019, under the title Social situation of the Roma population in Spain: balance after the crisis** (*Situación social de la población gitana en España: balance tras la crisis. VIII Informe FOESSA 2019.*)<sup>31</sup>. It does include demographics over 1. The Roma population in Spain, as well as the risk factors of social exclusion of the Roma population in Spain, as well as evolution of the social situation of the Roma population in Spain. Within its Conclusions: The economic recovery is barely reflected in the Roma population. The FOESSA Foundation (Promotion of Social Studies and Applied Sociology) is structured organically in a board of trustees consisting of social organizations, universities and members in a personal capacity that guarantee the mission of FOESSA itself. Initiative of Caritas Española to know objectively the social situation of Spain.

Regarding the activities against segregation it's worth mentioning that the **8 April 2019 it was held the Gypsy Culture Awards at the Prado National Museum coinciding with the events of the institution's bicentennial**. The Institute of Gypsy Culture (*Instituto de Cultura Gitana*, IGC, in its Spanish acronym) considered it a formidable opportunity to value the gypsy inspiration of many of the masters of art history, as well as to continue to publicize the most relevant Gypsy artists in its history. It count on the collaboration of many museum institutions and the ICG made a video under the title "Spain is also gypsy" (*España también es gitana*)<sup>32</sup> that uses the art to send the message through. The Institute of Gypsy Culture is a foundation of the state public sector promoted by the Ministry of Education, Culture and Sport (*Ministerio de Educación, Cultura y Deporte*) whose objectives are the development and promotion of Roma history, culture and language, and the dissemination of its knowledge and recognition through studies, research and publications.

**After the National general election took place on the 28 April 2019, four people of Roma ethnicity entered a seat in the national congress**. They were Juan José Cortés as representative member of the Conservative Party (*Partido Popular*), Beatriz Carrillo of the Socialist Party, Sara Giménez by Ciudadanos and Ismael Cortés representing the En Comú political party. The data was historical as until then the presence of Gypsy people in the official institutions not accomplished that level of representation<sup>33</sup>.

On 25 July 2019 The Roma Secretariat Foundation (*Fundación del Secretariado Gitano*, FSG in its Spanish acronym) **and the Education Foundation** (*Empieza por educar, EXE*) **signed a collaboration agreement to increase the inequality gap in education**, joining forces to bet on equal opportunities and the educational quality of the entire. This Agreement frames a networking of the two entities with the young people who suffer the greatest inequality. It focus on those stages where there are greater difficulties accompanying the Gypsy youth who have managed to make the leap to post-compulsory studies. With this roadmap they will work together on talent management and training new generations to highlight the importance of educational commitment to equal opportunities and the guarantee that the right to education is being guaranteed for all students, with no one left behind.

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<sup>31</sup> Hernández-Pedreño, M.,García-Luque, O., Gehrig, R. (2019). [Social situation of the Roma population in Spain: balance after the crisis](#) (*Situación social de la población gitana en España: balance tras la crisis*), Documento de trabajo 3.12, VIII Informe FOESSA..

<sup>32</sup> Instituto de Cultura Gitana (2019). ["Los museos españoles también son gitanos: nuestro vídeo"](#), press reléase, 8 April 2019.

<sup>33</sup> Europapress, (2019), ["La comunidad gitana logra una representación histórica en el Congreso"](#), press reléase, 29 April 2019.

On 30 July 2019 took place **the official opening of the Memorial of the Samuradipen**<sup>34</sup> that claim the Holocaust of the Gypsy People, which "is momentous to claim founding principles such as democracy, freedom, solidarity and justice." claims part of the history of the Gypsy People, even in spite of its rawness, to learn from it by deepening the knowledge and recognition of the historical memory of the Gypsy People allows to promote coexistence from respect and diversity.

Additionally, there are **employment programs such as Access (Acceder) run by the Roma Secretariat Foundation** (*Fundación del Secretariado Gitano*, FSG in its Spanish acronym), where work is carried out to reduce the very high unemployment rate, promote the salaried of the Roma population and the incorporation of gypsy women into the activity regularized economy. Thanks to programs like this, it is possible to motivate and train Roma women to gain access to the labour market. It has been running for more than 15 years already. And the last data published correspond to 2018 where it was obtained by the program 6,181 employment contracts. In addition, the qualifications and employment opportunities of 4,858 people were improved through the 976 training actions<sup>35</sup>.

On 17 October 2019, the FSG published a **Comparative study on the situation of romaine people in Spain in relation to employment and poverty 2018** (*Estudio comparado sobre la situación de la población gitana en España en relación al empleo y la pobreza 2018*), Madrid, Fundación Secretariado Gitano (FSG)<sup>36</sup>. It stated that a 46% of the Roma population in Spain is extremely poor. The child poverty rate stands at 89% compared to 30.7% of the general population. To reduce the "inequality gap" versus the population as a whole, it points to the need to strengthen the National Strategy for Social Inclusion of the Gypsy Population, which concludes in 2020 and that it is in the process of redesigning and updating objectives and measures.

On 22 October 2019, the FSG published **an Evaluation Study of the Promote's 10 years** (*Evaluación de los 10 años Promociona*). When referring to the beneficiaries of the program it concluded that 86.2% of girls graduate in the same proportion as boys and 80% of students improves their learning skills, personal relationships and self-esteem. In relation to the families, 95% said they were satisfied and 98% would recommend it to other families. 87% of the beneficiaries of the programme said that they increased their interest in the education system. Furthermore 80.3% of teachers believed that *Promociona* favours the academic qualifications and 89.8% that improves the individualized responses to the needs of students. In turn, 80.5% of collaborating companies would repeat the experience and 91.6% of volunteers are satisfied with the experience. In 2012 *Promociona* was recognized as a Good Practice by the Council of Europe and in 2017 he received the National Education Award.

On 16 September 2019, **the FSG presented an awareness campaign named as the Roma Desk at School** (*El Pupitre Gitano*)<sup>37</sup>. It was presented to recall some of the causes of the drop-out and

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<sup>34</sup> Spain, Moncloa (2019), "[Carcedo: "Hoy es trascendental reivindicar principios fundacionales como la democracia, la libertad, la solidaridad y la justicia"](#)", press realease, 30 July 2019.

<sup>35</sup> Foundation for the Roma Secretariat (*Fundación del Secretariado Gitano*), (2019), [Discrimination and Roma Community 2018 Annual Report FSG](#) (*Discriminación y Comunidad Gitana Informe Anual FSG 2018*), Madrid, *Fundación del Secretariado Gitano*.

<sup>36</sup> The Roma Secretariat Foundation (*Fundación del Secretariado Gitano*), Fundación ISEAK, (2019), [Comparative study on the situation of romaine people in Spain in relation to employment and poverty 2018](#) (*Estudio comparado sobre la situación de la población gitana en España en relación al empleo y la pobreza 2018*), Serie Cuadernos Técnicos, nº 129, Madrid, *Fundación Secretariado Gitano*.

<sup>37</sup> The Roma Secretariat Foundation (*Fundación del Secretariado Gitano*), (2019), [La campaña de sensibilización #ElPupitreGitano se difunde por toda España](#), press release, 23 October 2019.

to call on the public authorities to reform the current Education Law promoting a truly inclusive education, with attention to the specific situation of Roma students, a shock plan against school failure and measures to prevent and reverse school segregation.

On 18 December 2019, the FSG closed **the seventh edition of the program Learning by Working (*Aprender Trabajando*) of this training initiative for the employment of young Roma people** that in 2019 was developed in 12 other Spanish cities: A Coruña, Albacete, Alicante, Barcelona, Burgos, Córdoba, Gijón, Huesca, Jerez de la Frontera, Seville, Talavera de la Reina, Madrid and Vitoria. Since this training experience started in 2013 and so far, more than 2,800 young people from 41 different cities participated. The involvement of more than 60 leading companies in its sector allowed 1,916 young people to obtain a job qualification, and 765 to access employment. On the other hand, the learning and motivation activities developed by the tutors generated that 670 young people decided to return to the classrooms to obtain the graduate in compulsory high school.<sup>38</sup>

## 2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

**The monitoring and implementation mechanism of the Spanish National Strategy for Roma People 2012-2020 actively involves the Autonomous Communities.** The National Contact Point at the General Directorate for the Family and Child Services (*Dirección General de Servicios para la Familia y la Infancia*), meets regularly with the autonomous communities within the framework of the Technical Cooperation Group (*Grupo de Cooperación Técnica*). This forum serves to exchange and transfer experiences, as well as to address specific issues. Annually, Autonomous Communities report on activities in each of them.

On 3 January 2019, **The Navarra Foral Government adopted an agreement approving the Strategy for the Development of the Roma population in Navarra 2019-2022** (*Estrategia para el desarrollo de la población gitana de Navarra 2018-2021*)<sup>39</sup> It aimed at making the situation of inequality and discrimination of the Gypsy People disappear. The Strategy defines the areas of education, employment, housing, health, equal treatment and combating discrimination, participation, social and institutional recognition of the Gypsy People and knowledge improvement as areas of action. A total of 11 strategic objectives and 40 specific objectives are envisaged to reflect, at the end of the implementation of the Strategy, a stronger improvement in the areas mentioned. There is not a particular timeline set for the implementation of the 40 specific objectives defined. In terms of principles of work, inclusion is included as one of the four strategic lines of action, not directly linked to a particular objective but mainstreaming many of them. To implement it the Navarra Foral Government provided for a consignment of 75,000.00 euros within the Navarre's general budgets for this year 2019 include a heading by parliamentary amendment which, under the heading: Actions of the Roma Strategy. And **On 23 May 2019, it was an approved a call for grants to non-profit entities for the implementation of actions** for the implementation of the strategy for the development of the Roma population in Navarra during 2019<sup>40</sup>.

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<sup>38</sup> The Roma Secretariat Foundation (*Fundación del Secretariado Gitano*, (2019), [La Fundación Secretariado Gitano clausura la séptima edición del programa Aprender Trabajando](#), press release, 18 December 2019.

<sup>39</sup> Spain, Navarra Foral Government (*Gobierno Foral de Navarra*) (2019), [Strategy for the Development of the Roma population in Navarra 2019-2022](#) (*Estrategia para el desarrollo de la población gitana de Navarra 2018-2021*), 3 January 2019.

<sup>40</sup> Spain, Navarra Foral Government (*Gobierno Foral de Navarra*) (2019), [FORAL ORDER 48E/2019, May 23, of the Councillor for Social Rights, which approves the call for grants to non-profit entities for the implementation of actions](#)

On 31 January 2019, **Madrid Autonomous Community creates Dialogue Table of the Roma Population** (*La Mesa de Diálogo de la Población Gitana*) that will be a formal space for dialogue and coordination to enhance the impact of policies specifically aimed at the integration of the Roma population and thereby ensure equal opportunities and the building of a more inclusive society that respects diversity. The Dialogue Table has ten representatives of the Roma association movement and social organizations working to improve the quality of life of the Roma population; representatives of the Administration of the Community of Madrid with competences in all the basic areas for integration and representatives member of local entities. It also has two vice-presidencies composed by representative members of the NGOs, Association of Roma Women and the Unión Romani respectively. This is part of the Roma Population Social Inclusion Plan 2017- 2021, which in turn is the objective number 18 of the Social Inclusion Strategy of the Madrid Community 2016-2021 that was dedicated to the design and implementation of a Strategy for the Social Inclusion of the Roma Population in line with the National Strategy for Roma People 2012-2020. The National Strategy focuses on the basic areas of employment, education, health and housing and develops measures that promote the full integration of Roma population.<sup>41</sup>

On 20 March 2019, the Council of Social Services through the Gozon Municipal Health Plan (*Plan de Salud de Gozon*), implemented **the plan to eliminate the shanty towns of Gozón** (*El plan de eliminación del chabolismo de Gozón*)<sup>42</sup> aiming to rehouse the roma families that lived in the area of the La Paxarada. The Gozón (Asturias) Local Council (*Ayuntamiento de Gozón*) gave a boost and awarded the Roma Secretariat Foundation (*Fundación del Secretariado Gitano*, FSG in its Spanish acronym) with a project to implement the plan to eliminate the chabolism of Gozón (*El plan de erradicación del chabolismo de Gozón*). The project has two aspects. The first focuses on the search for housing in the municipality to relocate the shanty towns population and the second, more focused on the educational field with socio-educational workshops with families who already live in flats. Workshops on energy saving in housing, on rental aids, among other issues are organized., the goal is that they do achieve basic studies.

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[for the implementation of the strategy for the development of the Roma population in Navarra during 2019](#) (*ORDEN FORAL 48E/2019, de 23 de mayo, del Consejero de Derechos Sociales, por la que se aprueba la convocatoria de subvenciones a entidades sin ánimo de lucro para la realización de acciones para la puesta en marcha de la estrategia para el desarrollo de la población gitana en Navarra durante el año 2019*), 23 May 2019.

<sup>41</sup> Spain, Madrid Autonomous Community (Comunidad de Madrid) (2019), "[La Comunidad celebra la sesión constitutiva de la Mesa de Diálogo de la Población Gitana](#)", press reléase, 31 January 2019.

<sup>42</sup> The Roma Secretariat Foundation (*Fundación del Secretariado Gitano*, (2019) "[La Fundación Secretariado Gitano inicia un programa de intervención en vivienda en la localidad de Gozón](#)", press reléase, 20 de March 2019

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

### Unaccompanied children reaching the age of majority

Area of support	Description
<p><b>Residence permit</b></p> <p><i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p>Spain prioritises their status as children rather than as migrants, so that most measures are adopted regardless of their migratory status<sup>43</sup>.</p> <p>Important to clarify the terms used to refer them: Unaccompanied foreign children (UFCs), Unaccompanied Children (<i>Menores no acompañados</i>, MENA, in its Spanish acronym) and Young Immigrants Ex-Guardianship (<i>Jovenes Inmigrantes ex-tutelados</i>, JIEX, in its Spanish acronym).</p> <p>Ex-guardianship (<i>ex-tutelado</i>) refers to the child(ren), foreign, unaccompanied person who has lived under the Protection system, those who are under guardianship have come of age.</p> <p>Two types of possible situations: Unaccompanied Children who reach 18 holding a residence permit (art. 197 of the Royal Decree 557/2011, of April 20, approving the Regulations 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 (<i>Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009</i>, RLOEx, in its Spanish acronym)<sup>44</sup>; and those who come of age without such authorization (art. 196 RLOEx).</p> <p>At the moment the Unaccompanied Children, independently of applied or not for international protection, asylum-seekers and refugees, reach the age of 18, they must renew their residence permit or, if they do not already have a residence permit - a situation that arises when the authorities have not processed their documentation during their minority age, they must necessarily obtain it in order to reside regularly in the Spanish territory.</p> <p>The application or renewal of the residence will not be necessary if before they reach 18 they have acquired Spanish nationality, which is unlikely</p>

<sup>43</sup> European Commission, European Migration Network, (2018) [Annual Report On Migration And Asylum 2017](#).Spain, Madrid, European Migration Network.

<sup>44</sup> Spain, Ministry of the Presidency (*Ministerio de la Presidencia*), (2019), [the Royal Decree 557/2011, of April 20, approving the Regulations 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 \(Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009](#), RLOEx, in its Spanish acronym), 20 April 2011.

in practice, as will be seen below. The validity of this residence permit is one year (art. 196.4 RLOEx<sup>45</sup>).

It is important to note that the residence permit granted to these children is non-profit; that is, it does not authorize to work. Not even when they're working age. In this sense, the public entity may request an exception for the work authorisation in those activities which, on the proposal of the said entity, favour the social integration of the child. In addition, that authorisation shall last only for the duration of that activity.

When they do turn into 18, they will apply for renewal, unless you are required to grant you a long-term or long-term EU authorisation. In accordance with article 35.9 of the 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 (*Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009*, LOEx, in its Spanish acronym)<sup>46</sup>.

The renewal shall be valid for two years and shall be processed in accordance with the procedure for the renewal of a temporary residence permit of a non-profit nature (art. 197.4 LOEx).

For the renewal of such authorisation, the following considerations shall be taken into account: the person concerned must prove sufficient financial resources for his maintenance (the financial amount to be established for his maintenance is set in an amount that 100% of (*Indicador Público de Renta de Efectos Múltiples*, IPREM, in its Spanish acronym). Positive reports which, where appropriate and for this purpose, may be submitted by the competent public entities in accordance with Article 35.9 LOEx may be taken into account; and the applicant's insertion into the Spanish society will be taken into account, which will be determined after an assessment of various aspects, such as: respect for the rules of coexistence, knowledge of the official languages of the State, the existence of family ties with Spanish citizens or foreigners residing in Spain, the time they have been subject to the accommodation, guardianship or guardianship of a Spanish citizen or institution, continuity in studies, the existence of an offer or contract and participation in training itineraries (art. 197.3 RLOEx).

In the event that the former MENA does not request the renewal of the residence permit, it will become in Spain in an irregular situation from the moment the term of its authorisation ends, and from that moment on the sanctions envisaged by law may be applied.

<sup>45</sup> Spain, Ministry of the Presidency (*Ministerio de la Presidencia*), (2011) Royal Decree 557/2011, of April 20, approving the Regulations 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 (*Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009*), 20 April 2011.

<sup>46</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [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](#) (*Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009*), 12 January 2000.

	<p>In order to avoid the application of the sanctioning regime, the entity may recommend the granting of a residence permit for exceptional circumstances to the former MENA, provided that the latter has participated in the training actions and scheduled activities to promote its social integration (art. 198.1 RLOEx). The application must be submitted by the interested party during the 60 calendar days preceding or 90 calendar days after the date on which it is eighteen years of age (art. 198.2 RLOEx). The person concerned must also, alternatively, prove that he has sufficient financial resources for his maintenance, in an amount representing 100% of the IPREM on a monthly basis; which has a successive employment contracts complying the requisites established in Article 64(b), (c), (d), (e) and (f) of the RLOEx; 105(3)(a), (b), (c) and (d) RLOEx for the development of an self-employed activity.</p> <p>In the event that the former MENA obtains a residence permit on the basis of Article 198.2, it shall entail a work authorisation and the obligation to register with the social security within one month after the notification of the decision. During the processing of the authorization, particular consideration will be taken about the degree of integration in Spanish society in the terms provided for in Article 197.3 RLOEx.</p> <p>Another situation is that MENAs reach 18 without obtaining a residence permit during the period that were subject to legal protection, guarding or the accommodation of a Spanish public entity, in accordance with Article 196 RLOEx.</p> <p>This situation occurs when the Spanish authorities have failed to carry out the documentation process during the minority age of these young people. This results in MENA reaching 18 by being undocumented and therefore irregularly in Spain. In such circumstances, former MENAs, under the sanctioning regime, may be expelled from Spanish territory (art. 57 LOEx), unless, during the minority of age, they have acquired Spanish nationality.</p>
<p><b>Guardianship (representative under Reception Conditions Directive Article 24.1)</b></p>	<p>The role of the guardian is only maintained when the child reaches 18 if the child comply with the conditions and circumstances to prolong their stay under protection (see further detailed information next section Accommodation and Reception Conditions).</p> <p><b>Mentoring</b> does exist but it is a non-formalized formula that offers the young person an experience of exclusivity, a one-to-one relationship, through a person who voluntarily links the young man allows to build a different relationship from that built with educators and other professionals.</p> <p>There would be certain examples, as the case in Catalonia, where there are approximately 40 MENA under this regime. Together with the collaboration of the Secretariat for Equality, migrations and citizenship (<i>Secretaria d'Igualtat, Migracions i Ciutadania</i>), a project of specific mentoring for children and young migrants living alone is currently in the pilot phase in Girona and Barcelona and will be extended to the entire reception network. It is not a family reception regime, since the child is in custody of the General Direction for the attention to the childhood and adolescence, (<i>Direcció General d'Atenció a la Infància i Adolescència</i>, DGAIA, in its catalan acronym) and the child(ren) does not live with his</p>

	<p>mentor. In principle, it is a temporary regime given that the mentor's commitment is six months, although it can subsequently be renewed<sup>47</sup>.</p>
<p><b>Accommodation</b> <b>Reception</b> <b>Conditions</b> <b>Directive</b> <b>Article 24.2.</b></p>	<p>In 2015 it was introduced <b>the need for the protection entities in the Autonomous Communities to establish Independent Life Preparation Programs for their child(ren)/young in custody</b>. Article 22bis of LO 1/1996<sup>48</sup>.</p> <p>These programmes would be aimed at young people under a protective measure, particularly in residential foster care or in a particularly vulnerable situation, starting two years before reaching 18 years old and as long as they need it.</p> <p>The programmes should promote socio-educational monitoring, housing, socio-labour insertion, psychological support and financial aid, and require a commitment to active participation and use by young people.</p> <p>Although <b>there is no state-wide instrument for the establishment of quality criteria for the accommodation of children</b>, in each centre, various actions are undertaken in order to respond to the needs of unaccompanied children. It is at the residential centres, where child(ren) should be informed of the potential resources, usually from transition to adulthood, who can be accessed after the age of 18. Actions generally in place refer to: Documentation and administrative regularization; Literacy/training, although there are times when these actions are hampered by the fact that migrant child(ren) do not have the personal documentation required to access training resources; Access to educational and work training, when possible; In the case of some unaccompanied children, including refugee children, there may be specific needs that would require particular care, such as psychological, psychiatric support, legal counselling and so on; Health: All migrant children have access to the public health system; Post-guardian support and resources. In addition, if they remain in the centre long enough, they are undergoing a medical study, based on the existing protocol for all protected children.</p> <p><b>As a consequence of different Autonomous Communities' competences and procedures, depending on every regional authorities, regulations and policies, it's not possible to give an</b></p>

<sup>47</sup> Spain, Catalanian Parlament (*Ple del Parlament Catalunya*), [Law 4/2019, of July 24, amending Law 13/2006, of social benefits of an economic nature](#) (*Ley 4/2019, de 24 de julio, de modificación de la Ley 13/2006, de prestaciones sociales de carácter económico*), 26 July 2019.

It develops Art. 152 of the Catalan Governement (Generalitat de Catalunya), (2010), [Law 14/2010, of 27 May, on rights and opportunities in childhood and adolescence](#) (*La Llei 14/2010, de 27 de maig, dels drets i les oportunitats en la infància i l'adolescència*), 27 May 2010, that regulated the support after emancipation or at legal age, and predicted that the competent body must provide the guidance, training and support needed for Exguardianship young people who arrive at the age of majority, emancipation or the empowerment of age request it, as long as they fulfil the requirements established by the programs of personal autonomy.

Those programs are within the [Catalan strategy for hosting and inclusion of children and young people emigrates alone](#) (*Estratègia catalana per a l'acollida i la inclusió dels infants i joves emigrats sols*) under the competence of the Catalunya government and its Departament de Treball, Afers Socials i Famílies and its Direcció General d'Atenció a la Infància i l'Adolescència.

<sup>48</sup> Spain, Head of State (*Jefatura del Estado*) (1996), [Organic Law 1/1996, January 15, on the Legal Protection of minors, partial amendment of the Civil Code and the Civil Procedure Act](#) (*Ley Orgánica 1/1996, de 15 de enero, de Protección Jurídica del Menor, de modificación parcial del Código Civil y de la Ley de Enjuiciamiento Civil*), 16 February 1996.

**unique response to the question about if the children (asylum seekers or not) when reaching 18- will need to leave reception facilities of the regional authorities.** In each case, depending on the location, the funding and the concrete management policy of the particular centre, particular responses will be provided. And in the case of the reception system for adult asylum seekers, they supposed to be transferred to the asylum centres but firstly actually there is a shortage on the places available then they will have to be registered in an attendance list. And secondly more than 99% of non-accompanied minors in Spain are economic migrants not asylum seekers and mostly do have the Moroccan nationality.

The main cause of the extension of the stay in the centres of young foreigners in some Autonomous Communities usually is link to their attendance for a place in emancipation centres.

The **emancipation flats or apartments** are educational housing to accompany the process of emancipation of the young people who complete protective measures in reception centres, when they come of age. They are offered both basic material resources (housing, support) as educational accompaniment to increase personal autonomy and promote adequate social development.

To achieve the general aim of promoting the reception and integration of this group, the General Secretariat of Immigration and Emigration applies **a Comprehensive Assistance Strategy**, which includes the following action lines:

- A national reception network that includes Refugee Reception Centres, as well as other reception schemes subsidised by the Ministry of Employment and Social Security and administered by partner organisations. under the responsibility of the General Directorate for Migration, for those applying for and benefiting from international protection

- **An integration strategy that promotes gradual autonomy**, after the end of the stay in reception centres or reception arrangements, through supplementary programmes and resources that help the beneficiaries to manage their new environment, gain access to jobs and integrate into the host society.

The programmes operate through subsidies granted through a competitive procedure to non-profit organisations so that they can implement a programme designed for applicants for and beneficiaries of international protection, as well as programmes co-financed by the Asylum, Migration and Integration Fund (AMIF) and the European Social Fund (ESF)<sup>49</sup>.

According to **the Organic Law 26/15 which amends the system of protection for children and adolescents (Ley 26/2015, de 28 de julio,**

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<sup>49</sup> Spain, European Migration network, [REM. Annual Report on Migration and Asylum 2017. Spain.](#)

*de modificación del sistema de protección a la infancia y a la adolescencia*)<sup>50</sup>, and in particular when it does incorporate article 22bis of the Law on the Legal Protection of Children (*Ley de Protección Jurídica del Menor*), Public Entities supposed to offer independent life preparation programmes for young people under a protective measure, particularly for those in residential care or in a particularly vulnerable situation, from two years before reaching 18, once this is fulfilled, whenever they need it, with the commitment of active participation and use by them. Programmes should encourage socio-educational monitoring, accommodation, socio-labour insertion, psychological support and financial aid.

There are a **number of existing initiatives** in this regard, usually **promoted directly or indirectly by the autonomous authority**. Furthermore, different children centres are implementing agreements with several institutions, the aim of which is to include one or more children in "+18 programmes" - or with a similar name.

As in other cases, each Autonomous Community introduces certain particularities. **Therefore three particular cases and scenarios in three Spanish Autonomous Communities such as Andalusia, Catalonia and Madrid are described:**

#### **Andalusia**<sup>51</sup>

These programs for their child(ren)/young in custody is under the competence of the Area for Equality, Social Policies and Conciliation, (*Consejería de Igualdad, Políticas Sociales y Conciliación*) of the Regional Andalusia Government.

The legal framework is based on the Law 1/1998, of April 20, on the rights and care of the child (*Ley 1/1998 de 22 de Abril de los Derechos y la Atención al Menor*)<sup>52</sup>. At its Article 37.2 states that "at least, during the year following the departure of minors from a protection centre, the Administration of the Junta de Andalucía shall monitor them in order to verify that their socio-labour integration is correct, the necessary technical assistance (*al menos, durante el año siguiente a la salida de los menores de un centro de protección, la Administración de la Junta de Andalucía efectuará un seguimiento de aquéllos al objeto de comprobar que su integración socio-laboral sea correcta, aplicando la ayuda técnica necesaria*), and in Article 19.1(f) that the development of vocational training and labour insertion programmes of minors subject to protective measures will be enhanced, in order to facilitate their full autonomy and social integration to the come of age. (*se potenciará el desarrollo de*

<sup>50</sup> Spain, Head of State (*Jefatura del Estado*) (2015), [Organic Law 26/15 which amends the system of protection for children and adolescents](#) (*Ley 26/2015, de 28 de julio, de modificación del sistema de protección a la infancia y a la adolescencia*), 28 July 2015.

<sup>51</sup> See further detailed information on the Official Website of the Regional Andalusian Government under the section [Residential accommodation in child protection centers. Child Protection Centers](#) (*Acogimiento residencial en centros de protección de menores. Los Centros de Protección de Menores*)

<sup>52</sup> Spain, Presidency (*Presidencia*), (1998), [Law 1/1998, of April 20, on the rights and care of the child](#). Official Gazette of the Junta de Andalucía. number 53 of 12/5/1998 (*LEY 1/1998, de 20 de abril, de los derechos y la atención al menor. Boletín Oficial de la Junta de Andalucía. número 53 de 12/5/1998*), Seville, 20 April 1998.

*programas de formación profesional e inserción laboral de los menores sometidos a medidas de protección, con el fin de facilitar su plena autonomía e integración social al llegar a su mayoría de edad).*

In line with those requirements it was developed the **Majority of Age Program (Programa de Mayoría de Edad, (P+18)**, in its Spanish acronym) that has two types of resources. The High Intensity one (*Alta Intensidad*) with autonomy flats/apartments for young people coming from the protection system, once they have turned 18 years old, who lack family support, housing and the resources necessary to lead an independent life, and whose maximum stay approximately is one year; as well as the Medium Intensity (*Media Intensidad*) resource, composed of Day Centres (*Centros de Día*) for the care of minors and young people in the protection system from the age of 16 to 25, where they receive advice, support, training and guidance through personalized itineraries for their socio-labour integration.

That program is implemented through more than 17 Collaboration Agreements with the Area of Equality, Health and Social Policies (*Convenios de Colaboración con la Consejería de Igualdad, Salud y Políticas Sociales*) with more 17 social institutions, the aim of which is to include one or more children in "+18 programmes" - or with a similar name.

The Order of 20 July 2005 amending that of 22 December 2003, regulating and convening grants to collaborating entities for the financing of programmes and resources for the integral social integration of young people who were protected by the Junta de Andalucía<sup>53</sup> allows the submission of applications for the financing of the actions described at any time during the financial year.

**As an example of a collaboration agreement and program in place**, the Moroccan Association for the Integration of Immigrants (*Asociación Marroquí para la Integración de Inmigrantes*) run [several programs and centres](#)<sup>54</sup>; and/or the Andalusian Government fund the Program of Attention as they reached full age (*el programa de la atención ante la mayoría de edad, P+18*, in its Spanish acronym)<sup>55</sup>.

The Andalusian Ombudsman's Offices drawn attention to the difficulties and challenges that remain to be overcome for effective protection of

<sup>53</sup> Spain, Area for Equality and Social Welfare (*Consejería para la Igualdad y Bienestar Social*), (2005), [The Order of 20 July 2005 amending that of 22 December 2003, regulating and convening grants to collaborating entities for the financing of programmes and resources for the integral social integration of young people who were protected by the Junta de Andalucía](#) (*ORDEN de 20 de julio de 2005, por la que se modifica la de 22 de diciembre de 2003, por la que se regulan y convocan subvenciones a entidades colaboradoras para la financiación de programas y recursos destinados a la inserción social integral de jóvenes que han sido tutelados y tuteladas por la Junta de Andalucía*), Seville, BOJA number 178 of 12 September 2005.

<sup>54</sup> See further detailed information at the Extutelados Webpage managed by the [Asociación Marroquí para la Integración de Inmigrantes](#) under the [projects](#) section.

<sup>55</sup> Spain, Official Website of the Regional Government of Andalusia (*Junta de Andalucía*), available at: <http://www.juntadeandalucia.es/organismos/igualdadypoliticassociales/areas/infancia-familias/separacion-familia/paginas/acogimiento-residencial.html>. Hyperlink was accessed on 20 September 2019.

these young and foreign people who are forced to abandon the Protection System by reaching the no adulthood, with no alternatives for full social and labour integration. “The truth is that there are problems in the functioning of the protection centres, there are significant dysfunctions in the formalization of guardianships and efforts to regularize their legal situation and, above all, there is no accompaniment to these guys once they get coming of age” (*lo cierto es que existen problemas en el funcionamiento de los centros de protección, se producen importantes disfunciones en la formalización de las tutelas y gestiones para la regularización de su situación legal y, sobre todo, no existe un acompañamiento de estos chicos una vez que alcanzan la mayoría de edad*)<sup>56</sup>.

On 27 December 2019, and due to the possible malfunction of the system in the region **the NGO Andalucía Acoge started a campaign to collect signatures on the platform 'change.org' which, under the motto '#ahoranomedejesenlacalle'**, calls on the Board to commit to the future of the ex protected young who have grown up in the community<sup>57</sup>

### **Catalunya**

It develops Art. 152 of the Catalan Governement (*Generalitat de Catalunya*), (2010), [Law 14/2010, of 27 May, on rights and opportunities in childhood and adolescence](#) (*La Llei 14/2010, de 27 de maig, dels drets i les oportunitats en la infància i l'adolescència*), 27 May 2010, that under its Spanish chapter IV. Support after emancipation when reaching the majority age (*Capítulo IV. Apoyo posterior a la emancipación a la mayoría de edad*) regulated the support after emancipation or at legal age, and predicted that the competent body must provide the guidance, training and support needed for Exguardianship young people who arrive at the age of majority, emancipation or the empowerment of age request it, as long as they fulfil the requirements established by the programs of personal autonomy.

Those programs are within the Catalan strategy for hosting and inclusion of children and young people emigrates alone (*Estratègia catalana per a l'acollida i la inclusió dels infants i joves emigrats sols*)<sup>58</sup> under the competence of the Catalonia government and its Department of Labour, Social Affairs and Families (*Departament de Treball, Afers Socials i Famílies*) and its Directorate-General for Child and adolescent care (*Direcció General d'Atenció a la Infància i l'Adolescència*).

<sup>56</sup> Spain, Andalusian Official Bulletin (2019), [Relationship with Public Bodies and Institutions. Andalusian Ombudsman](#) (*Relación con órganos e instituciones públicas. Defensor del pueblo andaluz*) N. 126, XI legislature, 22 July 2019.

<sup>57</sup> EFE Agency (*Agencia EFE*), Andalusia welcomes signatures to claim the Board "commitment" to the future of the young people who are marginalized (*Andalucía Acoge recoge firmas para reclamar a la Junta "compromiso" con el futuro de los jóvenes extutelados*), press release, 27 December 2019.

<sup>58</sup> Spain, Catalan Governement (*Generalitat de Catalunya*), (2019), [Catalan strategy for hosting and inclusion of children and young people emigrates alone](#) (*Estratègia catalana per a l'acollida i la inclusió dels infants i joves emigrats sols*), January 2019.

In 2019, there were 37 assisted apartments for people over 18 years of age providing 148 places in total.<sup>59</sup> It is envisaged an increase of the residences or apartment for young people (between 16-21years old) linked to job placement programmes, as well as the flats for young previously under legal tuition and protection. In addition, the creation of devices for young people over 18 years in situations of homelessness will be promoted.

In this case, in **Catalonia** with regard to measures of support **Law 4/2019, of July 24, amending Law 13/2006, of social benefits of an economic nature** (*Ley 4/2019, de 24 de julio, de modificación de la Ley 13/2006, de prestaciones sociales de carácter económico*)<sup>60</sup>. Currently young people who have been protected for more than 3 years are entitled to receive financial support from the 18 to 21 years of age (with the possibility of extension up to 23 years in case of post-compulsory studies). As a consequence of the new amendment the financial benefit for young people who have been one year in custody will become 12 months instead of 6 months as it was previously.

### **Madrid**<sup>61</sup>

The Statute of Autonomy (*Estatuto de Autonomía*) of the Madrid Community approved by Organic Law 3/1983, 25 February, includes among the powers it assumes in its article 26.1.24, "the protection and guardianship of minors and the development of policies for the integral promotion of youth" (*Ley Orgánica 3/1983, de 25 de febrero, recoge entre las competencias que asume en su artículo 26.1.24, "la protección y tutela de menores y desarrollo de políticas de promoción integral de la juventud*). In this area of competence, the Madrid Community approved Law 6/1995, of 28 March, on Guarantees of the Rights of Children and Adolescents (*Ley 6/1995, de 28 de marzo, de Garantías de los Derechos de la Infancia y la Adolescencia*) as well as the Decree 121/1988, of 23 November, regulating the procedure for the constitution and exercise of Guardianship and Guardianship of the Child (*Decreto 121/1988, de 23 de noviembre, regulador del procedimiento de constitución y ejercicio de Tutela y Guarda del menor*).

Under the previous legal framework, the **Personal Autonomy Program 18-21** (*Programa de Autonomía Personal 18-21*) was developed and it is in place. It composed by two programs, one for personal autonomy and the other for the transit to adult life, that aim to meet basic needs and guide them to adult life that awaits them outside regional residential centers. To facilitate this transition to adult life since June 2016, 16 collaboration agreements were formalized for an educational accompaniment program

<sup>59</sup> Spain, Catalan Governement (*Generalitat de Catalunya*), (2019), [Children and young people emigrated only to Catalonia state of current situation and advancement of results of the study January](#) (*Els infants i joves emigrats sols acollits a Catalunya Estat de situació actual i avançament de resultats de l'estudi*), Barcelona, January 2019.

<sup>60</sup> Spain, Catalanian Parlament (*Ple del Parlament Catalunya*), Law 4/2019, of July 24, amending Law 13/2006, of social benefits of an economic nature (*Ley 4/2019, de 24 de julio, de modificación de la Ley 13/2006, de prestaciones sociales de carácter económico*), 26 July 2019, available at: <https://portaldogc.gencat.cat/utillsEADOP/PDF/7926/1755637.pdf>

<sup>61</sup> See further information on the Madrid Community Official website and under the [sections related to Social issues and the minors reception facilities](#).

	<p>for young people at risk of social exclusion with entities, associations and foundations of the social initiative. Social organizations such as: Foundation CEPAIM, Association Horuelo, RAIS Foundation, El Olivar, La Calle, MPDL, Acrescere Foundation, Dominicas, Nuevo Futuro, Pinardi, Ymca, Paideia, Murialgo, Amigo and the Tomillo Foundation. Thus, Through these agreements, the Community of Madrid co-finances a total of 92 places in flats for young people from the protection system that, when they reached the age of legal majority, do not have other family and/or social supports.</p> <p>On the National Ombudsman’s <a href="#">Annual Report 2018. And under the sections of the Activities and actions carried out throughout 2018</a> (<i>Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018</i>), described the complaints received relate to the scarcity of existing resources for young people by the Community of Madrid. It was claimed that at best they are referred to the Social Service for Municipal Social Emergency Social Service for Municipal Social Emergency (<i>Servicio Social de Atención Municipal a las Emergencias Sociales</i>, SAMUR Social, in its Spanish acronym) where only in certain cases they are assigned a temporary place in adult centres for the homeless, although in other cases they are in a street situation<sup>62</sup>.</p>
<p><b>Return</b> <i>Return Directive, Article 10</i></p>	<p>There are <b>not any special measures to prepare unaccompanied children</b> for a return procedure. With respect to young adults after they turn into 18, they receive the same kind of general form of free assistance provided to any person willing to or that will be subject of an eventual return procedure. No particular measures based on their age are envisaged. Specialized Civil society organizations as well as the Children Centres in charge may ad hoc and depending on its own resources and/or internal protocols provide a specific support based on the degree of vulnerability.</p>
<p><b>Others</b></p>	<p>It would be of interest to mention examples of measures or “private” programs that may facilitate the access to residence permits, education and integration such as: since 2015, <b>more than 15 universities across Spain – public and private – offer grants for people who need international protection and lack resources</b>. The aim is to facilitate access for refugees and asylum seekers to undergraduate, masters or doctoral studies, as well as to promote their integration through Spanish learning<sup>63</sup>.</p> <p>In relation with their <a href="#">access to citizenship</a><sup>64</sup>, unaccompanied child (ren) under protection do have the right to it after 2 years of legal residence. There is then a situation that may provoke problems if there is an initial delay on the application of the residence permit and/or a backlog at the moment of issuing a citizenship resolution.</p>

<sup>62</sup> Spain, National Ombudsman (*Defensor del Pueblo Nacional*), (2019), [Annual Report 2018. Activities and actions carried out throughout 2018](#) (*Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018*), pag. 224, Madrid, National Ombudsman.

<sup>63</sup> United Nations (UN), UNCHR Spain (*ACNUR España*) (2019), “[Jóvenes refugiados dan un giro a sus vidas gracias a las becas de universidades españolas](#)”, press release, 18 March 2019.

<sup>64</sup> Spain, Ministry of Justice (*Ministerio de Justicia*) (2015), [Royal Decree 1004/2015, of 6 November, approving the Regulation regulating the procedure for the acquisition of Spanish nationality by residence](#) (*Real Decreto 1004/2015, de 6 de noviembre, por el que se aprueba el Reglamento por el que se regula el procedimiento para la adquisición de la nacionalidad española por residencia*), 6 November 2015.

<https://acoge.org/wp-content/uploads/2019/07/informe-completo-light-ÍNDICE.pdf>

## Chapter 5. Information society, data protection

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

On 24 January 2019, an **infringement procedure was opened by the European Commission** in relation to Police co-operation and access to information ([2018/0165](#)), related to the implementation of the Directive (EU) 2016/681, on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime Reasoned opinion (art. 258 TFEU). “The European Commission decided to send a reasoned opinion to **Spain** for failing to notify the Commission of any national measures taken so far to implement the EU rules on passenger name record (PNR) data ([Directive 2016/681](#)). PNR data refers to information provided by passengers to airlines when booking and checking-in for flights, such as the passenger's name, travel dates, travel itineraries, seat number, baggage, contact details and means of payment”.

On 2 February 2019, **The Spanish Data Protection Agency** (*La Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) **was awarded under the Citizenship category in the XII edition of the Awards for Quality and Innovation in Public Management**. It is awarded by the Ministry of Territorial Policy and Civil Service (*Ministerio de Política Territorial y Función Pública*) that recognize organizations that have distinguished therefore for the excellence of their overall performance, innovation in information management, knowledge and technologies, as well as by the quality and impact of their initiatives. It recognized the Agency's initiative in developing *Facilita\_RGPD*, a tool to help SMEs and professionals who process low-risk personal data comply with the General Data Protection Regulation (GDPR). Since its launch, *Facilita\_RGPD* has been used more than 150,000 times.

On 7 February, 2019, **The Spanish Data Protection Agency** (AEPD, in its Spanish acronym) **has published the study “Fingerprinting or fingerprint of the device”**<sup>65</sup>. The document that analyses this technique of identifying and tracking users through their devices. For its realization the Agency has analysed more than 14,000 websites aimed at the Spanish public, describing the most used techniques to carry out this profiling. This study assesses an approximation of the digital fingerprint of the device; the techniques most used to obtain it; how they identify the device used by the user, some recommendations for users on how to protect their privacy through the uses of measures available to them and thus avoid the use of fingerprints for tracking and profiling purposes and, finally, recommendations for the industry. Certain **conclusions** were: There are not sufficient tools provided to evade the data collection as once the accessing of a website is initiated and before the user has even been able to view it, the server already has their fingerprint information. The obligation to obtain informed consent and, in particular with respect to the purpose for which the data are collected, as said techniques are generally used for user profiling including making decisions with consequences for the service and analysing internet activity, is not adhered to; the user has no means of exercising the rights established in the GDPR where there collect or are associated with personal data.

On 7 March 2019, **the Spanish Data Protection Agency** (*Agencia Española de protección de datos*, AEPD, in its Spanish acronym) **has published a technical research under the title of “Analysis of information flows on Android. Tools for the fulfilment of proactive responsibility”** (*Análisis de los flujos de información en Android. Herramientas para el cumplimiento de la*

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<sup>65</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), (2019), [Survey on Device Fingerprinting](#), 7 February 2019.

*responsabilidad proactiva*<sup>66</sup>, carried out in collaboration with the Polytechnic University of Madrid (*Universidad Politécnica de Madrid*). The study, primarily aimed at app developers and personal data processors, highlights the high risk of personal information leakage in the mobile app environment, and provides guidance for organizations can audit their apps, analysing the flows of personal information on Android devices. The purpose is for data controllers to have the tools and use the appropriate methodologies to determine that the privacy policy being offered to the user complies with the guarantees required by the GDPR and the Organic Law Data Protection, 3/2018 (*la Ley Orgánica de Protección de Datos, 3/2018*)<sup>67</sup>.

On 11 March 2019, it was published the Circular of the Spanish Data Protection Agency (AEPD) (*Circular de la Agencia Española de Protección de Datos AEPD*)<sup>68</sup> **on the processing of personal data relating to political opinions and sending electoral propaganda by electronic means or messaging by political parties, federations, coalitions and voter groups**. The Circular consisted of an enacting terms section plus eleven articles and a transitional provision and a final provision. The Circular sets out the criteria under which the Agency will act following the adoption of Article 58a of the Organic Law of the General Electoral Regime (*Ley Orgánica del Régimen Electoral General, LOREG*, in its Spanish acronym)<sup>69</sup> in pending the decision, previously mention, of the Constitutional Court on the action brought by the Ombudsman

On 27 March 2019, **The Spanish Data Protection Agency** (*Agencia Española de protección de datos*, AEPD, in its Spanish acronym) **has presented its Framework for The Social Responsibility Action 2019-2024**<sup>70</sup>. It was developed in collaboration with the United Nations Global Compact, is aligned with the Agenda 2030 and the Sustainable Development Goals, and structures the commitment of this agency in four main axes, both internal and external: Society; Good Governance, Transparency and Accountability; Environment and Employees. To carry out the responsibilities assumed, 100 actions have been identified: 70% respond to commitments to society, especially in prevention issues for more effective protection of people, gender equality and innovation and entrepreneurship ; 13% are internal commitments to employees, 10% with respect for the environment and 7% are related to good governance, transparency and accountability. Within the Section of Commitment to the Society, the Agency has in turn established three major areas of work: the promotion of prevention; gender equality and innovation and entrepreneurship.

On 9 April 2019, the Spanish Data Protection Agency has published the **new and updated version of [the tool "Facilita RGPD"](#)** as an example of its continued work to develop tools to facilitate

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<sup>66</sup> Spain, Polytechnic University of Madrid (*Universidad Politécnica de Madrid*) (2019), [Analysis of information flows on Android. Tools for the fulfilment of proactive responsibility](#)” (*Análisis de los flujos de información en Android. Herramientas para el cumplimiento de la responsabilidad proactiva*), Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), 07 March 2019.

<sup>67</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights](#) (*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*), 5 December 2018

<sup>68</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), (2019), [Circular of the Spanish Data Protection Agency on the processing of personal data relating to political opinions and sending electoral propaganda by electronic means or messaging by political parties, federations, coalitions and voter groups](#) (*Circular 1/2019, de 7 de marzo, de la Agencia Española de Protección de Datos, sobre el tratamiento de datos personales relativos a opiniones políticas y envío de propaganda electoral por medios electrónicos o sistemas de mensajería por parte de partidos políticos, federaciones, coaliciones y agrupaciones de electores al amparo del artículo 58 bis de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General*), 11 March 2019.

<sup>69</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Organic Law of the General Electoral Regime](#) (*Ley Orgánica del Régimen Electoral General*), 21 June 1985.

<sup>70</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2019), [Framework for The Social Responsibility Action 2019-2024](#) (*Marco de Responsabilidad Social 2019-2024*), 27 March 2019.

compliance and the enforcement of the General Data Protection Regulation (GDPR). It is intended for those companies that perform personal data processing that, in advance, would imply a low level of risk to the rights and freedoms of natural persons whose data they process, taking into account that all processing entail a certain level of risk. It is a general aid tool, so it is not perfect for all cases as there may be some peculiarities in each company that cannot be taken into account. The program execution outcome a document will be valid to the extent that the answers provided to each question are true, this document also constitute the minimum necessary document to enable you to demonstrate compliance with the GDPR requirements.

On 28 April 2019, **the Agency published an update of the Cookie Guide** (*Guía de cookies*), carried out in collaboration with the online advertising sector and the main representatives of the Digital Industry in Spain, such as: IAB España, Adigital and Autocontrol business companies. In this Guide, which should be considered as a merely indicative document, the AEPD outlines the reference criteria according to which, in order to comply with current regulations, each company must adopt, on a case-by-case basis, any solutions or measures that result cookies used, personal data collected and processing to which such data and information will be subjected<sup>71</sup>.

On 21 May 2019, **the Spanish Data Protection Agency (AEPD) published its 2018 Annual Report**, which exhaustively reflects the activities carried out by this institution, the management figures, the outstanding trends, the most relevant decisions and procedures of the year, and an analysis of current and future challenges. The publication reflects the first year of implementation of the General Data Protection Regulation (GDPR), which has brought about a substantial change for data protection at various levels, introducing developments in both the rights of the citizens and how they process personal data by organizations.

As for the **complaints received** to the **AEPD** during 2018, almost 33% (32.8%) increased from 10,651 to 14,146. Updating these figures for the first year of implementation of the GDPR, (from 25 May 2018 to 15 May 2019) 14,397 complaints have been filed with the AEPD. Regarding the subject matter contained in the 2018 Report, the complaints correspond to the following subjects: improper insertion into delinquency files (16%), video surveillance (11%), Internet services (10%), debt claim (10%), Public administration (7%), health (7%), advertising (except spam- (5%), shops, transport and hospitality (5%), financial institutions/creditors (4%) advertising via e-mail or mobile phone (4%).

In relation to the **complaints resolved** with a satisfactory response after being forwarded to the data protection officer (*delegado de protección de datos*, DPD, in its Spanish acronym), 863 have occurred during 2018 and 2,079 until 15 May 2019.

On 22 May 2019, **the Constitutional Supreme Court issued a positive judgement in response to the Ombudsman's appeal** that considered that the contested provision infringes Articles 9.3, 16, 18.4, 23.1 and 53.1 of the Constitution.<sup>72</sup> **The issues under discussion were:** the protection of personal data, the principle of legal certainty, the negative aspects of the ideological freedom and the right to political participation, and the nullity of the legal provision that makes it possible to collect personal data by political parties on the citizens' political views. The three elements which

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<sup>71</sup> Spain, Ministry of Interior (*Ministerio del Interior*) (2019), [Guide on the use of Cookies](#) (*Guía sobre el uso de las cookies*), 28 April 2019.

<sup>72</sup> Spain, [Constitutional Court \(Tribunal Constitucional\) Judgment 76/2019](#), of 22 May 2019, issued against [the Appeal for Unconstitutionality 1405-2019](#), brought by the Ombudsman against paragraph 1 of Article 58a of Organic Law 5/1985, of 19 June, of the general electoral regime, incorporated into it by the final third provision, paragraph two, of Organic Law 3/2018, of 5 December, on the protection of personal data and guarantee of digital rights (*SENTENCIA 76/2019, de 22 de mayo de 2019, dictada contra el Recurso de inconstitucionalidad 1405-2019, interpuesto por el Defensor del Pueblo contra el apartado 1 del art. 58 bis de la Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general, incorporado a esta por la disposición final tercera, apartado dos, de la Ley Orgánica 3/2018, de 5 de diciembre, de protección de datos personales y garantía de los derechos digitales*) Case 1405-2019, 22 May 2019.

bring together the central challenge to the appeal of unconstitutionality and which lead to a double breach of Articles 18.4 and 53.1 of the Spanish Constitution were: (i) the legal provision under appeal in itself determined the purpose of the processing of data which reveal political views, beyond the generic mention of the "public interest"; (ii) that it does not limit the processing by regulating in detail the restrictions to a fundamental right; and (iii) that it itself did not established adequate safeguards to protect the fundamental rights concerned.

On 4 March 2019, the **Constitutional Court unanimously decided to allow the action of unconstitutionality brought by the National Ombudsman against Article 58a.1** of Organic Law 5/1985 of 19 June on the General Electoral Regime (*Ley Orgánica 3/2018, de 5 de diciembre, de protección de datos personales y garantía de los derechos digitales*, LOREG in its Spanish acronym), on the protection of personal data and guarantee of digital rights<sup>73</sup>.

On 13 June 2019, the **Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) **has published the basis for the Personal Data Protection Awards 2019**<sup>74</sup>. This edition includes two new categories: the 'Angela Ruiz Robles' Data Protection Entrepreneurship Award and the Best Practices Award for Greater Internet Protection of the Privacy of Women Victims of Gender-Based Violence. Alongside them are the awards of Good Practices on Initiatives to adapt to the Regulations, Communication, and Good Educational Practices for the safe use of the Internet by children and Research 'Emilio Aced'.

On 29 July 2019, the **Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos* (AEPD) **has joined the 'Letter of Digital Rights of Children and Adolescents'** (*Carta de Derechos Digitales de los Niños, Niñas y Adolescentes*), a catalogue of Principles and Rights promoted by ANAR Foundation which explicitly includes the guarantees that must be provided for children in their relationship with the technologies. Children and adolescents are especially exposed to the challenges of digitization: although due to their digital skills, they are in an advantage to benefit from all the opportunities that technology offers and will offer in the coming years, their vulnerability to risky situations increases. Reference is made to 'cyberbullying', 'grooming' or sexting or the problem of online content that promotes self-harm, suicidal ideation, anorexia or bulimia or extreme risk activities.

On 15 July 2019, the **Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) **launched Gestiona\_EIPD**, a tool to help carry out risk analysis and impact assessments for companies and administrations that carry out high-risk data processing such as those involving health data or massive treatments. Gestiona\_EIPD can also be useful for SMEs that need to start conducting Personal Data Protection Impact Assessments (EIPD). The General Data Protection Regulation (GDPR) states that organisations that process personal data must perform a risk analysis to establish the necessary

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<sup>73</sup> Spain, [Constitutional Court \(Tribunal Constitucional\) Judgment 76/2019](#), of 22 May 2019, issued against [the Appeal for Unconstitutionality 1405-2019](#), brought by the Ombudsman against paragraph 1 of Article 58a of Organic Law 5/1985, of 19 June, of the general electoral regime, incorporated into it by the final third provision, paragraph two, of Organic Law 3/2018, of 5 December, on the protection of personal data and guarantee of digital rights (*SENTENCIA 76/2019, de 22 de mayo de 2019, dictada contra el Recurso de inconstitucionalidad 1405-2019, interpuesto por el Defensor del Pueblo contra el apartado 1 del art. 58 bis de la Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general, incorporado a esta por la disposición final tercera, apartado dos, de la Ley Orgánica 3/2018, de 5 de diciembre, de protección de datos personales y garantía de los derechos digitales*) Case 1405-2019, 22 May 2019.

<sup>74</sup> Spain, Spanish Data Protection Agency (*La Agencia Española de Protección de Datos*) (2019), [the 2019 Personal Data Protection Awards](#) (*Resolución de 13 de junio de 2019, de la Agencia Española de Protección de Datos, por la que se convoca el Premio a las Buenas Prácticas en privacidad y protección de datos personales sobre iniciativas para la adecuación al Reglamento General de protección de datos y a la Ley Orgánica de protección de datos personales y garantía de los derechos digitales*), 13 June 2019.

measures to guarantee the rights and freedoms of individuals. In addition, where it is apparent from this analysis that there is a high risk to data protection, the GDPR requires such organizations to conduct an EIPD<sup>75</sup>.

On 6 September 2019, **AEPD and the Association of Labour Relations Directors** (*Asociación de Directivos de Relaciones Laborales*, ADiReLab in its Spanish acronym) **signed a protocol to promote compliance with data protection regulations between companies**. The Agency will provide the ADiReLab with tools, guides and publications that can help companies in fulfilling the obligations arising from the regulations. ADiReLab is committed to disseminate these materials among its partners, as well as to promote adaptation to the new regulatory framework to promote compliance with the General Regulations of Data Protection and Organic Law 3/2018<sup>76</sup>, as well as to offer companies resources to provide them with the obligations arising from this regulation. One of the most impactful consequences of that regulation has been the introduction of the principle of active responsibility, whereby companies must take the necessary measures depending on the type of treatment they carry out both to comply with the regulations and to be in disposition to prove that they comply with it. The signed Protocol also provides that the AEPD will assess and analyse the proposals received from ADiReLab that will contribute to promoting the dissemination and knowledge of the new legal framework.

On September 2019, the Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) published **its 2019 - 2024 AEPD AGENDA 2030 Social Responsibility Action Framework** (*2019 - 2024 Marco de Actuación de Responsabilidad Social de la AEPD AGENDA 2030*)<sup>77</sup>. Under the section related to the compromiso with the innovation and data protection makes reference to the relevance of its collaboration with organizations to promote the right to privacy in the framework of data protection.

On 17 September 2019, the Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) **issued a technical note, the Duty to Report and other Proactive Responsibility Measures in Mobile Apps** (*El Deber de Informar y otras Medidas de Responsabilidad Proactiva en Apps para Dispositivos Móviles*), with 26 guidelines for the entities that develop, distribute and exploit applications for mobile devices in relation to the processing of personal data that some companies offer to their customers to deliver their services through the mobile apps<sup>78</sup>. These guidelines address specific aspects of the duty to report, as well as other proactive liability measures.

On 16 October 2019, it was published a legislative resolution assigning **the 017 telephone number to the Cybersecurity Helpline** service to replace the previous 900 116 117 one<sup>79</sup>.

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<sup>75</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2019), "[La AEPD presenta su herramienta Gestiona como ayuda para realizar análisis de riesgos y evaluaciones de impacto en la protección de datos](#)", press release, 15 July 2019.

<sup>76</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Organic Law 3/2018, of December 5, on the Protection of Personal Data and Guarantee of Digital Rights](#) (*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*), 5 December 2018.

<sup>77</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), (2019), [2019 - 2024 AEPD AGENDA 2030 Social Responsibility Action Framework](#) (*2019 - 2024 Marco de Actuación de Responsabilidad Social de la AEPD AGENDA 2030*), Madrid, Spanish Data Protection Agency.

<sup>78</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), (2019), [The Duty to Report and other Proactive Responsibility Measures in Mobile Apps](#) (*El Deber de Informar y otras Medidas de Responsabilidad Proactiva en Apps para Dispositivos Móviles*), Madrid, Unidad de Evaluación y Estudios Tecnológicos.

<sup>79</sup> Spain, Ministry of Economy and Enterprise (Ministerio de Economía y Empresa), (2019), [Resolution of October 4, 2019, of the Secretary of State for Digital Advancement, which attributes telephone number 017 to the cybersecurity helpline service](#) (*Resolución de 4 de octubre de 2019, de la Secretaría de Estado para el Avance Digital, por la que se atribuye el número telefónico 017 al servicio de línea de ayuda en ciberseguridad*), Madrid, 16 October 2019.

On 16 October 2019, **the Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos, AEPD, in its Spanish acronym*) **published** the Design Privacy Guide (*Guía de Privacidad desde el diseño*)<sup>80</sup>, with the aim of providing guidelines that facilitate the incorporation of data protection principles and privacy requirements into new products or services from the moment they begin to be designed and in the development. The Guide is aimed at managers, as well as service providers and providers, product and application developers or device manufacturers.

On 9 to 11 October 2019, the **Spanish team participated in the European Cybersecurity Competition European Cyber Security Challenge (ECSC 2019)** that took place in the city of Bucharest (Romania). It is an initiative of the European Cybersecurity Agency (ENISA), carried out by a group of European countries organising national cybersecurity competitions. The 15 young talents participants were selected and trained by INCIBE out of the national competitions of CyberCamp 2018.

On September 2019, the **the Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Dato, AEPD, in its Spanish acronym*) signed several **collaboration agreements with the Ministry of the Presidency, Court Relations and Equality** (*Ministerio de Presidencia, Relaciones con las Cortes e Igualdad*) in which it articulates, inter alia, joint awareness and information on the safe use of the Internet and prevention of violence against women and the violation of their right to data protection. It also signed a protocol of **collaboration with the Ministry of Labour, Migration and Social Security** (*Ministerio de Trabajo, Migraciones y Seguridad Social*), which aims at joint actions that contribute to the prevention, awareness-raising and action against acts of violence against workers, and particularly in cases of violence against women when it occurs through the dissemination over the Internet of images, videos or audios with sensitive data.

On 22 Noviembre de 2019, **the Spanish Data Protection Agency (AEPD) presented a web space to help protect the privacy of victims of gender-based violence**<sup>81</sup>. the Agency also presented a publication containing Recommendations for Data Protection in Digital Harassment Prevention Policies<sup>82</sup>, a document that aims to encourage companies and public administrations to incorporate measures aimed at preventing and eradicating digital harassment in workplaces into their digital harassment prevention policies. In this way, the AEPD seeks to address two areas of the same problem. On the one hand, promote support for victims of gender-based violence in the digital environment and, on the other hand, promote the adoption of prevention policies in workplaces that implement specific measures for their protection.

**Non-profit organizations are required to comply with the Organic Data Protection Law** to the same extent as other entities and institutions. As in many cases they work with vulnerable groups, they should take special care with their personal data protection policies.

Many of those organizations work with racial minorities, drug addicts, groups at risk of marginality because of their sexual tendency, immigrants, refugees from political or religious causes or people with infectious diseases. In any case and in all these cases, and other particularly vulnerable groups, you should exercise extreme caution when dealing with personal data.

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<sup>80</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2019), [the Privacy Guide by Design](#) (*Guía de Privacidad desde el diseño*), Madrid, Spanish Data Protection Agency.

<sup>81</sup> See further information on the Official Website for the [privacy protection of victims of gender violence](#).

<sup>82</sup> Spain, the Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos*), (2019), The Data Protection as a guarantee in the Digital Harassment Prevention Policies: AEPD recommendations (*La protección de datos como garantía en las políticas de prevención del acoso: recomendaciones de la AEPD*), Madrid, Spanish Data Protection Agency.

Until 25 November 2019, the Spanish Data Protection Agency (AEPD) set up the deadline for submitting **applications for the Personal Data Protection Awards 2019** (*Premios Protección de Datos Personales 2019*)<sup>83</sup>, which include the categories of Good Educational Practices for the safe use of the internet by minors; Emilio Aced Research; Good Practices on Initiatives to Adapt to the Regulations; Communication, as well as two new categories: Entrepreneurship and Good Practices in Initiatives for the Protection of the Privacy of Women Victims of Gender-Based Violence.

On 15 November 2019, it was the closing date for the call for **awards of good educational practices in privacy and data protection for the safe use of Internet by minors convened by the Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos, AEPD, in its Spanish acronym*). All public and private persons and entities that promote and disseminate the fundamental right to the protection of personal data among students enrolled in primary and compulsory secondary education, Baccalaureate and Vocational Training can participate. The purpose of this award is to highlight initiatives that help raise awareness of the value of privacy to make responsible use of personal information.

Until 25 November 2019, the Spanish Data Protection Agency (AEPD) set up the deadline for submitting **applications for the Personal Data Protection Awards 2019** (*Premios Protección de Datos Personales 2019*)<sup>84</sup>, which include **Award for good practices aimed at greater internet protection of the privacy of women victims of gender-based violence** (*Premio a las buenas prácticas dirigidas a una mayor protección en internet de la privacidad de las mujeres víctimas de violencia por razón de género*)<sup>84</sup>, which recognizes public or private activities, products or services aimed at raising awareness and prevention different forms of gender-based violence in the internet environment.

On December 2019, The Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos, AEPD, in its Spanish acronym*) and the Ministry of Education and Vocational Training (*Ministerio de Educación y Formación Profesional*) have promoted **the website AseguraTIC<sup>85</sup> to contribute to the protection of minors on the Internet**. Under a framework agreement, the Spanish Professional Privacy Association (*Asociación Profesional Española de Privacidad, APEP, in its Spanish acronym*), through its Children's Commission (*Comisión de Menores*), has contributed by providing informative content. AseguraTIC is intended for educators, families, students and educational administrations, and aims to collaborate to protect minors in their interaction with the Internet by channeling a number of resources provided by participating entities, mainly with Creative Commons licenses, which make it easy to use, adapt and distribute for free.

## 2. Artificial intelligence and big data

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<sup>83</sup> Spain, the Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos*), (2019), [Ampliado el plazo para la presentación de candidaturas a los 'Premios Protección de Datos 2019](#), 12 November de 2019.

<sup>84</sup> Spain, the Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos*), (2019), [Resolution of the Spanish Data Protection Agency, convening the first edition of the Good Practice Award in relation to public and private initiatives aimed at greater internet protection of the privacy of women victims gender-based violence](#) (*Resolución de la Agencia Española de Protección de Datos, por la que se convoca la primera edición del Premio a las Buenas Prácticas en relación con iniciativas del ámbito público y privado dirigidas a una mayor protección en internet de la privacidad de las mujeres víctimas de violencia por razón de género*), Madrid, 2019.

<sup>85</sup> See further detailed information on the website [AseguraTIC](#)



MS	Actor*	Type**	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned? (yes/no)	Reference
ES	Government/ Parliamentary	National Draft Acts / Adopted Acts	<p>The <b>current Spanish Strategy for RDI in Artificial Intelligence</b> is configured as the core element of a key R+D vision of its own for the development of the European framework called "Coordinated AI Plan", approved at the end of 2018. In addition, it is aligned with the efforts aimed at meeting the sustainable development objectives set out in the Action Plan for the Implementation of Agenda 2030 in Spain.</p> <p>It establishes six priorities, the main objective of which is to make the tools aimed at promoting RDI more effective and to indicate how and where the different technologies can help our country's growth. Customized medicine, the digitalization of services aimed at tourism, the challenges posed by cybersecurity or an interoperable and digital public administration are some of the challenges that Artificial Intelligence will help to solve in Spain.</p> <p>The Strategy is also born with seven recommendations that seek to align normative, structural and organizational adaptations to the</p>	yes	<p>no child or children or youth mentioned</p> <p>nor human rights as such</p> <p>Yes Gender bias.</p>	Spain, General Secretariat of Scientific Policy Coordination of the Ministry of Science, Innovation and Universities and to the Artificial Intelligence Task Force ( <i>GTIA, Grupo de Trabajo de Inteligencia Artificial</i> ), (2019), <a href="#">Spanish RDI strategy in Artificial Intelligence</a> , Madrid, Ministry of Science, Innovation and Universities.

			achievements made in Artificial Intelligence in the different public policies. This Strategy will therefore be the embryo of the future National Strategy for Artificial Intelligence.			
ES	Business	Report/ Study	<p><b>Analysis of the status of Internet of Things (IoT) projects in Spain.</b> It is a study detailing the state of the art of Spanish companies in terms of the development and implementation of IoT projects. This report from IDG Research focuses on providing clarity to companies that want to succeed in their IoT projects. After analysing multiple use cases in the Spanish market, a model with the principles to consider in the development of a strategy is presented.</p> <p>For the realization of this study, 110 companies from more than 500 employees with operations in Spain and carrying out IoT initiatives have been surveyed. The results were presented and discussed with a group of 9 CIOs of the largest companies in Spain at a workshop held in October 2018.</p>	No	No	Belle Fernando Maldonado, A. (2019), <a href="#">IoT strategies: from sensorization to creating new business models</a> ( <i>Estrategias de IoT: de la sensorización a la creación de nuevos modelos de negocio</i> ), Madrid, IDG Research Services.
ES	DPA	Other projects	<p>The Ministry of Science, Innovation and Universities <b>published a map of artificial intelligence technologies capabilities of Spain</b> that captures the current state of the Artificial Intelligence (AI) ecosystem in Spain.</p> <p>It is part of the Spanish R&amp;D&amp;I Strategy in AI.</p> <p>The objective of the map is to promote synergies between Spanish entities and to open a path of European and international</p>	yes	<p>no child or children or youth mentioned</p> <p>nor human rights as such</p> <p>Yes Gender bias.</p>	Spain, Ministry of Science, Innovation and Universities ( <i>Ministerio de Ciencia, Innovación y Universidades</i> ) (2019), <a href="#">Map of Artificial Intelligence Technologies capabilities of Spain</a> ( <i>Mapa de Capacidades de Tecnologías de Inteligencia Artificial de España</i> ), 22 october 2019.

			<p>collaboration, identifying and visualizing the Spanish strengths in this Area.</p> <p>It collects information from public and private institutions that develop, research, use or provide services with AI technologies, both at the national level and from autonomous communities and provinces. It gathers the type of activities that the entities carry out; their experience in enabling technologies such as 5G or blockchain, and the economic sector in which they operate or the autonomous community in which they are located. It also includes data on the percentage of women engaged in these activities.</p>			
ES	NGO/Other Non Profit	Other projects	<p>It is an independent, non-profit association, in which companies, universities, institutions and individuals come together to ensure the good use of artificial intelligence and actively contribute to fostering the positive social impact of these technologies.</p>	Yes	Not available	<p>SIC agencia. Servicio de Información Católica (<i>SIC agency. Catholic information system</i>) (2019), <a href="#">Observatory on the Social and Ethical Impact of Artificial Intelligence (OdiseIA)</a> (<i>Observatorio del Impacto Social y Ético de la Inteligencia Artificial, OdiseIA</i> in its Spanish acronym), press release, 3 October 2010.</p>
ES	NGO/Other Non Profit	Other projects	<p>The goal of this <b>AI Crop Harvesting project</b> is to present an integrated data analysis tool to help farmers make the best decision about their fields.</p> <p>It includes an analysis of the different crop varieties to recommend to farmers the planting of the most profitable considering local sales in order to reduce the footprint of their products.</p>		Not available	

ES	NGO/Other Non Profit	Other projects	<p>The <b>Saturno Labs' Upnea project</b> is an innovative proposal that will alleviate the effects of the Sleep Apnea and improve its diagnosis, combining a procedure based on the analysis of facial images of patients, their oropharyngeal area, recordings of other important clinical parameters collected in a questionnaire conducted by a bot to assist the physician in detecting the severity of THE SAOS and its evaluation through a mobile terminal.</p> <p>Patients will be able to talk to a bot, and answer questions, upload voice or image files that will be processed using machine learning techniques and subsequent mediation of doctors and healthcare professionals.</p>	Not available	Not available	<p>Admoneuropa2020, Centro Europeo de Empresas Innovadoras Valencia (CEEI Valencia) (2019), <a href="#">We The Humans premia dos proyectos que plantean utilizar la Inteligencia Artificial</a>, press release, 11 november 2019; Saturno Labs (2019) <a href="https://saturnolabs.com">https://saturnolabs.com</a> (unpublished)</p>
ES	NGO/Other Non Profit	Other projects	<p><b>Creation of the Ethics Committee for the Artificial Intelligence</b> (<i>Creación del Comité de Ética de la Inteligencia Artificial</i>).</p> <p>A pioneering initiative in the financial sector and policy-making. Its objective was to ensure compliance with the principles and values of the institution, as part of its governance and will be responsible for monitoring the uses and impacts of Artificial Intelligence. It will ensure that the collection, hosting and use of data is carried out in an ethical, transparent and democratic manner to respond to the position marked by the Mutuality of Lawyers (<i>Mutualidad de la Abogacía</i>) and its commitment to mutualists and society.</p>	Yes	Not available	<p>Mutuality of The Lawyers (<i>Mutualidad de la Abogacía</i>) (2019), <a href="#">“Mutualidad de la Abogacía presentó el Comité de Ética de la Inteligencia Artificial. Una iniciativa pionera en el sector financiero y asegurador”</a>, Press reléase, 9 October 2019.</p>

			It will consist of a multidisciplinary team of actuaries, data scientists, lawyers, ethics or technology experts, among other disciplines members of the Governing Board, representatives of the management team and experts of recognized prestige who update knowledge and expose the best and latest international practices.			
ES	Business	Other projects	<p>A call that is organized every year. It addressed at high school, postgraduate or master's students, who want to develop their projects based on real-world cases of Telefónica's Chief Data Officer area, to join their professional teams in the digital sector.</p> <p>It is addressed to students interested by Artificial Intelligence, Big Data and Cybersecurity and with a high level of motivation in data management, management, visualization and analysis. The Telefónica's Chief Digital Consumer Office area gives the possibility to select from a list of selected projects.</p>	Not available	Not available	<a href="#">Reto de Inteligencia Artificial, Big Data y Ciberseguridad de la unidad de CDO de Telefónica.</a>
ES	Independent State Institution	National Draft Acts / Adopted	The initiative facilitates the collaboration between the The Royal Spanish Academy ( <i>Real Academia Española</i> , RAE in its Spanish acronym) and the Microsoft engineers and researchers to the Academy's linguistic and lexicographic resources in order to train and improve artificial intelligence technologies applied to the treatment of Spanish language. It aims at the defense, projection and good use of the Spanish language in the digital universe and	Not available	Not available	The Royal Spanish Academy ( <i>Real Academia Española</i> ) (2019), <a href="#">La RAE presenta el proyecto Lengua Española e Inteligencia Artificial (LEIA)</a> , press release, 8 November 2019.

			especially in the field of artificial intelligence and current technologies.			
ES	Academia	report/study	<p>It aimed to contribute to a truly "Spanish", cross-cutting debate, with proposals for the construction of a Spanish AI ecosystem involving public administrations, businesses, academia and society.</p> <p>It intended to respond to the need for the creation of an environment that facilitates the creation, development and sustainability of that strategy.</p>	yes	<p>human rights Yes</p> <p>No Gender bias.</p>	<p>Arteaga F., Ortega, A, (2019), Elcano Policy paper, <a href="#">Towards a Spanish Artificial Intelligence Ecosystem: A Proposal</a> (<i>Hacia un ecosistema español de Inteligencia Artificial: una propuesta</i>), Madrid, Real Instituto Elcano Royal Institute.</p>
ES	DPA	National Draft Acts / Adopted	<p><b>The 2019 National Cybersecurity Strategy establishes Spain's position</b> in the face of a new concept of cybersecurity within the framework of the National Security Policy.</p> <p>It developed the 2017 National Security Strategy forecasts in the field of cybersecurity. And it responded to the <a href="#">mandate of the National Security Council of 16 July 2018 published in the BOE of 10 August</a> (<i>mandato del Consejo de Seguridad Nacional de 16 de julio de 2018 publicado en el BOE de 10 de Agosto</i>).</p>	yes	<p>Yes: child or children or youth mentioned.</p> <p>human rights Yes</p> <p>No Gender bias.</p>	<p>Spain, Ministry of the Presidency, Relations with Courts and Equality (<i>Ministerio de la Presidencia, Relaciones con las Cortes e Igualdad</i>), (2019), <a href="#">Order PCI/487/2019, April 26, which publishes the National Cybersecurity Strategy 2019, approved by the National Security Council</a> (<i>Orden PCI/487/2019, de 26 de abril, por la que se publica la Estrategia Nacional de Ciberseguridad 2019, aprobada por el Consejo de Seguridad Nacional</i>). 26 April 2019.</p> <p>The Artificial intelligence and big data appear together with the blockchain, robotics and the internet of things within the Opportunities and Challenges arisen from the Cyberspace. It does describe that the implications of the functioning of all of them go beyond the technological dimension, it is extended to new</p>

						social models and enter the field of the personal relationships and ethics.
ES	DPA	Other projects	<p>The Institute of Technology of Informatics (<i>Instituto Tecnológico de Informática</i>, ITI, in its Spanish acronym) of Valencia Community launched the Center for Experimentation in Big Data and AI, (<i>Centro de Experimentación en Big Data e Inteligencia Artificial de la Comunidad Valenciana</i>) an institution that will have the latest technology in computing and networks, whose objective will be to facilitate the development of big data analysis AI, robotics and cybersecurity.</p> <p>It will provide a testing environment that will support the research and technological development of the Valencian Community. Its main task will be to provide a place where Community research centres can test their algorithms and technologies linked to the analysis of Big Data, artificial intelligence, robotics and cybersecurity.</p> <p>It was funded by the Valencian Innovation Agency (<i>Agencia Valenciana de Innovación</i>, AVI, in its Spanish acronym), within the framework of the TECH4CV project.</p> <p>And it is one of the 30 centres selected by the European Commission to form the European network of hubs in Artificial Intelligence.</p>	Not available	Not available	<p>Institute of Technology of Informatics (<i>Instituto Tecnológico de Informática</i>), (2019) <a href="#">Fujitsu collaborates in the implementation of the Experimentation Center in Big Data and Artificial Intelligence of the Valencian Community, led by ITI</a> (<i>Fujitsu colabora en la puesta en marcha del Centro de Experimentación en Big Data e Inteligencia Artificial de la Comunidad Valenciana, liderado por ITI</i>), press release, 2 April 2019.</p>

\*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit
- Academia
- Domestic Courts
- Business
- Independent State Institution
- Other

\*\* for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

### 3. Data retention

Amendments to national data retention laws in 2019 after the Digital Rights Ireland judgment									
EU Member State	Draft amendments introduced					Legislative amendments in force			
	Wider review of access	Access to data more precisely defined	Retention periods specified	Requirement to store data	Text not public	Wider review of access	Access to data more precisely defined	Retention periods specified	Requirement to store data
SPAIN						✓	✓	✓	✓

The new Organic Law on Data Protection and Digital Rights Guarantee (*Ley de Protección de Datos Personales y garantía de los derechos digitales, LOPDGDD*, in its Spanish acronym)<sup>86</sup> was approved to complement the General Data Protection Regulation (GDPR) and contains a range of provisions that impact data processing operations. It brought Spain into line with other EU countries.

The Spanish legislation on data retention is based on the Law 25/2007 on data retention relating to electronic communications and public communications networks.<sup>87</sup> This law is the application of the repealed Data Retention Directive and has not been changed after the Court of Justice of European Union (CJEU) annulled Directive 2006/24/EC through the Digital Rights Ireland case.

<sup>86</sup> Spain, Head of State (*Jefatura del Estado*), (2018), [Organic Law on Data Protection and Digital Rights Guarantee](#) (*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*), 6 de diciembre de 2018.

<sup>87</sup>Spain, Ministry of the Presidency, Relations with Parliament and Equality (*Ministerio de la Presidencia, relaciones con las Cortes e Igualdad*) (2007), [Law 25/2007 on data retention relating to electronic communications and public communications networks](#) (*Ley 25/2007, de 18 de octubre, de conservación de datos relativos a las comunicaciones electrónicas y a las redes públicas de comunicaciones*), press release, 19 October 2007.

In fact, the Law 25/2007 on data retention relating to electronic communications and public communications networks (*Ley 25/2007, de 18 de octubre, de conservación de datos relativos a las comunicaciones electrónicas y a las redes públicas de comunicaciones*) continues to appear in some of the Spanish case law. It is the case of the Judgment of Barcelona Provincial Court 271/2018 of 17 September 2018<sup>88</sup> or Judgment of Oviedo Provincial Court 343/2018 of 27 July 2018.<sup>89</sup>

The LOPDGDD modifies the requirements in the processing of personal information of users and companies. It makes quite a few changes from the previous 1999 Data Protection Act (*Ley de Protección de datos 1999*). The requirements for obtaining, saving or sharing the information are changed, as well as requirement in relation to the processing of user data on the Internet. . Among other issues, new obligations on the processing of personal data in cross-border procedures are collected, and it provides guarantees for biomedical research beyond personal protection. The main changes refers to:

- **Accountability.** The information to be given to users in relation to the processing of their data, as well as their rights in this area, was expanded. The concept of privacy was incorporated from the design. This means that the elaboration of business procedures should be done taking into account the LOPDGDD from the outset. Security breaches that may affect personal data must be notified within 72 hours to the corresponding Control Authority, the Spanish Data Protection Agency (*Agencia Española de Protección de Datos*). If, moreover, sensitive and impactful data may be affected in that breach, they must also be notified.
- **Recording of treatment activities.** Current legislation eliminates the obligation to register files with the relevant Control Authority. However, it obliges to keep an internal record of all the processing of personal data carried out by the entity, provided that it has more than 250 employees or when, not occasionally, sensitive data are processed.
- **Accountability.** This obligation concerns the need for prevention by companies that handle personal information. To do this, all organizations that process files must perform a risk analysis of their treatments in order to establish what measures they need to take and how to do so. For the adoption of specific measures, certain risks should be taken into account such as: significant economic, moral or social harm to those affected in the processing; disenfranchisement or control of data; mass processing of data or revealing an assessment of the personal aspects of those affected; processing of data of vulnerable persons such as minors or persons with disabilities; others that the Data Controller or Processor considers. The impact assessments are the main measure of proactive responsibility and it consists of an analysis of the previous risks that a certain information system, product or service may entail with respect to data protection.
- **Data of deceased persons.** They may contact the controller or processor in order to request access to the personal data of deceased persons and, where appropriate, their rectification or deletion. The ones allowed could be: persons linked for family or de facto reasons; Institutions or persons to which the deceased had expressly designated for this purpose. Legal representatives of minors and the Public Prosecutor's Office. Legal representatives of persons with disabilities, the Public Prosecutor's Office and support staff. Therefore, it expands the people who can access that data. It allows the access even to people who have any conflict with them if the deceased has not expressly prohibited it.
- The **concept of tacit consent is eliminated** and reinforced by becoming a more positive and express action. The new LOPD wants to ensure that people's consent to the processing of data is derived from a clear statement or action. Explicit consent must be verifiable, i.e. the entity must be able to prove that the consent has been obtained in compliance with the legal guidelines. In addition, the **processing of data should always be based on prior consent**, but it may be carried out in case there is a legitimate interest.

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<sup>88</sup>Spain, [Madrid Provincial Court \(Audiencia Provincial de Madrid\), 271/2018](#), ES:APB:2018:5071A 17 September 2018.

<sup>89</sup> Spain, [Oviedo Provincial Court \(Audiencia Provincial de Oviedo\), 343/2018](#), ES:APO:2018:2453, 27 July 2018.

- The new LOPD created **the figure of the Data Protection Officer (DPO)** (*Delegado de Protección de datos*). This is a natural or legal person whose assignment must be communicated to the Spanish Data Protection Agency (*La Agencia Española de Protección de Datos, AEPD*, in its Spanish acronym). It is mandatory for companies to have their figure or the necessary training. Otherwise, the rule mentions a number of serious violations
- **Minors may consent** to data processing at 13 years of age, when it was previously 14 years old. In case of children under 14 years of age, such consent must be given by their parents or legal guardians.
- **The processing of data by the Public Administrations.** In this case, the processing must be based on a rule that meets that legal obligation, public interest or exercise of public power. In this regard, the Spanish Data Protection Agency (*La Agencia Española de Protección de Datos, AEPD*, in its Spanish acronym) analysed the legal basis for it and it noted that the law does not consider consent as a valid legal basis for the processing of data by a public administration (*no considera el consentimiento como un fundamento jurídico válido para el tratamiento de los datos por una Administración Pública*).
- **Special categories of data.** To process data from ideology, trade union affiliation, religion, sexual orientation, beliefs or racial or ethnic origin is not enough with the consent. Other requirements are established to process those type of data: It is necessary for the fulfillment of obligations and the exercise of specific rights of the controller or the data subject. If authorised by the European law of the Member States or a collective agreement, appropriate guarantees are provided for the respect for the fundamental rights and interests of the person concerned. It is essential to protect the vital interests of the interested party or another natural person, in the event that the data subject is not physically or legally trained to give his consent. It is carried out, in the field of its legitimate activities and with due guarantees, by a foundation, an association or any other non-profit body, whose purpose is political, philosophical, religious or trade union. If it relates exclusively to current or former members of such bodies and provided that personal data are not communicated outside of them without the consent of the interested parties. It refers to personal data that the data subject has made manifestly public. It is essential for the formulation, exercise or defence of claims or when courts act in the exercise of their judicial function. There are reasons for an essential public interest.
- **Contact and individual entrepreneurs' details.** The legal basis for processing such data would be the legitimate interest where its purpose is professional.
- **Public archive.** The processing of data by the Public Administrations for filing purposes based on the public interest will be lawful. This will be indicated in the sectoral archiving and equity regulations. Treatment of criminal and administrative offences. This data may only be processed when: The controllers are the competent bodies for the investigation of the sanctioning procedure, for the declaration of infringements or the imposition of sanctions. As long as, this data is strictly necessary for the purpose pursued by those bodies. It is foreseeable by a legal rule. It is carried out by Lawyers and Prosecutors, in order to collect the information provided by their clients in the exercise of their duties. Archivo público.
- **Blocking of Data.** This is a previous step in deleting the data. It means that blocked data cannot be used for any purpose, except for the making available of the data of judges and courts, Public Prosecutor's Office or competent Public Administrations.
- **Changes to electoral regulations.** the Final Third Provision (*Disposición Final Tercera*) amending the Organic Law of the General Electoral Regime (*Ley Orgánica del Régimen Electoral General, LOREG*, in its Spanish acronym). It stipulates that political parties may collect personal data, in the context of their electoral activities, concerning political opinions. And they may use information and personal data obtained from websites and other publicly

accessible sources, for political activities during the election period. It may include: Sending election propaganda through messaging systems or electronic means; The recruitment of electoral propaganda on social networks or equivalent means, which will not be considered commercial activity or communication.

- **Digital disconnection of workers.** Workers shall have the right to digital disconnection outside of legal or conventionally established working time, to ensure respect for: their rest and vacation time and their personal and family privacy. This is intended to avoid as much as possible the computer fatigue of workers. Companies will have to develop a policy of responsible use of the devices. With this policy, if you have employees working from home with digital devices, the right to work disconnection will be guaranteed. Mobile calls, WhatsApp messages or emails, for example, violate this fundamental right.
- **Video surveillance.** The law provides that the company may treat recordings obtained by photographic and video cameras. In addition to data related to the location of the worker provided that it is for the exercise of the functions of control of employees provided for in the Workers' Statute and are exercised within the law. There can be no cameras in rest areas, bathrooms, changing rooms, toilets, etc. The purpose of video surveillance will be to ensure the safety of people and property, as well as their facilities.
- The **dissemination of images of minors on social networks** that may involve an unlawful intrusion into their fundamental rights may end in an intervention by the Public Prosecutor's Office.
- Data retention period (*Período de conservación de los datos*). The **last 2017 Organic Law on Data Protection and Digital Rights Guarantee** was to establish the obligation of providers of electronic communications services to keep, for a period of 12 months, expandable to two years and possible to be reduced to a minimum of six months ), certain data generated by users and subscribers in all their communications, so that they are available for the detection or investigation of serious crimes, subject to judicial authorization.
- **In relation with the spanish case law on the issue, it should be mentioned a ruling of [Supreme Court Criminal Chamber \(Tribunal Supremo, Sala de lo Penal\), nº 723/2018, Rec 10495/2017, dated on the 23 January 2019](#), that makes reference to data obtained on the basis of the last 2017 Organic Law on Data Protection and Digital Rights Guarantee. It was a ruling in response to an Cassation appeal (*recurso de cassación*) for violation of the right to effective judicial protection and the secrecy of communications under the protection of arts. [24.2](#) y [18.3](#) de la Spanish Constitution, the art. 5.4 of the [LOPI](#) and the art. 852 of the [LECRIM](#) for non-application of the judgments of the Court of Justice of the European Union of 8 April 2014 and of 21 December 2016, the C-203/15 and C-698/15 cases. The appeal and legal grounds related to the the Court of Justice of Justice European Union (CJEU) was finally dismissed arguing that that the measure taken was necessary and proportional, and that it was not the access to the content of communications what was allowed, but to data relating to mobile phones that were connected in a particular telephony antennas, in order to be able to track the exact location where the defendant was and the facts took place.**

## Chapter 6. Rights of the child

<b>Legislative changes</b>	<p>The 11 June 2019, the <b>Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on the procedural safeguards of children suspected or accused in criminal proceedings entered into force after being transposed in Spain by the Law 3/2018 of 11 June amending Law 23/2014 of 20 November on mutual recognition of criminal decisions in the European Union to regulate the European Investigation Order (Ley 3/2018, de 11 de junio, por la que se modifica la Ley 23/2014, de 20 de noviembre, de reconocimiento mutuo de resoluciones penales en la Unión Europea, para regular la Orden Europea de Investigación)</b><sup>90</sup>.</p> <p>The transposition process of this Directive Directive 2016/800 on procedural safeguards for children was initially in line with the required deadline. It was done though through several laws such as: the organic laws 13/2015<sup>91</sup> and 41/2015<sup>92</sup>. The transposition process was completed by the previous Law 3/2018, of 11 June, amending the Laws on Mutual Recognition to regulate the European Investigation Order (Ley 3/2018, de 11 de junio, por la que se modifica la LRM para regular la Orden Europea de Investigación) to incorporate one element not previously included in 2015 such as: the appointment in the country where the Euroorder was issued of a lawyer to represent a claimant arrested in another State where the Euroorder supposed to be executed; that is, the right to double defence recognised under article 10 of the Directive.</p> <p><b>The main change introduced and referred to minors is the Article 50: Detention and bring to the judicial authority (Detención y puesta a disposición de la autoridad judicial). In the case of minors, from the age of fourteen, the period for the detained minor to be brought to the Central Juvenile Court of the High National Court (Audiencia Nacional), is reduced to twenty-four hours, instead seventy-two hours.</b></p>
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<sup>90</sup> Spain, Head of State (*Jefatura del Estado*), (2018), [Law 3/2018 of 11 June amending Law 23/2014 of 20 November on mutual recognition of criminal decisions in the European Union to regulate the European Investigation Order \(Ley 3/2018, de 11 de junio, por la que se modifica la Ley 23/2014, de 20 de noviembre, de reconocimiento mutuo de resoluciones penales en la Unión Europea, para regular la Orden Europea de Investigación\)](#), 12 June 2018.

<sup>91</sup>Spain, Head of State (*Jefatura del Estado*), (2015), [Organic Law 13/2015, of October 5, amending the Criminal Procedure Act to strengthen procedural safeguards and regulate technological research measures \(Ley Orgánica 13/2015, de 5 de octubre, de modificación de la Ley de Enjuiciamiento Criminal para el fortalecimiento de las garantías procesales y la regulación de las medidas de investigación tecnológica\)](#), Madrid, 6 October 2015.

<sup>92</sup> Spain, Head of State (*Jefatura del Estado*), (2015), [Law 41/2015, of October 5, amending the Criminal Prosecution Act for the speeding of criminal justice and strengthening procedural safeguards \(Ley 41/2015, de 5 de octubre, de modificación de la Ley de Enjuiciamiento Criminal para la agilización de la justicia penal y el fortalecimiento de las garantías procesales\)](#), Madrid, 6 October 2015.

<p><b>Policy developments</b></p>	<p>On 8 January 2019 it was introduced the <b>draft organic law for comprehensive protection of children and adolescents from violence</b> (<i>Anteproyecto de ley orgánica de protección integral a la infancia y la adolescencia frente a la violencia</i>)<sup>93</sup>. It does responds to the urgent need to introduce into the legal system the commitments made by Spain in the integral protection of children and adolescents against violence in its various aspects and represents a determined commitment to a model that places children and adolescents as subjective rights holders and at the heart of public policy.</p> <p>It will introduced a limitation period for the most serious crimes against child(ren) will not begin to count until the victim turns 30 years old. It will modify 11 laws, incorporates a broad definition of violence covering any type of physical, psychological and emotional abuse, including, physical punishment or negligent treatment; A new catalogue of online crimes is included, including incitement to suicide, sexual offences or the promotion of eating disorders; The schools will have protocols for the prevention, detection and action of violence, as well as a welfare and protection coordinator to monitor the proper implementation of them; Protocols will also be developed in the health fields, sports and leisure e and The Security Forces will have specialized units in violence on child(ren).</p> <p>The process of this regulation was initiated through <b>Public Consultaton on the draft organic law for comprehensive protection of children and adolescents from violence</b> (<i>Consulta publica previa sobre el anteproyecto de ley orgánica de protección integral a la infancia y la adolescencia frente a la violencia</i>)<sup>94</sup>. Citizens, organizations and associations were able to provide their views on the aspects raised in this questionnaire until September 17, 2018, via email: <a href="mailto:infancia@mscbs.es">infancia@mscbs.es</a>.</p> <p>Several reports as requested were asked to official institutions such as, on 18 January 2019 to the Justice Secretary of State of the Ministry of Justice (<i>la Secretaría de Estado de Justicia del Ministerio de Justicia</i>) request it to the General Council of the Judicial Power (<i>Consejo General del Poder Judicial</i>) a Report on the <b>draft organic law for comprehensive protection of children and adolescents</b></p>
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<sup>93</sup> Spain, Ministry of Justice (*Ministerio de Justicia*) Ministry of Interior (*Ministerio del Interior*) Ministry of Health, Consumption and Social Welfare (*Ministerio de Sanidad, Consumo y Bienestar Social*), Draft Organic Law for comprehensive protection of children and adolescents from violence (*Anteproyecto de ley orgánica de protección integral a la infancia y la adolescencia frente a la violencia*), 8 January 2019, available at:

[https://www.mscbs.gob.es/normativa/audiencia/docs/LO\\_proteccion\\_integral\\_violencia\\_menores.pdf](https://www.mscbs.gob.es/normativa/audiencia/docs/LO_proteccion_integral_violencia_menores.pdf) Hyperlink was accessed on 20 September 2019.

<sup>94</sup> Spain, Ministry of Health, Consumption and Social Welfare (*Ministerio de Sanidad, Consumo y Bienestar Social*), Public Consultaton on the draft organic law for comprehensive protection of children and adolescents from violence (*Consulta publica previa sobre el anteproyecto de ley orgánica de protección integral a la infancia y la adolescencia frente a la violencia*)<sup>94</sup>, 28 August 2018, available at:

[https://www.mscbs.gob.es/normativa/docs/18.08.28\\_CONSULTA\\_PREVIA\\_LEY\\_VIOLENCIA.pdf](https://www.mscbs.gob.es/normativa/docs/18.08.28_CONSULTA_PREVIA_LEY_VIOLENCIA.pdf)

	<p><b>from violence</b> (<i>Informe sobre el anteproyecto de ley orgánica de protección integral a la infancia y la adolescencia frente a la violencia</i>)<sup>95</sup> that issued its correspondent report on the 30 May 2019 <i>Informe sobre el Anteproyecto de Ley Orgánica de protección integral a la infancia y la adolescencia frente a la violencia</i><sup>96</sup>.</p>
<p><b>Other measures or initiatives</b></p>	<p>In reference to general initiatives related to the dissemination and information in relation to the entering into force of the Directive there are several research articles, such as:</p> <ul style="list-style-type: none"> <li>- On January 2019, it was published an article under the title of <b>Implications of Directive (UE) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings for the Spanish Act on criminal liability of child(ren)</b> (<i>Implicaciones de la Directiva (UE) 2016/800, relativa a las garantías procesales de los menores sospechosos o acusados en los procesos penales, en la Ley de responsabilidad penal del menor</i>)<sup>97</sup>. The purpose of these pages is to study the content of Directive (EU) 2016/800, of May 11, regarding the procedural guarantees of juvenile suspects or accused persons in criminal proceedings and highlighting the implications of the aforementioned Directive on Law 5 / 2000, of January 12 of Criminal Responsibility of Child(ren). The goal of this study is to purpose specific reforms in the Law 5/2000 once the Directive will be transposed, taking into account that his transposition will be operated before 11 June 2019.</li> <li>-On January 2019, it was published an article under the title of <b>The Right of the Child to Testimonial Privilege: An International Human Rights Approach</b> (<i>El derecho del niño a acogerse a la dispensa del deber de declarar. Reflexiones desde el Derecho Internacional de los Derechos Humanos</i>)<sup>98</sup>. This study analyzes the right to testimonial privilege, in article 416 of the Spanish Criminal Procedure Code, when the one granted with such privilege is a child under eighteen years of age. For this, the study departs from an analysis of the national law and jurisprudence, considering the criteria developed by national courts: the maturity of the child as a fundamental criterion, the right that corresponds to the legal</li> </ul>

<sup>95</sup> Spain, Ministry of Health, Consumption and Social Welfare (*Ministerio de Sanidad, Consumo y Bienestar Social*), Ministry of Justice (*Ministerio de Justicia*), Ministry of Interior (*Ministerio de Interior*), available at: [https://www.mscbs.gob.es/normativa/audiencia/docs/LO\\_proteccion\\_integral\\_violencia\\_menores.pdf](https://www.mscbs.gob.es/normativa/audiencia/docs/LO_proteccion_integral_violencia_menores.pdf)

<sup>96</sup> Spain, Official Website of the General Council of the Judicial Power (*Consejo General del Poder Judicial*), Draft Organic Law for comprehensive protection of children and adolescents from violence (*Informe sobre el Anteproyecto de Ley Orgánica de protección integral a la infancia y la adolescencia frente a la violencia*), available at: <http://www.poderjudicial.es/cgpj/es/Poder-Judicial/Consejo-General-del-Poder-Judicial/Actividad-del-CGPJ/Informes/Informe-sobre-el-Anteproyecto-de-Ley-Organica-de-proteccion-integral-a-la-infancia-y-la-adolescencia-frente-a-la-violencia>. Hyperlink was accessed on 5 September 2019.

<sup>97</sup> Pillado González, E. (2019), Implications of Directive (UE) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings for the Spanish Act on criminal liability of the child(ren) (*Implicaciones de la Directiva (UE) 2016/800, relativa a las garantías procesales de los menores sospechosos o acusados en los procesos penales, en la Ley de responsabilidad penal del menor*), *Revista General de Derecho Europeo*, N°. 48, 2019, available at: <https://dialnet.unirioja.es/servlet/articulo?codigo=6942035> Hyperlink was accessed on 6 September 2019.

<sup>98</sup> Maravall Buckwalter, I. (2019) The Right of the Child to Testimonial Privilege: An International Human Rights Approach (*El derecho del niño a acogerse a la dispensa del deber de declarar. Reflexiones desde el Derecho Internacional de los Derechos Humanos*), *Revista para el Análisis del Derecho*, available at: <https://www.raco.cat/index.php/InDret/article/viewFile/354496/446481> Hyperlink was accessed on 12 September 2019.

representative of the child in case of immaturity, the admissibility of pretrial statements and corroboration evidence. These developments are then contrasted with International Human Rights Law and jurisprudence, drawing special attention to, firstly, the problems associated to the development of rigid categories through presumptions of maturity. Secondly, the difficulties that derive from the attribution of this right to the legal representative when the child is regarded as immature. Thirdly, the requirements established in International Human Rights Law that regulate the admissibility of pretrial statements and the existing imbalance with national jurisprudence. Finally the importance of corroboration evidence in the investigation of cases of sexual violence against children. In conclusion, from a comparative analysis of both normative systems, trends, contradictions and gaps that can potentially protect the child or violate their fundamental rights are highlighted.

- **Procedural guarantees of juvenile suspects or accused child(ren) in criminal proceedings** (*Garantías procesales de los menores sospechosos o acusados en el proceso penal*). With regard to Directive 2016/800/EU, of the European Parliament and of the Council of 11 May 2016 (2019<sup>99</sup>). Information in the article Procedural guarantees of children suspected or accused in criminal proceedings.

On 9 September 2019 in the **2019 Public Prosecutor's Report** (*Memoria de la Fiscalía 2019*)<sup>100</sup>, it was pointed out that the main deficiency detected in terms of available material means continues to consist of the absence of software for the installation, processing, registration, etc. of preliminary proceedings and dossiers, which entails the immediate control of the files and their incidents, having to be carried out only through the classic registration books.

- On the **National Ombudsman's [Annual Report 2018. Activities and actions carried out throughout 2018](#)** (*Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018*), and under the section related to the Justice Public Service, it contained certain information on cases related to minors under 1.2.1 Matters related to minors (*Asuntos relacionados con menores*) (pg.89 and 90)<sup>101</sup>.

<sup>99</sup> Laro-González, E. (2019), [Procedural guarantees of juvenile suspects or accused child\(ren\) in criminal proceedings. With regard to Directive 2016/800/EU, of the European Parliament and of the Council of 11 May 2016](#) (*Garantías procesales de los menores sospechosos o acusados en el proceso penal. A propósito de la Directiva 2016/800/UE, del Parlamento Europeo y del Consejo, de 11 de mayo de 2016*), p. 21-30,

<sup>100</sup> Spain, Prosecutors' Offices (*Fiscalía General del Estado*) (2019), [2019 Public Prosecutor's Annual Report](#) (*Memoria de la Fiscalía 2019*), Madrid, 9 September 2019.

<sup>101</sup> Spain, National Ombudsman (*Defensor del Pueblo Nacional*), (2019), [Annual Report 2018. Activities and actions carried out throughout 2018](#) (*Informe anual 2018. Actividades y actuaciones llevadas a cabo a lo largo del año 2018*), Madrid, National Ombudsman.

## 1. Legal and policy measures or initiatives developed about child internet safety

On 24 January 2019 the **European Commission initiated a sanctioning file against Spain, Italy and Portugal for not correctly implementing Directive 2011/92/EU**. This Directive against child sexual abuse included not only hardening of penalties against criminals, but also prevention against this type of violence and specific measures against online sexual abuse.<sup>102</sup>

In reference to the State Attorney General **participation in different trainings, courses and conferences**, it should be mentioned that on 30th January 2019, it closed the International Congress of Digital Law (*Congreso Internacional de Derecho Digital*)<sup>103</sup> that was held in Madrid; and on 30<sup>th</sup> March 2019, he inaugurated the course "Cibercrime, Information Society and Child(ren) (*Ciberdelincuencia, Sociedad de la Información y Menores*)"<sup>104</sup>, organized by the Association of Prosecutors and the International University Menéndez Pelayo, in its headquarters in Cuenca.

The 23<sup>rd</sup> January 2019, the Catalan Government approved a **Decree-Law 2/2019, of January 22, amending Law 22/2010, of July 20, of the Consumer Code of Catalonia, to incorporate measures against disorders of food behavior**. (*Decreto-ley 2/2019, de 22 de enero, de modificación de la Ley 22/2010, de 20 de julio, del Código de consumo de Cataluña, para incorporar medidas contra los trastornos de la conducta alimentaria*)<sup>105</sup>. Catalonia will fine websites that make apology of eating disorders. The non-compliance with the Catalan Consumer Code may be punishable by up to 100,000 euros, to pursue and sanction the contents on websites or social networks that make apology of the eating disorders, such as anorexia or bulimia. To promote, advertise, offer or encourage in any way conduct detrimental to health will constitute a serious violation of the regulations, which will result in fines of up to 100,000 euros. With this amendment, the Catalan Government complies with the commitment signed in the Table of Dialogue for the Prevention of Food Behavioral Disorders (TCA). In this way, people, companies, platforms and digital services that do not eliminate this type of content can be monitored, investigated and sanctioned, even if they are aware of its existence. The objective is to extend responsibility to intermediaries, who will also become responsible for the dissemination of affected links or content, as co-operators or accessory.

**On 9 January 2019, a National Guide to Reporting and Management of Cyber incidents** (*Guía Nacional de notificación y gestión de ciberincidentes*) was approved by the National Cybersecurity Board and Provides Information Security Managers (*Responsables de Seguridad de la Información, RSI, in its Spanish acronym*) as reported by the 2018 Annual Cybercriminality Report in Spain (*Estudio sobre la Cibercriminalidad en España 2018*)<sup>106</sup>. From the analysis of the information extracted, it can be observed

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<sup>102</sup> European Commission (2019), Infringement number 2018/2197 MEMO/19/462 Implementation of Child Sexual Abuse Directive 2011/93/EU, Brussels, 24 January 2019, available at: [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_19\\_462](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_19_462) Hyperlink was accessed on 29 November 2019.

<sup>103</sup> Official Website of the General Council of the Spanish Practitioners (*Consejo General de la Abogacía Española*), available at: <https://www.abogacia.es/2017/01/19/iii-congreso-y-v-aniversario-de-enatic/> Hyperlink was accessed on 3 September 2019.

<sup>104</sup> Spain, the International University of Menéndez Pelayo (UIMP), Agenda of the Course the course "Cibercrime, Information Society and Children (*Ciberdelincuencia, Sociedad de la Información y Menores*)", 30 March 2017, available at: [http://www.uimp.es/agenda-link.html?id\\_actividad=63MP&anyaca=2017-18](http://www.uimp.es/agenda-link.html?id_actividad=63MP&anyaca=2017-18) Hyperlink was accessed on 3 September 2019.

<sup>105</sup> Spain, Decree-Law 2/2019, of January 22, amending Law 22/2010, of July 20, of the Consumer Code of Catalonia, to incorporate measures against disorders of food behavior. (*Decreto-ley 2/2019, de 22 de enero, de modificación de la Ley 22/2010, de 20 de julio, del Código de consumo de Cataluña, para incorporar medidas contra los trastornos de la conducta alimentaria*), 22 January 2019, available at: <https://www.boe.es/buscar/doc.php?id=DOGC-f-2019-90268> Hyperlink was accessed on 13 September 2019.

<sup>106</sup> Spain, Ministry of Interior (*Ministerio del Interior*), 2018 Annual Cybercriminality Report in Spain (*Estudio sobre la Cibercriminalidad en España*), (2019), Madrid, Ministry of Interior, available at: <http://www.interior.gob.es/documents/10180/8736571/Informe+2018+sobre+la+Cibercriminalidad+en+España.pdf/0cad792f-778e-4799-bb1f-206bd195bed2> Hyperlink was accessed on 12 September 2019.

that the behavior of the victims included in the underage group does not follow the pattern or model of the elderly victims. Underage victims are more vulnerable to other criminal acts, in particular threats and coercion.

**On 1 March 2019, it was published the Law 3/2019, of 1 March, to improve the orphanage status of the daughters and sons of victims of gender-based violence and other forms of violence against women** (*Ley 3/2019, de 1 de marzo, de mejora de la situación de orfandad de las hijas e hijos de víctimas de violencia de género y otras formas de violencia contra la mujer*)<sup>107</sup>. All children of victims of sexist violence and mothers killed by any other form of violence against women will be entitled from 3 March 2019 to an orphan's pension of around 600 euros, up from 140 established so far.

On March 2019, the National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad, INCIBE*), through the Safe Internet for Kids (*Internet Segura for Kids, IS4K*, in its Spanish acronym), published a new article addressing the topic of the viral challenges with the aim of providing recommendations to parents to mitigate the impact of this threat, such as working on parental mediation or education Digital<sup>108</sup>. **In 2019 there were various viral challenges**, such as 'the blue whale' (*la ballena azul*) that encouraged many young people to commit suicide. However, 'Momo' has been the most dangerous challenge of the year and the one that has caused the greatest concern among parents about the lack of critical awareness of minors. Although it first emerged in July 2018, this photograph of a terrifying-looking sculpture has returned in 2019 with a revamped plot that incites self-harm

On July 2019, the NGO Save the children published an **Analysis of violence against children and adolescents in the digital environment Viral Violence** (*Violencia Viral, análisis de la violencia contra la infancia y la adolescencia en el entorno digital*)<sup>109</sup>. It does address violent behaviors suffered by children, adolescents through the daily use of ICTs are considered online violence and severely affect their development. It's violence that doesn't usually appear isolated. In fact, various online violence can be combined and also lead to physical violence. The ability to reproduce and forward digital content infinitely causes these forms of violence to be continued over time. Save the Children defined the characteristics of the main forms of online violence. Faced with the scarcity of data (only 2,286 complaints of cybercrime against children collected by the Ministry of the Interior), a nationally representative survey of young people was conducted to young people between the ages of 18 and 20 to learn the true magnitude of this phenomenon. 75% of young people experienced some form of online violence during their childhood.

On 7 September 2019, it's published the **Public Prosecutor's Annual Report** (*Memoria de la Fiscalía 2019*)<sup>110</sup>. Within the section in respect to children, it does call the attention by the impact on the number of crimes of a sexual nature coupled with the inappropriate use of social networks, phenomena that sometimes go hand in hand and that, on other occasions, denote the survival of sexist stereotypes that should have been overcome. Public resources need to be geared towards the transmission of a culture on the awareness of privacy, free sexuality and the dignity of the other person.

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<sup>107</sup> Spain, Law 3/2019, of 1 March, to improve the orphanage status of the daughters and sons of victims of gender-based violence and other forms of violence against women (*Ley 3/2019, de 1 de marzo, de mejora de la situación de orfandad de las hijas e hijos de víctimas de violencia de género y otras formas de violencia contra la mujer*), 1 March 2019, available at: <https://www.boe.es/eli/es/l/2019/03/01/3> Hyperlink was accessed on 20 September 2019.

<sup>108</sup> Spain, National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad, INCIBE*, in its Spanish acronym), Safe Internet for Kids (*Internet Segura for Kids*), (2019), [How to act in the face of the reappearance of the Momo viral challenge](#) (*Cómo actuar ante la reaparición del reto viral Momo*), 25 March 2019.

<sup>109</sup> Save the children, (2019), Analysis of violence against children and adolescents in the digital environment Viral Violence (*Violencia Viral, análisis de la violencia contra la infancia y la adolescencia en el entorno digital*), July 2019, Madrid, available at: [https://www.savethechildren.es/sites/default/files/imce/docs/violenciaviral\\_resumenejecutivo\\_0.pdf](https://www.savethechildren.es/sites/default/files/imce/docs/violenciaviral_resumenejecutivo_0.pdf)

<sup>110</sup> Spain, Prosecutors' Offices (*Fiscalía General del Estado*) (2019), [2019 Public Prosecutor's Annual Report](#) (*Memoria de la Fiscalía 2019*), Madrid, 9 September 2019.

On 12 September 2019, the organization Movement against the Intolerance published its Raxen. **Analysis report 67: Misinformation, Intolerance and Hate Pages on Social Networks and the Internet.** (*Raxen. Cuaderno de Análisis 67: Desinformación, Intolerancia y Discursos de Odio en las Redes Sociales e Internet*)<sup>111</sup>. Internet safety issues were mentioned particularly related to hate crimes and/or incitement to hate where children are one of the most vulnerable groups as well as cases where child(ren) were accused of promoting webs against immigrants.

On 20 September 2019, the National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad, INCIBE, in its Spanish acronym*), from IS4K, defined the term sharenting as the union of the concepts 'share' and 'parenthood'. Sharenting, when parents put their children's image at risk (*Sharenting, cuando los padres ponen en riesgo la imagen de sus hijos*).<sup>112</sup> It does refer to the children's exhibition on the Internet when nowadays is a common practice of many parents to share pictures of their children on social media.

From 27 to 30 November, **CyberCamp 2019 was organized in Valencia**, by the National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad, INCIBE, in its Spanish acronym*), an entity under the Ministry of Economy and Business (*Ministerio de Economía y Empresa*), through the Secretariat of State for Digital Advancement (*Secretaría de Estado para el Avance Digital*). It was aimed at all ages and audiences including cybersecurity professionals, young talents, families and the general public, interested in making safe use of the Internet. It did have an extensive program of technical, recreational and training activities. The goal was to detect and promote talent in cybersecurity, raise awareness of families and encourage children to learn cybersecurity through games.

On 15 November 2019, it was the closing date for the call for **awards of good educational practices in privacy and data protection for the safe use of Internet by minors convened by the Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos, AEPD, in its Spanish acronym*). All public and private persons and entities that promote and disseminate the fundamental right to the protection of personal data among students enrolled in primary and compulsory secondary education, Baccalaureate and Vocational Training can participate. The purpose of this award is to highlight initiatives that help raise awareness of the value of privacy to make responsible use of personal information.

On December 2019, the National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad, INCIBE, in its Spanish acronym*), published the **Guide, Cybersecurity in Smart Toys (*Ciberseguridad en Smart Toys*)**. It was prepared together with the la Asociación Española de Fabricantes de Juguetes (AEFJ). Its aim was to ensure an adequate level of safety in the design and manufacture of connected toys, as well as raising awareness among parents and educators in the safe use and responsible for these devices by minors. In order to mitigate the potential risks arising from the increase in connected products, the main protective measures that must be incorporated by any manufacturer during the life cycle of a toy, from its creation to the moment it ceases to be support, including the processing of the information generated after use.

On December 2019, **The Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos, AEPD, in its Spanish acronym*) and the Ministry of Education and Vocational Training (*Ministerio de Educación y Formación Profesional*) have promoted the website AseguraTIC<sup>113</sup> to contribute to the protection of minors on the Internet. Under a framework agreement, the Spanish

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<sup>111</sup> Raxen. Analysis report 67: Misinformation, Intolerance and Hate Pages on Social Networks and the Internet. (*Raxen. Cuaderno de Análisis 67: Desinformación, Intolerancia y Discursos de Odio en las Redes Sociales e Internet*), 12 septiembre, 2019.

<sup>112</sup> Spain, National Institute of Cybersecurity (*Instituto Nacional de Ciberseguridad, INCIBE, in its Spanish acronym*), Safe Internet for Kids (*Internet Segura for Kids*), (2019), [Sharenting, when parents put their children's image at risk](#) (*Sharenting, cuando los padres ponen en riesgo la imagen de sus hijos*), Madrid, 20 September 2019.

<sup>113</sup> See further detailed information on the website [AseguraTIC](#)

Professional Privacy Association (*Asociación Profesional Española de Privacidad*, APEP, in its Spanish acronym), through its Children's Commission (*Comisión de Menores*), has contributed by providing informative content. AseguraTIC is intended for educators, families, students and educational administrations, and aims to collaborate to protect minors in their interaction with the Internet by channeling a number of resources provided by participating entities, mainly with Creative Commons licenses, which make it easy to use, adapt and distribute for free.

Gámez-Guadix, M., & Mateos-Pérez, E. (2019). **Longitudinal and reciprocal relationships between sexting, online sexual solicitations, and cyberbullying among children. Computers in Human Behavior**<sup>114</sup>. This study examined the longitudinal and reciprocal relationships between sexting and two types of online victimization among children: sexual solicitations by adults and cyberbullying. The sample consisted of 1497 children between the ages of 12 and 14 at time 1, who completed measures on sexting, sexual solicitations, and cyberbullying at the beginning of the study and again at the follow-up, one year later. The prevalence during the previous year was 7.6% and 17.5% for sexting at times 1 and 2 (respectively), 7% and 15% at times 1 and 2 for sexual solicitation, and 49.4% and 46.4% at times 1 and 2 for cyberbullying. The results show that child(ren)' participation in sexting at time 1 predicted a significant increase in both sexual solicitations and cyberbullying during the follow-up; sexual solicitations and cyberbullying were both related to increased participation in sexting behavior one year later. Finally, we discuss the theoretical and practical implications of these findings.

Montiel, I., y Agustina, J. (2019). **Cibervictims with disabilities: Victimological issues and forensic challenges** (*Cibervíctimas con discapacidad: cuestiones victimológicas y retos forenses*)<sup>115</sup>. *Revista Española de Medicina Legal*). Likewise, young people with learning difficulties or disabilities may also experience sexual victimization online, with the disadvantage that they are likely to have fewer resources to cope with these situations or may be more affected by them .

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<sup>114</sup> Gámez-Guadix, M. & Mateos-Pérez, E. (2019), Longitudinal and reciprocal relationships between sexting, online sexual solicitations, and cyberbullying among child(ren). *Computers in Human Behavior*. 94. 10.1016/j.chb.2019.01.004

<sup>115</sup> Montiel, I., y Agustina, J. (2019). Cibervictims with disabilities: Victimological issues and forensic challenges (*Cibervíctimas con discapacidad: cuestiones victimológicas y retos forenses*. *Revista Española de Medicina Legal*), 45(1), available at: <https://www.sciencedirect.com/journal/revista-espanola-de-medicina-legal/vol/45/issue/1>

## Chapter 7. Access to justice including crime victims

### 1. Victims' Rights Directive

On 8 January 2019, the Ministry of Justice published an **Draft Organic Law on comprehensive protection of children and adolescents responding to violence** (*Anteproyecto de Ley Orgánica de protección integral a la infancia y la adolescencia frente a la violencia*), which was sent to the State Attorney General's Office, and which contains an amendment to the aggravating circumstance of article 22.4 of the Criminal Code, which states as follows: “Committing the crime on racist, anti-Semitic or other discrimination regarding the ideology, religion or beliefs of the victim, ethnicity, race or nation to which he belongs, his sex, age, orientation, identity, gender, gender reasons, reasons for aporophobia or social exclusion, the disease you suffer or your disability or any other reason based on discriminatory prejudice, regardless of whether such conditions or circumstances surrounding effectively the person over whom the conduct relates to” (*Cometer el delito por motivos racistas, antisemitas u otra clase de discriminación referente a la ideología, religión o creencias de la víctima, la etnia, raza o nación a la que pertenezca, su sexo, edad, orientación, identidad sexual o de género, razones de género, razones de aporofobia o de exclusión social, la enfermedad que padezca o su discapacidad o cualquier otro motivo basado en un prejuicio discriminatorio, con independencia de que tales condiciones o circunstancias concurren efectivamente en la persona sobre la que recaiga la conducta*). This draft included provisions that amends 11 laws. It established a very broad concept of violence that encompasses any form of physical, psychological or emotional harm or abuse, including sexual assault or abuse, physical punishment, and simple neglect or negligent treatment. All types of violence are punished whatever was the form of committing it, including that carried out through information and communication technologies.

On 10 June 2019, it was published the **Royal Decree 89/2019, of 22 May, regulating the establishment and organization of the Office for the Assistance of Victims of Crime within the Autonomous Community of the Canary Islands** (*Decreto 89/2019, de 22 de mayo, por el que se regula la creación y organización de las Oficinas de Asistencia a las Víctimas del Delito en el ámbito de la Comunidad Autónoma de Canarias*).<sup>116</sup> It does fulfil the objective that victims of crime in the Canary Islands may exercise the rights recognized in the law governing the Statute of the Victim of Crime (*Ley 4/2015, de 27 de abril, del Estatuto de la Víctima del delito*) and in its regulations before the Offices for Assistance to Victims of Crime. In particular, it made possible a free, confidential, respectful and without requiring a prior criminal reporting access to those offices. Furthermore the victim have the right to receive information on their rights and the manner of exercise them adapted to his or her personal circumstances and conditions, as well as the nature of the crime committed and the damages suffered. In order to ensure this information and if necessary, a translation service will be provided, as well as other means of support for communication when the victim requires sign language or, when it comes to people with sensorial disabilities.

### 2. Violence against women

Entering into force in January 2019, in December 2018 was **approved an Organic Law 5/2018, of December 28, on the reform of Organic Law 6/1985, of July 1, on urgent measures in application of the State Pact on gender-based violence** (*Ley Orgánica 5/2018, de 28 de diciembre, de reforma de la*

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<sup>116</sup> Spain, Canary Government (*Gobierno de Canarias*), Advisory Council of Presidency, Justice and Equality, (*Consejería de Presidencia, Justicia e Igualdad*), (2019), [Royal Decree 89/2019, of 22 May, regulating the establishment and organization of the Office for the Assistance of Victims of Crime within the Autonomous Community of the Canary Islands](#) (*Decreto 89/2019, de 22 de mayo, por el que se regula la creación y organización de las Oficinas de Asistencia a las Víctimas del Delito en el ámbito de la Comunidad Autónoma de Canarias*), 22 May 2019.

*Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, sobre medidas urgentes en aplicación del Pacto de Estado en materia de violencia de género*)<sup>117</sup>. This State Pact on gender-based violence marks the roadmap to be followed until 2022 for the eradication of violence against women with actions in all areas and it does also introduced developments in training and areas of specialization.

The **General Council of the Judiciary** (*Consejo General del Poder Judicial*) **Training Plan for 2019** includes more than ten training activities related to gender equality and violence. It includes the first compulsory gender-based training course for the judges. As for the degree of implementation of the State Pact's measures against gender-based violence, it was estimated that by March 2019 a 25% of the State Pact's measures against gender-based violence would have been implemented and 57% would be in process. Among the legislative measures completed, the most relevant were those contained in the Royal Decree Law 9/2018, in force since its publication<sup>118</sup>.

On 29 January 2019, The Secretariat of State for Universities has accepted a **recommendation from the National Ombudsman requesting that victims of gender-based violence enrolled in the National University of Distance Education**, (*Universidad Nacional de Educación a Distancia*, UNED in its Spanish acronym) should not have to pay university fees ensuring that it will be effective in the 2019-2020 academic year<sup>119</sup>.

On 19 February 2019, it was **published the report submitted by Spain pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)**<sup>120</sup>. It does state that since the Istanbul Convention came into force, Spain has made a series of important advances including legislative reforms, which culminated with the adoption in 2017 of the State Pact against Gender-based Violence (*Pacto de Estado contra la violencia de género*) and the assumption by the Government Vice-presidency of responsibility for questions of equality, including public policies for combating violence against women in June 2018. The report refers essentially and as requested to interventions made in the years 2016 and 2017. But it does also include some 2018 actions, as a consequence of the implementation of the measures included in the State Pact.

On 10 June 2019, the 252 **Civil Society signatories organization present the Spanish Istanbul Shadow Platform Report**<sup>121</sup> to GREVIO examination process as well as to the Spanish State institutions and parties, complemented by the Shadow Reports of Autonomous Regions, in accordance with the responsibilities assigned to the regional and local bodies in Arts 7.3 and 18.2 of the Convention. It was structured according to the Istanbul Convention's chapters and the questionnaire was approved by

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<sup>117</sup> Spain, [Organic Law 5/2018, of December 28, on the reform of Organic Law 6/1985, of July 1, on urgent measures in application of the State Pact on gender-based violence](#) (*Ley Orgánica 5/2018, de 28 de diciembre, de reforma de la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, sobre medidas urgentes en aplicación del Pacto de Estado en materia de violencia de género*), 29 December 2018.

<sup>118</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Royal Decree 9/2018 on emergency measures for the development of the State Pact on Gender-Based Violence](#) (*Real Decreto-ley 9/2018, de 3 de agosto, de medidas urgentes para el desarrollo del Pacto de Estado contra la violencia de género*), 13 September 2018.

<sup>119</sup> Spain, National Ombudsman (*Defensor del Pueblo Nacional*) (2019), "[La UNED acepta una recomendación del Defensor del Pueblo para que las víctimas de violencia machista no paguen matrícula](#)", press release, 29 January 2019.

<sup>120</sup> Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), [Report submitted by Spain pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) Strasbourg, GREVIO/Inf(2019)5, 19 February 2019.

<sup>121</sup> Spanish Istanbul Shadow Platform, (2019), [Shadow Report on Application in Spain 2015-2018 De La Cedaw - Convention on the Elimination of All Forms of Discrimination Against Women](#) (Informe Sombra Sobre La Aplicación En España 2015-2018 De La Cedaw -Convención Sobre La Eliminación De Todas Las Formas De Discriminación Contra La Mujer), Madrid, Spanish Istanbul Shadow Platform.

GREVIO on February 11, 2016. A specific chapter on Sexual Violence, Harassment at work and other forms of violence was added. Among other issues, it highlighted that the “definitions of sexual violence- assault, abuse and harassment- within the criminal, civil, labour or administrative legislation, do not address it as “a violation of human rights and a form of discrimination against women”, nor those it have a comprehensive framework with acts and public policies to prevent and combat it. Criminal and procedural regulations belong to the exclusive competence of the state, but regarding prevention and care, there are some areas that fall within regional competence, as it is the case with education or health. Considering the lack of a state framework, this has entailed territorial inequalities and differences.

**Law 3/2019, of 1 March, on improving the orphaning status of the daughters and sons of victims of gender-based violence and other forms of violence against women, creates the provision of orphanhood on behalf of the sons and daughters of the denouncing woman as a consequence of the violence against the women** (*la Ley 3/2019, de 1 de marzo, de mejora de la situación de orfandad de las hijas e hijos de víctimas de violencia de género y otras formas de violencia contra la mujer, crea la prestación de orfandad en favor de los hijos e hijas de la causante como consecuencia de violencia contra la mujer*)<sup>122</sup>. **It includes a new benefit within the Social Security system: the provision of orphanage.** It established the right of orphan pension to be granted to minors that have left orphaned caused by victims of violence against women. It makes it equal to the cases of absolute orphanage (*orfandad absoluta*)<sup>123</sup> where that orphan pension could be increased summing up the amount corresponding to the widow pension of one of the parents. It also contains a mandate for the Government to carry out a study to analyse other cases of absolute orphanage that may not be sufficiently protected yet. The deadline for it expired in June 2019. A comparative table<sup>124</sup> shows all additional changes and modifications of the Law.

**The National Ombudsman has initiated an ex officio an investigation for sexist violence against minors. In one of the cases,** one child supposed to have died in Beniel (Murcia) at the hands of his father. The accused parricide reportedly had a history of gender-based violence and would have broken a restraining order previously issued. The Ombudsman asked the Prosecutor's Office whether it received this information on estimating the level of risk to the child prepared by police officers and whether proceedings were taken in relation to the alleged breach of the restraining order for ensuring the protection of the child.<sup>125</sup> Secondly, the Ombudsman did also ex officio investigate the case of the man who murdered his former partner, his ex-brother-in-law and his former mother-in-law in the presence of his two young children, and thirdly the case of the murder of a woman in Madrid at the hands of his partner and in the presence of the two daughters when the victim had the minors under her care.<sup>126</sup>

The Ombudsman recalls that, since 2013, 28 children were murdered by their parents or by their mothers' partners. Until that date, their deaths were not even counted as victims of gender-based violence. It is what is known as vicarious violence, to do as much harm to the mother as possible through the children.

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<sup>122</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Law 3/2019, 1 March, on improving the orphaning status of the daughters and sons of victims of gender-based violence and other forms of violence against women](#) (*Ley 3/2019, de 1 de marzo, de mejora de la situación de orfandad de las hijas e hijos de víctimas de violencia de género y otras formas de violencia contra la mujer*), 2 March 2019.

<sup>123</sup> See that the absolute orphanage (*orfandad absoluta*) refers to both parents having died or the absence of one of them, when the other is unknown or has been held responsible for gender-based violence.

<sup>124</sup> Center for Financial Studies (*Centro de estudios financieros*, CEF) (2019), Comparative Chart (*Cuadro comparativo por Ley 3/2019, de 1 de marzo, de mejora de la situación de orfandad de las hijas e hijos de víctimas de violencia de género y otras formas de violencia contra la mujer*), Madrid, available at: <https://www.laboral-social.com/sites/laboral-social.com/files/CUADROCOMPARATIVOLEY32019%20.pdf>

<sup>125</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2019), [“El Defensor del Pueblo investiga de oficio el fallecimiento de un menor en Murcia presuntamente a manos de su padre”](#), press release, 26 July 2019.

<sup>126</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2019), [“El Defensor del Pueblo investiga de oficio los dos últimos asesinatos machistas”](#), press release, 20 September 2019.

**On 1 March 2019, it was approved the Royal Decree-Law 6/2019 of urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation**<sup>127</sup>, previously mentioned, which obliges companies of 50 or more workers to implement equality plans, includes the adoption of measures to prevent sexual harassment, even in the workplace.

Equality Plans. The companies will be required to develop and implement equality plans when they have 50 or more employees (so far only companies of more than 250 employees were required to do so). This obligation will be carried out gradually and in different phases. The obligation will be fully implemented only after the following three years.

As stated in Article 46 of the Equality Law<sup>128</sup>, the equality plans are set of organized measures, adopted after making a diagnosis, aimed at achieving equal treatment and opportunities between women and men in the company and eliminating discrimination on grounds sex. They set out the concrete equality objectives to be achieved, the strategies and practices to be adopted to achieve them, as well as the establishment of effective systems for monitoring and assessing the objectives set.

According to the Article 1 of this the Royal Decree-Law 6/2019, a negotiated diagnosis will be drawn up in advance, meaning before the Equality plan is drafted, with the legal representation of the workers, containing at least the following subjects: (a) Selection and recruitment process. b) Professional classification c) Training. d) Professional promotion. (e) Working conditions, including the gender pay audit. (f) Co-responsible exercise of personal, family and work life rights. (g) Female underrepresentation. h) Remuneration. **i) Prevention of sexual harassment and sex.**

On 1 May 2019, **Spain presented its National Report on the implementation of the Beijing Declaration and Platform for Action (1995)** and the results of the twenty-third special session of the General Assembly (2000) in the context of the 25th anniversary of the Fourth World Conference on Women and the adoption of the Beijing Declaration and Platform for Action. The lines that the report brings are: violence; education, technology and co-education; women's association; gender mainstreaming; workplace; structures and statistics. The report points to an issue described as a concern by civil society actors, in that the INE does not have information for certain SME 5 (gender equality) indicators established by the Global Indicators Framework for SDGs and SDG targets 2030 Agenda for Sustainable Development, such as the indicator on the harmful practice of child marriage (in particular indicator 5.3.1); universal access to sexual and reproductive health and reproductive rights (in particular indicators 5.6.1 and 5.6.2), among others.

On 7 September 2019, the **Public Prosecutor's Annual Report** (*Memoria de la Fiscalía 2019*)<sup>129</sup> **with respect to the Gender Violence** did highlight the issue of the murder of minors at the hands of their parents or in pairs or ex-partners. The official data are registered since 2013 by the Ministry of the Presidency, Relations with Courts and Equality - Secretary of State for Equality (*Ministerio de la Presidencia, Relaciones con las Cortes e Igualdad. Secretaría de Estado para la Igualdad*). **Those data referred to minors killed are as follow: 6 in 2013, 4 in 2014, 5 in 2015, 1 in 2016, 8 in 2017 and 7 in 2018**<sup>130</sup>. The

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<sup>127</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Royal Decree-Law 6/2019, of 1 March, of urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation](#) (*Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación*), 1 March 2019.

<sup>128</sup> Spain, Head of State (*Jefatura del Estado*) (2007), [Organic Law 3/2007, of March 22, on the Effective Equality of Women and Men](#) (*Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres*), 22 March 2007.

<sup>129</sup> Spain, Prosecutors' Offices (*Fiscalía General del Estado*) (2019), [2019 Public Prosecutor's Annual Report](#) (*Memoria de la Fiscalía 2019*), Madrid, 9 September 2019.

<sup>130</sup> Spain, Ministry of the Presidency, Relations with Courts and Equality - Secretary of State for Equality (*Ministerio de la Presidencia, Relaciones con las Cortes e Igualdad - Secretaría de Estado de Igualdad*), [Data for Minor Motal Victims of](#)

Public Prosecutor's Office hopes that the State Pact will end the impunity caused by the dispensation of the duty to declare Article 416 LECrim<sup>131</sup>, which does not protect the victim. It states that in 2018, 41,000 judgments were handed down in this area. Out of these, 29,000 were convicted, of which 17,000 were by the defendant's agreement. In addition, there has been a 2% increase in the number of precautionary measures requested (45,045 in 2018, up from 44,106 in 2017). Out of the 49 deceased women, 16 had reported. The experiences most described by the various Prosecutors' Offices for some years point to an insufficient or poor assessment of the risk of victims, which should make us reflect on the adequacy of the means available and their irregular deployment across the national territory.

The summary of the report when referring to Violence against Women pointed out five main issues such as:

- The increase in the number of complaints, protection grants and convictions reduces the number of fatalities.
- The murder of minors at the hands of their parents or in pairs or ex-partners of the mother constitutes another cruel form of escalating violence.
- Concerns are the poor detection of psychological and control violence, especially through social networks, among young people and adolescents and their protection.
- The Public Prosecutor's Office hopes that the State Pact will end the impunity caused by the dispensation of the duty to declare Article 416 LECrim, which does not protect the victim.
- The increasingly frequent consideration of malice aforethought (*alevosía*) as an aggravating circumstances when acting on gender grounds, when a women were killed by their partners or ex-partners, made possible to reflect more appropriately the criminal condemnation against these crimes.

On 26 September 2019, **General Counsel of the Judiciary. The President of the Supreme Court and the General Council of the Judiciary received at the headquarters of the governing body of the judges a delegation of the expert group responsible for monitoring the implementation of the Istanbul Convention by the signatory countries**<sup>132</sup>. It was highlighted that the positive evolution of the Supreme Court jurisprudence in the field of sexist violence as the decisions of the courts have long taken into account the gender perspective based on a legal mandate. The requirements of the Istanbul Convention have also been met by providing special protection to victims with the adoption of the Statute of the Victim of Crime (*Estatuto de la víctima del delito*)<sup>133</sup>.

On November 2019, the Ministry of Interior communicated that throughout 2019 and in line with the State Pact against Gender Violence, it incorporated improvements in the **Protocol of Police Assessment of the Risk of Gender Violence, Management of Victim Safety and monitoring cases through the VioGén System**<sup>134</sup> (*Protocolo de valoración policial del riesgo de violencia de género, gestión de la seguridad de las víctimas y seguimiento de los casos a través del Sistema VioGén*) aimed at increasing the predictive capacity of police risk assessment and improving the identification of cases with vulnerable minors. Actually it was registered that more than 4,000 men are serving time for gender-based violence as the main

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[Gender Violence](#) (*Fichas de menores víctimas mortales de violencia de género*), Official Website of the Ministry of the Presidency, Relations with Courts and Equality.

<sup>131</sup> Spain, Ministry of Grace and Justice (*Ministerio de Gracia y Justicia*), (1882), [Royal Decree of September 14, 1882 approving the Criminal Procedure Act](#) (*Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal*), Madrid, 17 September 1882.

<sup>132</sup> Noticias Jurídicas (2019), [El CGPJ expone ante la comisión de seguimiento del Convenio de Estambul las medidas contra la violencia doméstica y de género](#), press release, 26 September 2019.

<sup>133</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Law 4/2015, of April 27, on the Statute of the Victim of Crime](#) (*Ley 4/2015, de 27 de abril, del Estatuto de la víctima del delito*), 28 October 2015.

<sup>134</sup> Spain, Ministry of Interior (Ministerio del Interior) (2019), ["Policía Nacional y Guardia Civil tramitan más de 64.000 denuncias por delitos de violencia de género hasta noviembre de 2019, un 11,2% más que en el mismo periodo del año anterior"](#), 25 November 2019.

crime in prisons under the General Secretary of Prison Institutions, 74% of Spanish nationality. Until October 30, 2019, police officers reported a total of 60,000 cases that are active. These cases are distributed among National Police (25,000), Guardia Civil (24,000), as well as Navarra Foral Police and the Local Police of almost 400 Municipalities affiliated to the Comprehensive Monitoring in Gender Violence Cases (*Seguimiento Integral en los casos de Violencia de Género*, VioGén System, in its Spanish acronym)<sup>135</sup> under the competence of the Secretary of State for Security. As of 30 October 2019, police officers reported a total of 60,000 open cases. These cases are divided between National Police (25,000), Guardia Civil (24,000), as well as Foral Police of Navarra and the Local Police of almost 400 Municipalities affiliated to the VioGén System of the Secretary of State for Security. It is nowadays in Spain the third cause of admission to prison. The profile of the convicted person is a Spaniard (78% of the convicts) between 41 and 60 years (45%). The same characteristics were repeated when talking about alternative penalties: 74% Spanish people between the ages of 31 and 40.

[Sermujer.es](#) is a program still running since 2011 to work with those convicted of gender-based violence oriented to women imprisoned. It is a psychotherapeutic intervention to give women deprived of the freedom of freedom to improve their personal capacities, to face the difficulties of being in prison, and to teach them to detect and deal with sexist violence. Around 1,500 women have participated in the program since its implementation. There are currently 19 centres in 19 centres out of 239 women. On 2019 an **evaluation study titled Evaluation of the effectiveness of a treatment program for the empowerment of women in prison - Program Sermujer.es** (*Evaluación de la eficacia de un programa de tratamiento para el empoderamiento de las mujeres en prisión - Programa Sermujer.es*) was published and developed by the National University of Distance Education, (*Universidad Nacional de Educación a Distancia*, UNED in its Spanish acronym). It does analyze the effectiveness of a treatment program SerMujer.es for the empowerment of women in prison. **Certain conclusions out it were drawn** such as: approximately 70% to 75% of women entering prison have been mistreated; the percentage of abused women living in prison are very worrying and justify the development of a more extensive and intensive Action Plan; the relevance of the transformation of participants into agents of change; the effects of the Programme on other women in the same situation, in particular to generate the link that eliminates the resistance of others to participate in this and other programmes; the positive effect on social and family networks, particularly on children; the encouragement of the programme to promote a change and the will for change for those women to take the decision to abandon the crime<sup>136</sup>.

On September 2019, the **the Spanish Data Protection Agency (AEPD)** (*La Agencia Española de Protección de Datos*, AEPD, in its Spanish acronym) signed several **collaboration agreements with the Ministry of the Presidency, Court Relations and Equality** (*Ministerio de Presidencia, Relaciones con las Cortes e Igualdad*) in which it articulates, inter alia, joint awareness and information on the safe use of the Internet and prevention of violence against women and the violation of their right to data protection. It also signed a protocol of **collaboration with the Ministry of Labour, Migration and Social Security** (*Ministerio de Trabajo, Migraciones y Seguridad Social*), which aims at joint actions that contribute to the prevention, awareness-raising and action against acts of violence against workers, and particularly in cases of violence against women when it occurs through the dissemination over the Internet of images, videos or audios with sensitive data.

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<sup>135</sup> For more information see the Official webpage of the Spanish Ministry of Interior (*Ministerio del Interior*), on Citizens' Services and the Sistema [VioGen](#).

<sup>136</sup> Viedma Rojas, A. and Del Val Cid, C., UNED, (2019), Evaluation of the effectiveness of a treatment program for the empowerment of women in prison - Program Sermujer.es (*Evaluación de la eficacia de un programa de tratamiento para el empoderamiento de las mujeres en prisión - Programa Sermujer.es*), Madrid, Ministry of Interior, available at: [http://www.interior.gob.es/documents/642317/1201664/Evaluacion\\_de\\_la\\_eficacia\\_de\\_un\\_programa\\_tratamiento\\_empoderamiento\\_mujer\\_prision\\_SerMujer\\_126190502\\_web\\_vf.pdf/3b6ff1cd-c773-4f86-8fa6-0988fce67057](http://www.interior.gob.es/documents/642317/1201664/Evaluacion_de_la_eficacia_de_un_programa_tratamiento_empoderamiento_mujer_prision_SerMujer_126190502_web_vf.pdf/3b6ff1cd-c773-4f86-8fa6-0988fce67057)

On 22 Noviembre de 2019, **the Spanish Data Protection Agency (AEPD) presented a web space to help protect the privacy of victims of gender-based violence**<sup>137</sup>. the Agency also presented a publication containing Recommendations for Data Protection in Digital Harassment Prevention Policies<sup>138</sup>, a document that aims to encourage companies and public administrations to incorporate measures aimed at preventing and eradicating digital harassment in workplaces into their digital harassment prevention policies. In this way, the AEPD seeks to address two areas of the same problem. On the one hand, promote support for victims of gender-based violence in the digital environment and, on the other hand, promote the adoption of prevention policies in workplaces that implement specific measures for their protection.

Until 25 November 2019, the Spanish Data Protection Agency (AEPD) set up the deadline for submitting **applications for the Personal Data Protection Awards 2019** (*Premios Protección de Datos Personales 2019*)<sup>139</sup>, which include the categories of Good Educational Practices for the safe use of the internet by minors; Emilio Aced Research; Good Practices on Initiatives to Adapt to the Regulations; Communication, as well as two new categories: Entrepreneurship and Good Practices in Initiatives for the Protection of the Privacy of Women Victims of Gender-Based Violence.

Until 25 November 2019, the Spanish Data Protection Agency (AEPD) set up the deadline for submitting **applications for the Personal Data Protection Awards 2019** (*Premios Protección de Datos Personales 2019*), which include **Award for good practices aimed at greater internet protection of the privacy of women victims of gender-based violence** (*Premio a las buenas prácticas dirigidas a una mayor protección en internet de la privacidad de las mujeres víctimas de violencia por razón de género*)<sup>140</sup>, which recognizes public or private activities, products or services aimed at raising awareness and prevention different forms of gender-based violence in the internet environment.

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<sup>137</sup> See further information on the Official Website for the [privacy protection of victims of gender violence](#).

<sup>138</sup> Spain, the Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos*), (2019), The Data Protection as a guarantee in the Digital Harassment Prevention Policies: AEPD recommendations (*La protección de datos como garantía en las políticas de prevención del acoso: recomendaciones de la AEPD*), Madrid, Spanish Data Protection Agency.

<sup>139</sup> Spain, the Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos*), (2019), [Ampliado el plazo para la presentación de candidaturas a los 'Premios Protección de Datos 2019'](#), 12 Noviembre de 2019.

<sup>140</sup> Spain, the Spanish Data Protection Agency (AEPD) (*La Agencia Española de Protección de Datos*), (2019), [Resolution of the Spanish Data Protection Agency, convening the first edition of the Good Practice Award in relation to public and private initiatives aimed at greater internet protection of the privacy of women victims gender-based violence](#) (*Resolución de la Agencia Española de Protección de Datos, por la que se convoca la primera edición del Premio a las Buenas Prácticas en relación con iniciativas del ámbito público y privado dirigidas a una mayor protección en internet de la privacidad de las mujeres víctimas de violencia por razón de género*), Madrid, 2019.

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

## 1. CRPD policy & legal developments

The reform on the voting rights **initiated in December 2018 by the Organic Law of the General Electoral Regime (*Ley Orgánica del Régimen Electoral General*) in 2018<sup>141</sup>**, that entered into force on the 7<sup>th</sup> December 2018, returned the right to vote in 2019 to almost 100,000 people who were deprived of it due to intellectual disability, psychosocial disability or cognitive impairment. It happened at the same time of **the reform in December 2018 of the article 49 of the Spanish Constitution<sup>142</sup>**. The new article 49 implements a rights based approach rather than the previous one, based on a medical-rehabilitative approach. The new text is adapted to current conception of the protection of persons with disabilities, thus emphasizing the rights and duties of persons with disabilities, as free and equal citizens and are not based on the medical-rehabilitative approach that underlie its original wording.

On January 2019, it was entered a **Law Proposal for the Eradication of Forced or Non-Consented Sterilization of Persons with Judicially Incapacitated Disabilities (*Proposición de Ley para la erradicación de la esterilización forzosa o no consentida a personas con discapacidad incapacitadas judicialmente*)**. It was presented by the Citizens (*Ciudadanos*) Parliamentary Group<sup>143</sup>.

On February 2019, **the Spanish Government created an expert group to study the suppression of forced sterilization**. The aim was to begin to study the prohibition of forced sterilization of women with disabilities. It does intend to analyse the possible reform of the Criminal Code in order to prohibit such medical interventions without consent. In 2017, 93 sterilization procedures took place. These techniques are usually justified "for the good of women", based on "her inability" to be a mother or in order to protect her from unwanted pregnancies. But the Istanbul Convention expressly prohibits it and the UN called it an "unacceptable practice with lifelong consequences" and a "widespread violation of human rights" that it urged to eradicate. The work of this expert group is underway to revise its legislative provisions authorizing

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<sup>141</sup> Spain, Spain, Head of State (*Jefatura del Estado*) (2019), [Organic Law 2/2018, of December 5, for the amendment of Organic Law 5/1985, of June 19, of the General Electoral Regime to guarantee the right of suffrage of all persons with disabilities](#) (*Ley Orgánica 2/2018, de 5 de diciembre, para la modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General para garantizar el derecho de sufragio de todas las personas con discapacidad*), 6 December 2019.

<sup>142</sup> Spain, National Congress (*Congreso de los Diputados*), [Draft reform of article 49 of the Constitution](#) (*Anteproyecto de reforma del artículo 49 de la Constitución*), 7 December 2018.

Article 49 of the Spanish Constitution is drafted as follows: "Persons with disabilities hold the rights and duties provided for in this Title under conditions of freedom and real and effective equality, without discrimination. The public authorities shall carry out the necessary policies to ensure the full personal autonomy and social inclusion of persons with disabilities. These policies will respect your freedom of choice and preferences, and will be adopted with the participation of representative organizations of persons with disabilities. The specific needs of women and girls with disabilities will be particularly addressed. Enhanced protection of persons with disabilities shall be regulated for the full exercise of their rights and duties. Persons with disabilities enjoy the protection provided for in international agreements that protect their rights

*(Las personas con discapacidad son titulares de los derechos y deberes previstos en este Título en condiciones de libertad e igualdad real y efectiva, sin que pueda producirse discriminación. Los poderes públicos realizarán las políticas necesarias para garantizar la plena autonomía personal e inclusión social de las personas con discapacidad. Estas políticas respetarán su libertad de elección y preferencias, y serán adoptadas con la participación de las organizaciones representativas de personas con discapacidad. Se atenderán particularmente las necesidades específicas de las mujeres y niñas con discapacidad. Se regulará la protección reforzada de las personas con discapacidad para el pleno ejercicio de sus derechos y deberes. Las personas con discapacidad gozan de la protección prevista en los acuerdos internacionales que velan por sus derechos"*.

<sup>143</sup> Spain, Parliamentarian Group Citizens (*Grupo Parlamentario Ciudadanos*) (2019), [Proposal of Law for the Eradication of Forced or Non-Consented Sterilization of Persons with Judicially Incapacitated Disabilities](#) (*Proposición de Ley para la erradicación de la esterilización forzosa o no consentida a personas con discapacidad incapacitadas judicialmente*), 11 January 2019.

deprivation of liberty on the grounds of disability, including mental, psychological or intellectual disabilities.

On February 2019, it was approved an **Organic Law for the Improvement of Educational Quality the Bill amending the Organic Law on Education of the new Organic Law on Inclusive Education** (*Proyecto de Ley por el que se modifica la Ley Orgánica de Educación del nuevo proyecto de ley orgánica sobre educación inclusiva*)<sup>144</sup>. It is known as Ley Celaá. The new rule repeals the Organic Law 8/2013, of December 9, for the improvement of the educative quality (*Ley Orgánica 8/2013, de 9 de diciembre, para la mejora de la calidad educativa, LOMCE, in its Spanish acronym*)<sup>145</sup>, and amends and modernizes the Organic Law of Education. The Bill is based **on five pillars**. For the first time, an education law included the approach to children's rights among the guiding principles of the system, as set out in the United Nations Convention on the Rights of the Child (1989), recognizing the their right to education and the obligation of the State to ensure effective compliance with their rights. The text also states that the Government, in collaboration with the educational public system, will develop a Governmental plan, within 10 years, in line with the United Nations Convention on the Rights of Persons with Disabilities and in compliance with the Fourth Sustainable Development Goal of the Agenda 2030; the regular educational centres will have the necessary resources to be able to take care of the students with disabilities in the best conditions. In relation to the promotion of equity and educational inclusion, the public administration will continue to provide the necessary support to special education centres so that they will serve as reference centres and support for ordinary centres; in addition the schooling of students who require highly specialized care will continue. And it sets a period of ten years to integrate students with special needs into ordinary centres.

On 23 February 2019, it was published the **PCI/169/2019 Order of 22 February, creating the Sustainable Development Council** (*Orden PCI/169/2019, de 22 de febrero, por la que se crea el Consejo de Desarrollo Sostenible*)<sup>146</sup>. The Sustainable Development Council is part of and complements the governance structure for the implementation of the 2030 Agenda for Sustainable Development in Spain. As part of its membership, there are forty-eight people representing the civil society and one out of them is a group composed by fourteen members representing the main third sector platforms and citizen's networks. The representative member of the Spanish Committee of Representatives of Persons with Disabilities is one of them.

On 5 March 2019, it was approved a **Royal Decree-Law 7/2019, of 1 March, of urgent measures on housing and rent** (*Real Decreto-ley 7/2019, de 1 de marzo, de medidas urgentes en materia de vivienda y alquiler*)<sup>147</sup>. It does expressly excludes the possibility of waiving the right of surrogacy to persons who are particularly vulnerable, such as children, disabled persons and/or people over 65 years old.

On 7 March 2019, it was approved a **Royal Decree-Law 6/2019, of 1 March, of urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation** (*Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y*

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<sup>144</sup> Spain, Government Presidency (*Presidencia del Gobierno*) (2019), [Approved the Bill amending the Organic Education Act](#) (*Aprobado el Proyecto de Ley por el que se modifica la Ley Orgánica de Educación*), press release, 15 February 2019.

<sup>145</sup> Spain, Head of State (*Jefatura del Estado*) (2013), [Organic Law 8/2013, of December 9, for the improvement of the quality of the education](#) (*Ley Orgánica 8/2013, de 9 de diciembre, para la mejora de la calidad educativa, LOMCE, in its Spanish acronym*), 9 December 2013.

<sup>146</sup> Spain, Ministry of the Presidency, Relations with Courts and Equality (*Ministerio de la Presidencia, Relaciones con la Cortes e Igualdad*) (2019), [Order of 22 February, creating the Sustainable Development Council](#) (*Orden PCI/169/2019, de 22 de febrero, por la que se crea el Consejo de Desarrollo Sostenible*), 22 February 2019.

<sup>147</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Royal Decree-Law 7/2019, of 1 March, of urgent measures on housing and rent](#) (*Real Decreto-ley 7/2019, de 1 de marzo, de medidas urgentes en materia de vivienda y alquiler*), 5 March 2019.

*de oportunidades entre mujeres y hombres en el empleo y la ocupación*).<sup>148</sup> It progressively extended the paternity leave to make it equal to the maternity leave in 2021. It implied an equitable distribution between the two parents of **two additional weeks to be enjoyed and granted in the case of disability of the child** or in the case of multiple birth, fostering or adoption between the two parents. was limited to one in the case of a single-parent family.

On 7 March 2019, **the Spanish Government approved the National Day of the UN Disability Convention Resolution**. The Agreement of the Council of Ministers of 22 February 2019 established May 3 as the National Day of the United Nations Convention on the Rights of Persons with Disabilities (*Resolución de 7 de marzo de 2019, de la Secretaría de Estado de Servicios Sociales, por la que se publica el Acuerdo del Consejo de Ministros de 22 de febrero de 2019, por el que se establece el día 3 de mayo como Día Nacional de la Convención Internacional sobre los Derechos de las Personas con Discapacidad de Naciones Unidas*)<sup>149</sup>. The date of the 3 May was chosen as it was the day when the Convention entered into force in 2008. The objective was to contribute to the knowledge, dissemination and awareness of the Convention, its principles, values and mandates, extending the culture and human rights' practices in the field of people with disabilities.

On 29 April 2019, and in relation with the application of the Convention on the Rights of Persons with Disabilities, **the Committee on the Rights of Persons with Disabilities published its views** concerning a *Communication submitted by: V.F.C.* and represented by the Spanish Committee of Representatives of Persons with Disabilities and the Association for the Workplace Integration of Local Police Officers with **Disabilities (V.F.C. c. España)**.<sup>150</sup> The issues under discussion were related to the Right to non-discrimination in the maintenance or continuance of employment (assignment to modified duty) and after the exhaustion of domestic remedies; substantiation of claims that refers to articles 3 (a), (b), (c), (d) and (e); 4 (1) (a), (b) and (d) and (5); 5 (1), (2) and (3); 13 (2); 27 (a), (b), (e), (g), (i) and (k) of the Convention and Articles 2 (c) and (d) of the Optional Protocol.

On 8 April 2019, **The Committee on the Rights of Persons with Disabilities** published a decision (CRPD/C/21D/34/2015) that examined whether Spain had violated the rights of a local policeman who suffered a traffic accident. It questioned the application of a municipal ordinance of the Barcelona City Council activity why the local policeman was forcibly retired due to a total permanent inability to carry out local police functions. It was based on the municipal regulation that prevented the transition to a second or a different job position.

The Committee reports that in this case, the author was deprived of his status as a public official at the time of his forced retirement, and he had no opportunity to request reasonable adjustments that would have allowed him to perform different roles. Furthermore, Spain did not demonstrate that there were no other functions within the police force in which the author could have performed (*el autor fue privado de su condición de funcionario público en el momento de su jubilación forzada, y (...) no tuvo ninguna*

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<sup>148</sup> Spain, Head of State (*Jefatura del Estado*) (2019), [Royal Decree-Law 6/2019, of 1 March, of urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation](#) (*Real Decreto-ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación*), 1 March 2019. It develops the legal disposition of: Spain, Head of State (*Jefatura del Estado*) (2007), [Organic Law 3/2007, of March 22, on the Effective Equality of Women and Men](#) (*Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres*), 22 March 2007.

<sup>149</sup> Spain, Ministry of Health, Consumption and Social Welfare (*Ministerio de Sanidad, Consumo y Bienestar Social*) (2019), [Resolution of 7 March 2019 of the Secretary of State for the Social Services by which it is published the Agreement of the Council of Ministers of 22 February 2019, by which it is established May 3 as the National Day of the United Nations Convention on the Rights of Persons with Disabilities](#) (*Resolución de 7 de marzo de 2019, de la Secretaría de Estado de Servicios Sociales, por la que se publica el Acuerdo del Consejo de Ministros de 22 de febrero de 2019, por el que se establece el día 3 de mayo como Día Nacional de la Convención Internacional sobre los Derechos de las Personas con Discapacidad de Naciones Unidas*), 7 March 2019.

<sup>150</sup> United Nations (UN), [Committee on the Rights of Persons with Disabilities \(2019\), Views adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 34/2015](#), 29 April 2019.

*oportunidad de solicitar ajustes razonables que le hubieran permitido desempeñar funciones distintas”; además, señala que España “no ha demostrado que no hubiera otro tipo de funciones dentro del cuerpo de policía en el que servía el autor que este hubiera podido desempeñar). The Committee understands that the lack of reasonable adjustments, as well as the impossibility of the complainant to apply for a second activity because of the municipal ordinance and, and this local regulation supposed to be contrary to the national legislation in force which allows the transition to a second activity of those persons who "see their capacities diminished". Then it is finally concluded that it contravenes the rights contained in Articles 4.1, 4.5, 5.1, 5.2, 5.3, and 27 together with Article 3 of the Convention.*

The Committee urges Spain to "harmonize the diversity of local and regional regulations governing the second activity of those who serve as civil servants in the civil service, in accordance with the principles of the Convention and the recommendations of this opinion (*armonizar la diversidad de normativas locales y regionales que regulan el pase a segunda actividad de quienes desempeñan como funcionarios en la administración pública, de conformidad con los principios de la Convención y las recomendaciones del presente dictamen*). In addition, it does request as well the compensation to the plaintiff and the adoption of the necessary measures to prevent similar violations in the future.

In April, **the Spanish Ministry of Justice establish within the State Attorney General's Office (Fiscalía General del Estado, FGE, in its Spanish acronym), a specialized disability public prosecutor's office specialized in protection of disabled and elderly people**<sup>151</sup>. This new figure intends to promote and coordinate more firmly and effectively the relevant role of the Public Prosecutor's Office in the protection of the rights of persons with disabilities and the elderly. Having a Disability Public Prosecutor's Office is a step along the lines of Article 13 of the International Convention on the Rights of Persons with Disabilities, as a tool to promote, protect and secure the rights of these individuals.

On 1 May 2019, **Spain presented its National Report on the implementation of the Beijing Declaration and the Platform for Action (1995)** and the results of the twenty-third special session of the General Assembly (2000). It was introduced in the context of the 25th anniversary of the Fourth World Conference on Women and the adoption of the Beijing Declaration and Platform for Action. The women with disabilities are an important part of the report and are mentioned almost 50 times in it. Among other issues, the measures incorporated in the State Pact against Gender Violence for women with disabilities who are victims of sexist violence are highlighted. The national report itself underlines the need both to reprocess existing data and to conduct new surveys to create baseline national data, both needs focusing on violence against women with disabilities.

On 25 July 2019, **The European Commission decided to pursue infringement procedures against Spain following its failure to meet their obligations related to the Digital Single Market**. Spain failed to effectively implement the rules on the 112 emergency phone number as defined by the Universal Service Directive (2002/22/EC), in particular by ensuring equivalent access for disabled users<sup>152</sup>. Each one of the 112 autonomic services has its own access system, adapted to communication with people with deafness through the use of different technology (SMS, instant messaging, videoconferencing) that implies that the deaf person must register in a registration to be identified as such, and operates only within the scope of the autonomous community concerned. Therefore, if the deaf person is forced to use the service outside of his/her community of residence, he will not be able to do so, as he/she is not listed on the register of deaf persons in the community in which the emergency occurs. To which we must add the lack of coordination of these services at national level.

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<sup>151</sup> Spain, Ministry of Justice (*Ministerio de Justicia*) (2019), [Royal Decree 255/2019, of April 12, which expands the organic staff of the Public Prosecutor's Office to adapt it to existing needs](#) (*Real Decreto 255/2019, de 12 de abril, por el que se amplía la plantilla orgánica del Ministerio Fiscal para adecuarla a las necesidades existentes*), 12 April 2019.

<sup>152</sup> European Commission, (2019), [July infringements package: key decisions](#), Press release, 25 July 2019.

On 31 July 2019, **the National Senate, re-edit the Committee on Comprehensive Disability Policies** with permanent and legislative rank composed by 28 members in total. Like the National Congress of Deputies.

On 29 July 2019, It was published a **ministerial order of the Ministry of Labour, Migrations and Social Security** (*Ministerio de Trabajo, Migraciones y Seguridad Social*) **temporarily raising funds assigned to the support of certain job positions of persons with disabilities in Special Centres for Employment** (*Orden TMS/805/2019, de 23 de julio, por la que se incrementan, con carácter extraordinario, las subvenciones destinadas al mantenimiento de puestos de trabajo de personas con discapacidad en los Centros Especiales de Empleo*)<sup>153</sup>. It does established an increase from 50% to 55% of the Interprofessional Minimum Wage (*Salario Mínimo Interprofesional*, SMI, in its Spanish acronym). In Spain there are 2,100 Special Employment Centres occupying 104,688 people, of which 89,884 are persons with disabilities. The number of persons with disabilities benefiting from bonuses of 100% of the business quota has been 132,353 people in 2018 and 114,005 through June 2019<sup>154</sup>. These Special Employment Centers usually focus mostly on low-skilled activities (laundry, gardening, cleaning, handling, call center, etc.). Its workforce shall consist of the highest number of workers with disabilities equal to or greater than 33% out of the total workers depending on the nature of the production process. Their legal form can be varied, having to have legal capacity and to act to be an entrepreneur: i.e. commercial companies, associations, foundations....They usually focus mostly on low-skilled activities (laundry, gardening, cleaning, handling, call center, etc.)

It is a financial support received by The Special Centres for Employment with respect to those workers with special employment difficulties. The increase in these labour funding was requested by the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) and the Business Federation of Special Employment Centers for Social Initiative (*Federación Empresarial de Centros Especiales de Empleo de Iniciativa Social*, FEACEM, in its Spanish acronym), and it seek to partially compensate for the impact that the rise of the Interprofessional Minimum Wage (*Salario Mínimo Interprofesional*, SMI, in its Spanish acronym), from 858,6 € in 2018 to 1.050,0 € in 2019, was having on such companies.

After its entry into force in October 2018, **it does continue to be in force the Framework Agreement, signed in 2018, for the Collaboration between the General Council of the Judiciary Power** (*Consejo General del Poder Judicial*) **and the Confederation of Full Inclusion Spain** (*Confederación Plena Inclusión España*).<sup>155</sup> This Agreement allows the governing body of judges to put in place the necessary measures to ensure that persons with intellectual disabilities or persons with difficulties of understanding may know the content of the judicial decisions that affect them.

*At the regional level in certain Autonomous Communities, it should be mentioned certain legislative developments of special relevance such as:*

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<sup>153</sup> Spain, Ministry of Labour, Migration and Social Security (*Ministerio de Trabajo, Migraciones y Seguridad Social*) (2019), [Ministerial order of the Ministry of Labour, Migration and Social Security temporarily raising wage support to some of workers with disabilities in Special Employment Centers](#) (*Orden TMS/805/2019, de 23 de julio, por la que se incrementan, con carácter extraordinario, las subvenciones destinadas al mantenimiento de puestos de trabajo de personas con discapacidad en los Centros Especiales de Empleo*), 29 July 2019.

<sup>154</sup> Spain, Ministry of Employment and Social Security (*Ministerio de Empleo y Seguridad Social*) (2019), “En la inauguración del XVII Congreso Nacional de Centros Especial de Empleo en León Valerio resalta el valor del trabajo inclusivo como eje vertebrador del futuro de las relaciones laborales”, press release, 17 October 2019.

<sup>155</sup> Spain, General Council of the Judiciary Power (2018), [Framework Agreement on Collaboration between the General Council of the Judiciary and the Confederation for the Full Inclusion Spain](#) (*Convenio marco de colaboración entre el Consejo General del Poder Judicial y la Confederación Plena Inclusión España*), 17 September 2019.

On 11 January 2019, it was published **the Law of Cantabria 9/2018, of December 21, Guarantee of the Rights of Persons with Disabilities** (*Ley de Cantabria 9/2018, de 21 de diciembre, de Garantía de los Derechos de las Personas con Discapacidad*).<sup>156</sup> Its article 6 refers to the Disability Impact Reports that all the draft laws, general provisions and plans submitted for approval by the Government of Cantabria should incorporate to analyse the possible negative and positive effects on persons with disabilities and establish measures that develop the right to equal treatment.

On 28 February 2019, the Presidency of the Balearic Islands issued a **Law 9/2019, of February 19, on the care and rights of children and adolescents of the Balearic Islands** (*Ley 9/2019, de 19 de febrero, de la atención y los derechos de la infancia y la adolescencia de las Illes Balears*)<sup>157</sup>. This Autonomous Community has an exclusive competence in different areas such as: social welfare; protection and support for people with physical, mental and sensory disabilities. This law incorporates some of the international legal agreements as the Convention on the Rights of Persons with Disabilities, ratified by Spain on 3 December 2007.

On 10 April 2019, the **Government of Aragon, published a Law 5/2019, of March 21, on the rights and guarantees of persons with disabilities in Aragon** (*Ley 5/2019, de 21 de marzo, de derechos y garantías de las personas con discapacidad en Aragón*)<sup>158</sup>. It responds to the adequacy of the regional regulations to the Convention on the Rights of Persons with Disabilities, which was ratified by Spain on 3 December 2007 by Spain and entered into force on 3 May 2008. This law recognizes the limited presence that persons with disabilities had so far in social, economic, cultural and political spheres, and understands that a greater presence in these areas would be positive. The specificity of women in the field of disability and dependence as well as among caregivers justifies the adoption of public policies that aimed at reducing gender and disability inequalities. In addition, it recognized that the implementation of this law requires an important governance effort, so that all levels of the public administration, all professional sectors and the society as a whole should participate in the construction of the new social paradigm.

## 2. CRPD monitoring at national level

- a) Describe key developments/changes relating to the structures established under Article 33 of the convention. Outline key activities/outputs of the monitoring framework (Article 33 (2)), with a particular focus on its independence, resources and the involvement of civil society in the monitoring framework

On 18 and 19 March 2019, **Spain underwent the second revision as a State party to the International Convention on the Rights of Persons with Disabilities (CRPD)**. The Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) was attending as an independent monitoring mechanism for the Convention and in line with the Article 33.2 of the Convention.

On 9 April 2019, **the Committee on the Rights of Persons with Disabilities made its Concluding Comments on the second and third combined periodic reports of Spain of the Committee on the**

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<sup>156</sup> Spain, Cantabria Parliament (*Parlamento de Cantabria*) (2019), [Law of Cantabria 9/2018, of December 21, Guarantee of the Rights of Persons with Disabilities](#) (*Ley de Cantabria 9/2018, de 21 de diciembre, de Garantía de los Derechos de las Personas con Discapacidad*), 11 January 2019.

<sup>157</sup> Spain, Illes Balears Autonomous Community (*Comunidad Autónoma de las Illes Balears*) (2019), [Law 9/2019, of February 19, on the care and rights of children and adolescents of the Balearic Islands](#) (*Ley 9/2019, de 19 de febrero, de la atención y los derechos de la infancia y la adolescencia de las Illes Balears*), 28 February 2019.

<sup>158</sup> Spain, Government of Aragon (*Gobierno de Aragon*) (2019), [Law 5/2019, of March 21, on the rights and guarantees of persons with disabilities in Aragon](#) (*Ley 5/2019, de 21 de marzo, de derechos y garantías de las personas con discapacidad en Aragón*), 10 April 2019.

**Rights of Persons with Disabilities** (*Observaciones finales sobre los informes periódicos segundo y tercero combinados de España del Comité sobre los Derechos de las Personas con Discapacidad*)<sup>159</sup>.

On 14 April 2019, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) published an **Easy-to-use guide to the International Convention on the Rights of Persons with Disabilities for Legal Operators 2019** (*Guía de fácil uso de la Convención Internacional sobre los Derechos de las Personas con Discapacidad para Operadores Jurídicos 2019*)<sup>160</sup>. The Guide served to encourage the use and enforcement by prosecutors, lawyers, judges and other legal officers. It aims to bring them closer to the Convention and its Optional Protocol so that the compendium of rights and freedoms contained is guaranteed and recognized in its fullness.

On 17 June 2019 it was presented by the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **the annual CERMI report on human rights and disability in Spain for 2018** (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2018*)<sup>161</sup>. It was carried out thanks to the support of the Caixa Foundation. It does report that in 2018 there were 22 cases of beatings, sexual assaults and abuse against persons with disabilities. It concluded that this is a vulnerable and unprotected group facing violence that also finds difficulties in seeking reparation and justice.

Several proposals show **the involvement of civil society in the monitoring framework:**

On 8 January 2019, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **entered a Proposal for a Law (of CERMI) to amend Law 55/2007, of December 28, on Cinema to ensure audiovisual accessibility of persons with disabilities** (CERMI. *Propuesta de Proposición de Ley (del CERMI) de modificación de la Ley 55/2007, de 28 de diciembre, del Cine para garantizar la accesibilidad audiovisual de las personas con discapacidad*).<sup>162</sup> In its statement of reasons, it denounced the widespread absence of accessibility measures such as: subtitling, sign language and audio description of film and audio-visual productions prevents, or makes it extremely difficult, for deaf and hearing-impaired people and people with deaf-blind and visually impaired, to access and to enjoy audio-visual content. The consequence is the suffering situations of intolerable exclusion that in an advanced democratic society must be remedied.

On 14 January 2019, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **entered a Proposal for Amendments by the Early Care and Child Development Group of the National CERMI**

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<sup>159</sup> United Nations (UN), Committee on the Rights of Persons with Disabilities, (2019), [Concluding observations on the combined 2nd and 3rd periodic reports of Spain](#), draft / prepared by the Country Rapporteurs, 21st sess, CRPD/C/ESP/CO/R.2-3, Geneva, 21 March 2019.

<sup>160</sup> Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2019), [Easy-to-use guide to the International Convention on the Rights of Persons with Disabilities for Legal Operators 2019](#) (*Guía de fácil uso de la Convención Internacional sobre los Derechos de las Personas con Discapacidad para Operadores Jurídicos 2019*), Madrid, CERMI.

<sup>161</sup> CERMI, (2019), Annual CERMI report on human rights and disability in Spain for 2018 (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2018*), Madrid, CERMI.

<sup>162</sup> Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, (2019), [Proposal for a Law \(of CERMI\) to amend Law 55/2007, of December 28, on Cinema to ensure audiovisual accessibility of persons with disabilities](#) (CERMI. *Propuesta de Proposición de Ley (del CERMI) de modificación de la Ley 55/2007, de 28 de diciembre, del Cine para garantizar la accesibilidad audiovisual de las personas con discapacidad*), Madrid, CERMI.

**to the Draft Organic Law on Integral Protection of Children and Adolescents to deal with Violence** (*Enmiendas del Grupo de Atención Temprana y Desarrollo Infantil del CERMI Estatal al Anteproyecto de Ley Orgánica de Protección Integral a la Infancia y la Adolescencia frente a la violencia*)<sup>163</sup>.

On April 2019, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **published its II Equality Plan II Equality Plan 2019-2022** (*II Plan de Igualdad 2019-2022*)<sup>164</sup>. The first and previous one was done in 2012. The last one responded to CERMI's commitment to equal opportunities between women and men. It pursues the absence of any barrier based on the sex of the person that may prevent their economic, political and social participation and in relation to the equal treatment between women and men, the absence of direct or indirect discrimination on grounds of sex.

On 30 July 2019, it was entered a **CERMI Proposal for an amendment on the Public Grants General Law to promote labor inclusion and the rights of persons with disabilities** (*Propuesta del CERMI de modificación de la Ley General de Subvenciones para favorecer la inclusión laboral y los derechos de las personas con discapacidad*)<sup>165</sup>. The Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) requested that any natural or legal persons who, as bound by current social legislation, do not fulfil the reservation of employment in favour of workers with disabilities should not be granted the status of beneficiary of a public grant; to obtain any public grant should be conditional on the company accrediting compliance with the obligation to reserve 2% of jobs for persons with disabilities under the terms set out in the social law of the disability; and to exclude from access to public grants or aid of any kind to natural or legal persons who do not comply with the legal norms that favour persons with disabilities or who perform acts that are discriminatory or contrary to the dignity of persons.

On 9 September 2019, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **entered a Proposal for an amendment on the Law to amend Law 55/2007, of December 28, on Cinema to ensure audio-visual accessibility of persons with disabilities** (*Ley 55/2007, de 28 de diciembre, del Cine para garantizar la accesibilidad audiovisual de las personas con discapacidad*)<sup>166</sup>

On 10 August 2019, **the National Ombudsman criticizes the Ministry of Development** (*Ministerio de Fomento*) **for not regulating a minimum percentage of accessible VTCs** (*vehículo de transporte con conductor*, VTCs, in its Spanish acronym). It is based on a complaint sent by the Spanish Committee of

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<sup>163</sup> Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, (2019), [Proposal for Amendments by the Early Care and Child Development Group of the National CERMI to the Draft Organic Law on Integral Protection of Children and Adolescents to deal with Violence](#) (*Enmiendas del Grupo de Atención Temprana y Desarrollo Infantil del CERMI Estatal al Anteproyecto de Ley Orgánica de Protección Integral a la Infancia y la Adolescencia frente a la violencia*), Madrid, Committee of Representatives of Persons with Disabilities.

<sup>164</sup> Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI) (2019), [II Equality Plan II Equality Plan 2019-2022](#) (*II Plan de Igualdad 2019-2022*), Madrid, Committee of Representatives of Persons with Disabilities.

<sup>165</sup> Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, (2019), [Proposal for an amendment on the Public Grants General Law to promote labor inclusion and the rights of persons with disabilities](#) (*Propuesta del CERMI de modificación de la Ley General de Subvenciones para favorecer la inclusión laboral y los derechos de las personas con discapacidad*) Madrid, Committee of Representatives of Persons with Disabilities.

<sup>166</sup> Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, (2019), [Proposal for an amendment on the Law to amend Law 55/2007, of December 28, on Cinema to ensure audio-visual accessibility of persons with disabilities](#) (*Ley 55/2007, de 28 de diciembre, del Cine para garantizar la accesibilidad audiovisual de las personas con discapacidad*), Madrid, Committee of Representatives of Persons with Disabilities.

Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) which requests the mediation of the National Ombudsman Office for the modification of state regulations on accessibility to transport. CERMI's claim was that 10% of fleets of vehicles intended for leasing with drivers, known as transport vehicle with driver (VTCs) should be accessible to people with reduced mobility.<sup>167</sup>

On August 2019, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) **filed an "Amicus Curiae" before the United Nations for the violation of the right to housing of a person with disabilities**. It supported an individual request by a national against a Spanish court eviction's decision where the injured person's disability condition was not properly considered when issuing the ruling.

CERMI stated that, as a consequence of the economic crisis and the housing bubble, the Spanish legislator had an impact on the right to housing, from the perspective of its social function, albeit slowly and without a precise impact. Thus, both [Royal Decree-Law 7/2019, state housing plan 2018-2021](#) or Law 49/60 on Horizontal Property (*Ley 49/1960, de 21 de julio, sobre propiedad horizontal*) in its latest reform deal with this matter by providing some measures in order to mitigate social exclusion among those most vulnerable sectors, such as people with disabilities and their right to decent housing.

It argues that the persons with disabilities continue to encounter substantial barriers to access to justice, jeopardising the defence and guarantees of their human right to adequate housing. Special significance had the cases of forced eviction of the main residence or claims to include accessibility measures in homeowners' communities. It requested that Spain should establish accessible and inclusive reporting and accountability mechanisms; and should ensure that the courts are authorized and adequately resourced to deal with and resolve lawsuits related to the right of adequate housing, by offering acceptable solutions in extreme cases of eviction.

On 10 September 2019, it was signed a **cooperation agreement of the Ministry of Territorial Policy and Public Service** (*Ministerio de Política Territorial y Función Pública*) and The Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) for the identification and reduction of administrative burdens affecting persons with disabilities and their families<sup>168</sup>. The agreement aimed to promote measures to eliminate and reduce administrative burdens addressing especially persons with disabilities and their families, as well as, the exchange of information, knowledge and the development of proposals for reduction of formalities and the simplification of administrative procedures.

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<sup>167</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2018), Recommendation. [Accessibility of rental vehicles with driver](#) (*Accesibilidad de los vehículos de arrendamiento con conductor. Recomendación*), Complaint n°: 17014734, 25 June 2018.

<sup>168</sup> Spain, Ministry of Territorial Policy and Public Service (*Ministerio de Política Territorial y Función Pública*)(2019), [Resolution of September 5, 2019, of the Secretariat of State for Civil Service, which publishes the Convention with the Spanish Committee of Representatives of Persons with Disabilities, for the identification and reducing administrative burdens affecting people with disabilities and their families](#) (*Resolución de 5 de septiembre de 2019, de la Secretaría de Estado de Función Pública, por la que se publica el Convenio con el Comité Español de Representantes de Personas con Discapacidad, para la identificación y reducción de cargas administrativas que afectan a las personas con discapacidad y a sus familias*), 10 Septiembre 2019.

b) **Table on structures for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities (CRPD) as outlined in Article 33 of the CRPD in your country**

Table: Structures set up for the implementation and monitoring of the CRPD

EUMS	Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)	Coordination mechanism – Article 33 (1)	Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)
ES	<p>Ministry of Health, Social Services and Equality (<i>Ministerio de Sanidad, Servicios Sociales e Igualdad</i>); Ministry of Foreign Affairs and Cooperation (<i>Ministerio de Asuntos Exteriores y Cooperación</i>); Ministry of Employment and Social Security (<i>Ministerio de Empleo y Seguridad Socia</i>)</p>	<p>National Disabilities Council (<i>Consejo Nacional de la Discapacidad</i>); Spanish Monitoring System for Disability (<i>Observatorio Estatal de la Discapacidad</i>)</p>	<p><a href="#">Spanish Committee of Representatives of People with Disabilities</a> (<i>Comité Español de Representantes de Personas con Discapacidad</i>); <a href="#">Ombudsman</a> (<i>Defensor del Pueblo</i>)</p> <p><a href="#">Royal Board on Disability</a> (<i>Real Patronato sobre Discapacidad</i>); <a href="#">Spanish Centre for Documentation on Disability</a> (<i>Centro Español de Documentación sobre Discapacidad</i>)</p>

## Annex 1 – Promising Practices

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include in-innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.</p>
Title (original language)	Asignatura transversal “Islam, género e islamofobia en España”
Title (EN)	A cross-cutting subject "Islam, gender and Islamophobia in Spain"
Organisation (original language)	La Universidad Complutense de Madrid (UCM)
Organisation (EN)	The Complutense University of Madrid, UCM, in its Spanish acronym.
Government / Civil society	Civil society
Funding body	General Budget of the Complutense University of Madrid following the general rules of the public universities.
Reference (incl. url, where available)	<a href="https://www.ucm.es/estudios/grado-asignaturastransversales-plan-804945">https://www.ucm.es/estudios/grado-asignaturastransversales-plan-804945</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	September 2019
Type of initiative	University Curricula and training.
Main target group	The subject is open to students of any degree, and especially to those who take degrees in social, human, legal and linguistic sciences, who will obtain behind it a series of theoretical knowledge and skills practices that will adequately complement their training for intervention in real, every day and current social contexts.
Indicate level of implementation: Local/Regional/National	Regional
Brief description (max. 1000 chars)	<p>General overview of the Islam in Spain, starting from its transformation in recent decades from historical issue to social issue and an interdisciplinary approach (Islamic studies, anthropology and sociology, law...). It will intend to approach a number of keys to understanding the current debates on the presence of Muslim citizens in Spain on issues such as Islamophobia and other forms of discrimination, visibility in the public space, associationism or political participation.</p> <p>It is divided in seven sessions, three hours each, with a theoretical and practical component. These sessions will revolve around three themes: Islam within the framework of religious pluralism in Spain, social definitions of gender and Muslim, and policies of Islamophobia.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	The content of the study programme as well as its mainstream character that strength its possibilities of being inserted on very different academic subjects and levels.
Give reasons why you consider the practice as	Because it is enshrined on the University Curricula and with a mainstream character.

sustainable (as opposed to 'one off activities')	
Give reasons why you consider the practice as having concrete measurable impact	A concrete and measurable impact will be guaranteed through the data collected after each session and course will take place. The general university data bases and quality systems already in place will guarantee it. It should also be taken into consideration that last academic year 2018-2019 there were 71.510 students registered in this Spanish university.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Because the expertise, contents and methodologies could be shared by the Complutense University in other national and international networks and be implemented by other Universities or training centres in other EU Member States. At the national level the UCM participates very actively in the CRUE Spanish Universities holding the presidency of the sector. The Complutense University of Madrid participates as well in the CRUE- Academic Affairs department, the executive secretariats of the R&D&I sectors and students, leading several thematic working groups and being part of the executive committees of the ICT and internationalization sectors. At the international level it strengthened its presence in the international networks to which it belongs and it is consolidating far-reaching strategic alliances such as the Ibero-American Union of Universities or starting a European Transnational Campus with the Universities of the Sorbonne, Bologna, Free Berlin and Leuven.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not available
Explain, if applicable, how the practice provides for review and assessment.	The Office for Quality (Oficina para la Calidad) offers to the campus community the information and programs that allow to establish the system of guarantees and trust in the teaching, research and management activities carried out by and at the Complutense University as a whole.

	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>
Thematic area	Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	Toolkit contra el racismo, la xenofobia y otras formas de intolerancia dirigido a municipios, especialmente a policía de proximidad.
Title (EN)	Toolkit. Against racism, xenophobia and other forms of intolerance covering municipalities, and particularly proximity policing.
Organisation (original language)	Policía Municipal de Madrid y el Observatorio Español del Racismo y la Xenofobia (OBERAXE)
Organisation (EN)	Diversity Management Unit of the Municipal Police of Madrid and the Spanish Observatory on Racism and Xenophobia (OBERAXE, in its Spanish acronym). Directorate-General for Integration and Humanitarian Assistance. Secretariat-General of Immigration and Emigration. Secretariat of State for Migration. Ministry of Labor, Migration and Social Security.
Government / Civil society	Government
Funding body	The Rights, Equality and Citizenship programme of the European Union.

Reference (incl. url, where available)	<a href="http://www.mitramiss.gob.es/oberaxe/ficheros/documentos/toolkit_en.pdf">http://www.mitramiss.gob.es/oberaxe/ficheros/documentos/toolkit_en.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	July 2019
Type of initiative	Toolkit Manual
Main target group	Madrid Security Forces
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The Proximity Policing against Racism, Xenophobia and other forms of intolerance project aims to identify and share tools to increase the ability of local authorities, and more specifically, that of the local police, to identify and combat racism, xenophobia and other forms of intolerance. The project is co-financed by the European Union's Rights, Equality and Citizenship programme and carries out its actions between 2017 and 2019.</p> <p>It is a practical tool that should help to prevent, detect and combat racism, xenophobia and other forms of intolerance and will serve as a guide to police officers. Its creation is part of the European project Proximity, which run under the lead Spain and also includes Finland, Bulgaria, Estonia, Italy, Latvia, Estonia, Portugal and the United Kingdom as partners.</p> <p>The toolkit was framed in the European project Proximity, and it wasn't coordinated by the Finnish Ministry of Justice, partner of the project. It is available in its English//Spanish versions.</p> <p>The manual begins by explaining how a hate crime is identified and followed by an approach to legislative, coordination and good community relations frameworks that includes the subject. It also includes a description of the tools to develop networks of associations to effectively deal with hate crimes. It concludes with practical examples as well as additional annexes for further development on the issue.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>Certain tools and publications were drawn from conclusions regarding the monitoring and evaluation of police action out of the report entitled "Best Practices and Comparative Study: Services, Structures, Strategies and Methodologies on Proximity Policing against Racism, Xenophobia and other Forms of Intolerance" drafted during the first phase of the Proximity Project. Other element that could be transferred would be the local perspective for the prevention of racism, xenophobia and other forms of intolerance.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>Because of the need of these type of tools to be able to respond to a common reality across the European Union.</p> <p>According to January 2017 Eurostat figures, 21.6 million citizens from non-member countries were residents of the European Union and 36.9 million living in the European Union were born outside its borders, meaning that 15 million inhabitants were born outside the EU but are citizens of a Member State.</p>
Give reasons why you consider the practice as having concrete measurable impact	<p>A concrete and measurable impact will be guaranteed through the data collected as well as measures implemented by all the participant partners in the Proximity project in several EU countries.</p> <p>Those participant partners were: Ministry of Justice Department of Fundamental Rights and Anti-Discrimination in Finland; Municipal Police of Riga in Latvia; Police and Border Guard. Estonia; Polícia de Segurança Pública in Portugal; Università degli Studi of Milan in Italy; TRABE Association in Spain; Foundation for Access to Rights in Bulgaria and the Bradford Hate Crime Alliance in United Kingdom.</p> <p>All those institutions previously mentioned could make available each one's existing impact assessment tools.</p>
Give reasons why you consider the practice as transferable to other	<p>It has been transferable already to other EU Member States such as: Finland, Bulgaria, Estonia, Italy, Latvia, Estonia, Portugal and the United Kingdom. And it has been funded by the European Commission what proves it addresses an issue of common interest for all Member States.</p>

settings and/or Member States?	
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Under section 3.1. of the toolkit the decision-making capabilities and a process was introduced as a way of managing community members' demands, which features a more horizontal decision-making process, as well as increases neighbors' trust in local police. This increased trust will, in turn, facilitate its work and contribute to a better flow of information to prevent social tension and even prevent crime.</p> <p>The people in charge, in each situation, must have decision-making capability when putting forward solutions. A very vertical and sluggish decision making system restricted by supervision from many different offices is not useful. It is useful to involve locals or organizations when drawing up a report that includes the analysis of the prior situation and of the solution proposed by the officers in charge of the area or neighborhood. Such an arrangement should be assessed and supervised by the immediate superior of the officer or police team making the proposal, and this should be done within a relatively short period of time and must not be delayed for more than a month depending on the magnitude of the problem and the proposed solution.</p> <p>The proposed solution to the problem should be communicated by the same police interlocutor participating in the process from the very beginning, and if possible, prior to its implementation. This model of informal communication including a formal component (the decision is endorsed by Police Headquarters), is another one of the elements fostering trust among the police officer interlocutors and between the police and the community.</p> <p>Since this project operates with an integral methodology, both beneficiaries and stakeholders work together throughout the practice. This project allows flexibility in terms of design and planning and it may be adapted in accordance with a wide range of circumstances. Evaluation and assessment are also shared practices between beneficiaries and stakeholders, whereas the implementation of the practice depends on each municipality and particular institution.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The toolkit provides an example of an evaluation proposal for proximity policing in the area of racism and xenophobia. It establishes different dimensions or areas to be evaluated and a list of indicators and possible data sources.</p> <p>It does propose as well several areas or dimensions of evaluation, such as: public safety and coexistence. the police activity dimension; and the police organization and management dimension, and the relationship between police and the community.</p> <p>There are a list of indicators that are proposed and an Evaluation matrix that includes specific indicators for each area and/or dimension following the specific scope of the Proximity Project. The list of indicators were shown as an example and were not exhaustive. Those indicators supposed to be adapted to each specific situation.</p>

<p>Thematic area</p>	<p><b>ROMA INTEGRATION</b></p> <p>Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.</p>
<p>Title (original language)</p>	<p>Proyecto UGT FICA CALÍ.</p>
<p>Title (EN)</p>	<p>Project UGT FICA CALÍ.</p>
<p>Organisation (original language)</p>	<p>La Federación de Industria, Construcción y Agro de la Unión General de Trabajadores (UGT FICA)</p>

Organisation (EN)	The Federation of Industry, Construction and Agro of the General Union of Workers (UGT FICA, in its Spanish acronym).
Government / Civil society	Civil society
Funding body	The Federation of Industry, Construction and Agro of the General Union of Workers (UGT FICA, in its Spanish acronym) as part of the Trade Union Confederation of the General Union of Workers of Spain (UGT, in its Spanish acronym).
Reference (incl. url, where available)	<a href="http://ugtfica.cat/ugt-fica-cali/">http://ugtfica.cat/ugt-fica-cali/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date: Abril 2019 – Ongoing
Type of initiative	Specialized Working Group on Employment and Anti-Discrimination
Main target group	Roma Population
Indicate level of implementation: Local/Regional/National	Regional
Brief description (max. 1000 chars)	<p>The initiative served to create the specialized UGT FICA Cali group, with the aim of monitoring, addressing and eradicating any type of employment discrimination, and in particular to eliminate "Antigitanism" in the workplaces through advice and information on Rights in equality and not detecting and intervening before any type of discrimination in the company.</p> <p>The idea was born with the aim of preventing, monitoring, caring for and eradicating any kind of labour discrimination towards the Roma collective and eliminating anti-roma situations in workplaces.</p> <p>The project started in the Baix Llobregat region within Catalunya and intend to extend it throughout Catalonia. They will organize campaigns and awareness-raising days on anti-roma addressing their union delegates and affiliates.</p> <p>It does have three main axes: advisory, training and accompaniment.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>The area of advice to the collective, with particular attention to sensitization in collective bargaining and awareness-raising for members and union delegates. And above all by enhancing the participation of the Roma group in the trade union organization. Additionally the organization of campaigns and awareness-raising days on anti-Gypsyism will be also elements easy transferable.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>Because the initiative is embedded within the general structure of the sector union - UGT FICA Catalonia against any type of discrimination, not only for the Access to employment but as well in relation to the discrimination working and professional career. The scope of UGT FICA is the entire territory of the Spanish State.</p> <p>The union intends to extend it all across Cataluña. And it could be transferred after to other regions in Spain as Gypsies have an unemployment rate of more than 50% in Spain.</p> <p>The program will enable the organization of campaigns and awareness-raising days on anti-Gypsy awareness of their delegates and affiliates.</p> <p>Within work plan their short and medium term they aim to contact different trade union sections, as well as business employers from all sectors of their Federation to raise awareness of it and encourage recruitment from a perspective Corporate Social Responsibility and with a view to fostering real diversity in companies.</p>
Give reasons why you consider the practice as having concrete measurable impact	<p>It would be possible to gather data on number of direct and indirect beneficiaries, number of activities, trainings organized. The General Union of Workers of Spain (Unión General de Trabajadores, UGT, in its Spanish acronym) have approximately around 750.000 affiliates and 85.000 union delegates being the second largest union in the country.</p>

	According to the Roma Secretariat foundation last 2018 Annual Report, there were 1.105 beneficiaries in 2018 following what it is called socio-labour itineraries (itinerarios socio laborales).
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	It does address an issues of common interest related to facilitate the access to the labour market, fight against discriminatory measures and all of it in reference with one of the most vulnerable groups within the European Union, such as the Roma population. 80% of Roma in the EU are still at risk of poverty, and the integration of Roma population is still a priority within national policy programmes.  The partnership of UGT Catalonia with the European Trade Union Confederation (ETUC) will support the transference to other Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The project idea arose from a group of Roma workers within the General Union-UGT. The current working group is composed by five people who are union delegates, general secretaries of trade union sections and some chairmen of work councils of large companies. And at the implementation stage beneficiaries and stakeholders will be constantly involved. And UGT FICA brings together a wide range of workers from dependent salaried workers, self-employed workers who do not have staff in their service, as well as associated workers in the form of cooperatives and labour societies. It also represents students who are conducting regulated and occupational vocational training practices in the professional sectors within the functional field of UGT FICA; unemployed workers engaged in an academic or professional activity in the fields of UGT FICA as well as pre-retired and pre-retired workers from the same sectors.
Explain, if applicable, how the practice provides for review and assessment.	Not applicable

Thematic area	<b>Asylum, visas, migration borders and integration</b> Please provide a promising practice on the support provided to unaccompanied children when reaching majority.
Title or short description of promising practice in original language and in English	Guía de la Emancipación- Emancipation Guide. The website <a href="http://www.guiaemancipacion.org">www.guiaemancipacion.org</a> is a resource for young people who are or have been in custody by the administration and for the educational teams working with this social group.
Organisation (Government / Civil society) in charge of promising practise (original language/English )	Federation of Entities with Projects and Assisted Flats (Federación de Entidades con Proyectos y Pisos asistidos) (Civil society)
Funding body	The Regional Governments of Catalonia, Aragon and Balears Islands.
Reference (incl. url, where available)	<a href="http://www.guiaemancipacion.org">www.guiaemancipacion.org</a> ; <a href="http://www.fepa18.org/wp-content/uploads/2018/12/Finestra_Guia_Emancipacion-3.pdf">http://www.fepa18.org/wp-content/uploads/2018/12/Finestra_Guia_Emancipacion-3.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Ongoing
Main target group	Young people who are or have been in custody by the administration as well as for the educational teams working with this social group.
Brief description (around 1000 characters)	The objective of the website <a href="http://www.guiaemancipacion.org">www.guiaemancipacion.org</a> is to integrate information related to the different resources, benefits, procedures, rights and duties, places to turn to. Information which is specific to young people who are

	<p>no longer in custody in the different territories of the State. The objective is to turn this website into a dynamic website that contains permanently updated information, in most cases, thanks to the referencing of other web portals of much more specific content.</p> <p>Given the territorial disparity with respect to the legal and policy framework and available resources in the emancipation promotion measures, it is very relevant to be able to pool information according to each territory.</p>
Indicate level of implementation: Local/Regional/National	Regional
Indicate success factors – why has the practice effectively promoted integration?	Because it is an online resource that besides the particular information related to the three regional territories (Catalonia, Aragon and Balears Islands) were it is formally implemented, it does contain the general legal and policy framework applicable to all the Spanish territory. And it's equally in process to extend its application to other two regions such as Madrid and Castilla la Mancha. And its promotion through the National Federation of institutions working and running emancipation programs, projects and initiatives does guarantee its sustainability and transferability of knowledge and experiences.
If the initial funding of the initiative ended, how has the initiative been continued/followed-up?	No applicable
Explain, if applicable, how the practice is being reviewed and assessed.	Not available
Does the initiative apply to both asylum seekers and protection status holders – and/or support the transition from one to the other?	Yes. It is applicable to all young persons who were at certain stage protected and in custody by the correspondent official authority and public administration body.
Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided?	No. The initiative does not specifically support persons in need of international protection as they turn 18.

Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b>
	Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
Title (original language)	Canal prioritario de la AEPD
Title (EN)	Priority Channel of the Spanish Data Protection Agency
Organisation (original language)	La Agencia Española de Protección de Datos (AEPD)
Organisation (EN)	The Spanish Data Protection Agency
Government / Civil society	Government
Funding body	The Vice-Presidency of the Government and The Ministries of the Interior; Vocational Education and Training and Work, Migration and Social Security, as well as with the State Attorney General's Office and the General Council of Spanish Lawyers.

Reference (incl. url, where available)	<a href="https://sedeagpd.gob.es/sede-electronica-web/vistas/formNuevaReclamacion/solicitudReclamacion.jsf">https://sedeagpd.gob.es/sede-electronica-web/vistas/formNuevaReclamacion/solicitudReclamacion.jsf</a> ; <a href="https://www.aepd.es/media/infografias/infografia-canal-prioritario.pdf">https://www.aepd.es/media/infografias/infografia-canal-prioritario.pdf</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	24 September 2019 - Ongoing
Type of initiative	Official and National Complaints Service related to Sexual or Violent Data
Main target group	Spanish General Population
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>The AEPD Priority Channel is an online platform where citizens may communicate the illicit dissemination of sensitive content and request its removal aims to provide a rapid response in exceptionally sensitive situations, such as those that include the dissemination of sexual or violent content. The objective is to establish a way in which the complaints received will be analyzed as a priority, allowing the Agency, as an independent authority, to take, if necessary, urgent measures that limit the dissemination and access of personal data.</p> <p>Within the complaint, the citizen must describe the circumstances in which the non-consensual dissemination of the images has occurred, indicating whether the person concerned is the victim of gender-based violence, abuse or sexual assault or harassment, or if it belongs to any other particularly vulnerable group, as well as specifying the address or web addresses in which they have been published. Afterwards, the Agency will determine the possible urgent adoption of precautionary measures and it shall assess the opening of a sanctioning procedure against the person(s) responsible for having carried out the corresponding unlawful data processing.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>All elements of the action could be transferable as EU citizens do need rapid responses exceptionally to sensitive situations, such as those that include the dissemination of sexual or violent content and urgent measures that limit the dissemination and access of personal data.</p> <p>It's equally transferable the online platform supported and managed by an specialized and official national agency does provide a tool and methodology in line with the new technologies and social networks rapidness and guarantee the legitimacy and impact of its decisions.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>Certain companies, such as Facebook, Google and Twitter have shown a proactive attitude to the implementation of the precautionary measures included in this initiative.</p> <p>It was introduced as a pioneering system in Europe, which is based on an agreement and several collaboration protocols signed by the Agency with the Vice-Presidency of the Government and The Ministries of the Interior; Vocational Education and Training and Work, Migration and Social Security in office, as well as with the State Attorney General's Office and the General Council of Spanish Lawyers (Interior; Educación y Formación Profesional y Trabajo, Migraciones y Seguridad Social en funciones, así como con la Fiscalía General del Estado y el Consejo General de la Abogacía Española).</p> <p>Despite the myriad advantages of new technologies, they provide infrastructures that can serve as a channel to seriously damage people's privacy. With the extension and intensive use of mobile devices and the internet, social networks and other services, the dissemination of forms of violence has proliferated, in addition to the public humiliation of victims.</p>
Give reasons why you consider the practice as having concrete measurable impact	It a National mechanism that will be supported by the official data bases where all data referred to the demands and cases will be collected and analyse.
Give reasons why you consider the practice as	Because all elements of the action could be transferable as EU citizens do need rapid responses exceptionally to sensitive situations, such as those that include

transferrable to other settings and/or Member States?	<p>the dissemination of sexual or violent content and urgent measures that limit the dissemination and access of personal data.</p> <p>Certain companies, such as Facebook, Google and Twitter have shown a proactive attitude to the implementation of the precautionary measures included in this initiative.</p> <p>Despite the myriad advantages of new technologies, they provide infrastructures that can serve as a channel to seriously damage people's privacy. With the extension and intensive use of mobile devices and the internet, social networks and other services, the dissemination of forms of violence has proliferated, in addition to the public humiliation of victims.</p>
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	<p>All stakeholders will be involved in all the stages as it's an initiative based on an agreement and several collaboration protocols signed by the Agency with the Vice-Presidency of the Government and The Ministries of the Interior; Vocational Education and Training and Work, Migration and Social Security in office, as well as with the State Attorney General's Office and the General Council of Spanish Lawyers (Interior; Educación y Formación Profesional y Trabajo, Migraciones y Seguridad Social en funciones, así como con la Fiscalía General del Estado y el Consejo General de la Abogacía Española). The final and direct beneficiaries will be gradually involved besides the implementation of the practice in evaluation and review assessment process that will take place and as a consequence on the future adjustments on the design and planning of its updated features.</p>
Explain, if applicable, how the practice provides for review and assessment.	Not applicable

Thematic area	<p><b>RIGHTS OF THE CHILD</b></p> <p>Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.</p>
Title (original language)	Internet segura for Kids – para niños (IS4K)
Title (EN)	Safe Internet for Kids - for children
Organisation (original language)	El Instituto Nacional de Ciberseguridad (INCIBE, in its Spanish acronym), Ministerio de Economía y Empresa.
Organisation (EN)	The National Institute of Cybersecurity (INCIBE), National agency under the Ministry of Economy and Business.
Government / Civil society	Government
Funding body	The Ministry of Economy and Business.
Reference (incl. url, where available)	<a href="https://www.is4k.es">https://www.is4k.es</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	February 2017 – Ongoing
Type of initiative	Online Platform
Main target group	Minors and adolescents
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>It aims to provide a helpline to advise and assist minors, families, educators and professionals in the field of the child on how to deal with the risks of the Internet.</p> <p>It has three areas of action: the first is awareness through different incitements as materials that can be downloaded; secondly, a helpline with the free</p>

	<p>telephone service number, 900 116 117; which will be available 'in a month and a half or two months'; and finally, a channel for reporting abusive content found on the internet, especially related to child pornography that will be available throughout this year.</p> <p>All this through resources with attractive formats that invite action by adults, both interactive, including videos or pedagogical resources; as explanatory, with infographics, articles or dynamic workshops or contests.</p> <p>Examples of them would be:</p> <p>The awareness raising campaigns to promote coexistence and respect on the Internet are constantly the such as: parental mediation (mediación parental), cybersecurity in your backpack (la ciberseguridad en tu mochila).</p> <p>Programs such as Cybercooperating (Cybercooperantes), Cyberolympics</p> <p>Different content focused on this subject published: the Parental Mediation Guide (Guía de Mediación Parental), Toy Guide (Guía de Juguetes), Privacy Guide (Guía de Privacidad) and more.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>All the Guides, tools and campaigns developed will be transferable. All this through many resources with attractive formats that invite action by adults, both interactive, including videos and pedagogical resources; explainers, with infographics, articles or dynamics to implement them.</p> <p>The origin of it was the European funded project "Setup and support Safer Internet activities in Spain" through the funding call CEF-Telecom, Safer Internet (2015-CEF-TC-2015-1). Then similar actions in other Member States could be equally supported.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>Awareness campaigns are launched on a regular basis from the IS4K portal, including different topical topics such as media literacy, back-to-school, connected gifts and toys, or coexistence and respect on the Internet.</p> <p>All of them can be found in the Campaigns section of the IS4K website and also through the social networks Twitter and Facebook.</p> <p>Furthermore, it is an activity in line with the principles and objectives agreed by the Spanish Government within its Digital Agenda for Spain is part of the Ministry of Energy, Tourism and Digital Agenda, in line with the need to promote ways that exist to transfer the rights that have apply them in the digital environment.</p> <p>With regard to the protection of minors from new technologies, it is a constant concern of parents, owing to the uncertain dangers they face. Increasingly, children are gaining greater access to new technologies and do so at a younger age. In Spain, 95.2% of minors. According to 2018 Annual Cyber criminality Report in Spain (2019) (Estudio sobre la Cibercriminalidad en España), in 2018, 90.4% of boys said they have used a computer in the last three months, compared to 92.2% of girls, with 92.5% when internet access is made in the area of 93.2% of girls.</p>
Give reasons why you consider the practice as having concrete measurable impact	<p>All the activities, tools, trainings and additional resources developed and shared may have the particular impact assessment tools such as number of participants, or number of video sharing, and/or number of inflows or outflows in the website among many other ones.</p>
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	<p>To promote safe and responsible use on the internet and new technologies among minors and their environment is a share and common objective all across the European Union and its Member States.</p> <p>All the Guides, tools and campaigns developed will be transferable. All this through many resources with attractive formats that invite action by adults, both interactive, including videos and pedagogical resources; explainers, with infographics, articles or dynamics to implement them.</p>
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and	<p>Anyone who is in a situation of harassment has the possibility to report it first by the various instances.</p> <p>And most of the activities, tools, trainings and additional resources developed and promoted are based on a participatory process that enable a constant and continuous involvement of all beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>

implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	Not applicable

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter
Title (original language)	PRIA-MA-Programa de intervención para agresores de violencia de género en medidas alternativas
Title (EN)	PRIA-MA-Intervention Program for Gender-Based Violence Offenders in Alternative Measures
Organisation (original language)	Ministerio del Interior - Secretaría General de Instituciones Penitenciarias
Organisation (EN)	Ministry of the Interior - General Secretariat of Prison Institutions
Government / Civil society	Government
Funding body	Ministry of Interior – Prison Work and Employment Training (Trabajo Penitenciario y Formación para el Empleo TPFE, in its Spanish acronym)
Reference (incl. url, where available)	<a href="http://www.institucionpenitenciaria.es/web/portal/PenasyMedidasAlternativas/programas/priama.html">http://www.institucionpenitenciaria.es/web/portal/PenasyMedidasAlternativas/programas/priama.html</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2015- Ongoing.
Type of initiative	Preventive programme through Intervention measures.
Main target group	Convicted men who are in prison and who have to carry out a programme against gender-based violence as an alternative criminal measure. Therapeutic proposal for men convicted of crimes of gender-based violence adapted to the Spanish cultural context and the reality of the Treatment and Alternative Measures Management Services.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	It is a specific penalties program and preventive measure that intends to avoid the dissocializing effects of custodial sentences, and to make possible that the convicted person may repair the damage previously caused to society. It is a national program that aim at several objectives <sup>169</sup> such as: To eradicate violent behaviours and reduce the level of recidivism of participants; To modify those dynamic risk factors that have been reported as relevant in gender offenders; To facilitate adherence and receptivity to treatment through a positive approach to treatment; and To Introduce improvements in the psychological functioning of the participants. It has an estimated duration of 10 months and is performed in group or individual therapy format, depending on the initial evaluation. It is executed through several

<sup>169</sup> Spain, Ministry of Interior (*Ministerio del Interior*) 2015, [Intervention program for gender-based violence offenders in alternative measures.PRIA-MA program](http://www.institucionpenitenciaria.es/web/portal/PenasyMedidasAlternativas/programas/priama.html) (*Programa de intervención para agresores de violencia de género en medidas alternativas. Programa PRIA-MA. Madrid.*

	NGOs throughout the national territory (i.e. Asociación con un Pie Afurea in the province of Caceres). It is developed in 3 phases: Motivation and Evaluation, Intervention and Monitoring. It carried out with a cognitive behavioral therapeutic approach that integrates elements of the gender perspective. There is a working methodology contained in a manual under the title of “Intervention program for gender-based violence offenders in alternative measures (PRIA-MA): user manual” <sup>170</sup> (Programa de intervención para agresores de violencia de género en medidas alternativas (PRIA-MA): manual para el usuario), Madrid, Ministry of Interior, 2015.
Highlight any element of the actions that is transferable (max. 500 chars)	The prevention approach as it does tackle the issue through actions such as those bringing about attitudinal and behavioural change and raising awareness of domestic violence (as defined in Art. 3b of the Istanbul Convention). Additionally it does encompass the activities of direct intervention together with a research and data collection work that has been translated in reports such as the one published in 2017, under the title of Relapse offenders in gender-based violence offences (Reincidencia de los agresores en delitos de violencia de género) showing the results on the relapse rate of offenders with new police reports, after a five-year follow-up period (2011-2016).
Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)	Because it is an initiative based on previous experiences, evaluations and one program (initiated in 2010 under the name Gender-based violence. Intervention program for offenders (Violencia de género. Programa de intervención para agresores, PRIA, in its Spanish acronym) which evaluation carried out to the creation of an evaluation group for the PRIA program in 2015 and as a result of that assessment the new PRIA-MA program was created.
Give reasons why you consider the practice as having concrete measurable impact	While the program is in place it’ll be possible to gather measurable data valid for an impact analysis such as the number of convicted persons that may participate on the program, as well as the results of it, and the elements of success and/or areas where it’ll be room for improvement. The reasoning behind is that different criminal circumstances and criminal typologies require that intervention programs to be developed by the Penalty Management Services and alternative measures must be specific to each of these circumstances and typologies. Although there is not yet published data for 2019, from 2012 to 2019, the number of beneficiaries of the program were as such: 2012- 6.097 persons/, 2013- 10.501 persons, 2014- 9.588 persons, 2015-8.135 persons, / 2016-7.659 persons / 2017-8.156 persons, 2018-9.110 persons.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	It will be transferable to other Member States as it does introduced and test different specific tools and methodologies to address gender-based violence. It does goes in line with the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), particularly Chapters III and IV related to prevention, support and protection measures. Such focus will contribute to implement obligations under EU law concerning victims' rights (particularly Directive 2012/29/EU, Directive 2011/99/EU <sup>28</sup> and Regulation (EU) No 606/2013 <sup>28</sup> ).
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and	The convicted persons who have to carry out a programme against gender-based violence as an alternative criminal measure and who will became final beneficiaries of the program will have a direct involvement. In reference to the other phases of the design, planning, evaluation, review assessment, other stakeholders as specialized professionals on health and/or training in charge of the activities will be actively involved as well as the staff of The General Sub directorate of Open Environment and Penalties and Alternative Measures (Subdirección General de Medio Abierto y Penas y Medidas Alternativas) in charge and/or the University that collaborates on the evaluation and assessment.

<sup>170</sup> Spain, Ministry of Interior (*Ministerio del Interior*) 2015, [Intervention program for gender-based violence offenders in alternative measures \(PRIA-MA\): user manual](#) (*Programa de intervención para agresores de violencia de género en medidas alternativas (PRIA-MA): manual para el usuario*), Documentos penitenciarios, 10, Madrid.

implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	<p>The third phase of the program is the Monitoring phase: where the changes made are evaluated and the intervention is closed emphasizing the most important prosocial objectives in each case.</p> <p>The General Sub directorate of Open Environment and Penalties and Alternative Measures (Subdirección General de Medio Abierto y Penas y Medidas Alternativas) collaborates with the Institute of Forensic and Security Sciences of the Autonomous University of Madrid (Instituto de Ciencias Forenses y de la Seguridad de la Universidad Autónoma de Madrid) in assessing the effectiveness of this program.</p>

Thematic area	<p><b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b></p> <p>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.</p>
Title (original language)	Programa Reina Leticia para la Inclusión
Title (EN)	Queen Letizia Programme for Inclusion
Organisation (original language)	El Real Patronato sobre Discapacidad
Organisation (EN)	The Royal Board of Trustees on Disability
Government / Civil society	Government
Funding body	Spanish Ministry of Health, Consum and Social Wellbeing (Ministerio de Sanidad, Consumo y Bienestar Social)
Reference (incl. url, where available)	<a href="https://www.boe.es/boe/dias/2017/12/22/pdfs/BOE-A-2017-15354.pdf">https://www.boe.es/boe/dias/2017/12/22/pdfs/BOE-A-2017-15354.pdf</a> ; <a href="http://www.rpdiscapacidad.gob.es/actividades/prli/programa.htm">http://www.rpdiscapacidad.gob.es/actividades/prli/programa.htm</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2019- Ongoing
Type of initiative	National Funding program
Main target group	Persons with Spanish nationality or legal residence in Spain, who are 16 years old and older and with a disability equal to or greater than thirty-three percent, or similar situations.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>It aims at promoting the improvement of educational conditions for persons with disabilities, paying particular attention to aspects related to their professional development and innovation and research, through the granting of direct aid to beneficiaries.</p> <p>The axes of this program are technical assistance and support staff for training and improving educational conditions, postgraduate and master's degree studies, international and national mobility, doctorate and teaching or research career. It ensure a certain mobility of people with disabilities in our national territory and beyond our borders, making effective the maximum of preserving training, studies and entrepreneurial possibilities in equal opportunities.</p> <p>Aid may be eligible for aid by persons with Spanish nationality or legal residence in Spain, of age equal to or over 16 years of age and with a disability equal to or greater than 33 per cent, or assimilated situations (in Article 4.2 of Royal Legislative Decree 1/2013, of 29 November, which approves the Consolidated Text of the General Law on the Rights of Persons with Disabilities and their social inclusion Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de Derechos de las personas con discapacidad y de su inclusión social).</p>

	Additional value shall be granted to certain concurrent circumstances in applicant persons with disabilities, such as membership in women or belonging to a group of persons with disabilities with special employment disabilities.
Highlight any element of the actions that is transferable (max. 500 chars)	<p>The approach of ensuring a certain mobility of people with disabilities in the national territory and beyond borders, making effective the maximum of preserving training, studies and entrepreneurial possibilities in equal opportunities.</p> <p>This aid programme, is introduced and described as unprecedented in the public action due to its deep innovative nature, follows the requirements of the new social realities of a large-scale globalized and interconnected world, in which vital opportunities, also people with disabilities, to materialize, are conditioned, as in the paradigmatic case of improving training and education, to the monitoring of extensive, flexible and changing existential itineraries that have as their budget inexcusable the territorial mobility of the person, the displacement not only between autonomous communities but between countries, even on different continents, which needs to be successful in a coordinated action at the state level, which in this scenario the Legislator has wanted to reside in the Royal Board of Trustees on Disability.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>The actual Queen of Spain – Letizia - holds the Honorary Presidency of the Council of this Royal Board of Trustees.</p> <p>The funding call, the first of this Queen Letizia Fund, is allocated an amount from so-called "sleeping accounts", i.e. the balances abandoned in financial institutions because those deposits have been inactive for a period of more than 20 years.</p> <p>According to the available statistics, in Spain 122,800 people with disabilities are immersed in training processes, representing 6.9% of the total population with disabilities. In the non-disabled population, this percentage rises to 18.5%. The Social Insertion and Health Survey (Instituto Nacional de Estadística, INE, in its Spanish acronym, 2012), numbered by 30,535 people with disabilities who find it difficult to study because of lack of Support Products, and in 22,940 those who cannot study for lack of Personal Assistance.</p>
Give reasons why you consider the practice as having concrete measurable impact	<p>All actions and/or activities that will be funded by it will include a number of measurable indicator that will facilitate the necessary impact analysis.</p> <p>The draft Ministerial Order was analysed through a report of the normative impact analysis included in it, which shows that it will have an impact on both equal opportunities, non-discrimination and universal accessibility of people gender, gender, and children, among others.</p>
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The Member States may apply a similar initiative as it goes in line with their obligation stated by the a United Nations Convention on the Rights of Persons with Disabilities, adopted in New York on 13 December 2006, providing that States Parties shall ensure that persons with disabilities have general access to higher education, training adult education and lifelong learning without discrimination and on an equal footing with others.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The final beneficiaries of all the actions funded will received direct aids. And all the stakeholders, such as individuals, CSOs or other actors that will enter the project proposal to be funded will be involved in the design, planning, evaluation, review assessment and implementation of the practice.
Explain, if applicable, how the practice provides for review and assessment.	The evaluation will be carried out by an Evaluation Commission which will consist of a minimum of five members and whose President will have at least the rank of Head of Area, three officials of the Royal Board of Trustees on Disability with at least rank will participate as members of The Head of Service, one of them being the Secretary of the Commission and two representatives, voiced but without a vote, appointed by the most representative organization of persons with disabilities and their families present at the Royal Board of Trustees on Disability.

## Annex 2 – Case law

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report</p>
Decision date	18 July 2019
Reference details	Spain, Constitutional Court ( <i>Tribunal Constitucional</i> ), <a href="#">99/2019, Rec. 1595/2016</a> , 18 July 2019.
Key facts of the case (max. 500 chars)	<p>Question of unconstitutionality Raised by the Civil Chamber of the Supreme Court with regard to Article 1 of Law 3/2007, March 15, regulating the registration of the mention concerning the sex of persons (<i>Ley 3/2007, de 15 de marzo, reguladora de la rectificación registral de la mención relativa al sexo de las personas</i>).</p> <p>An appeal was posed before the Supreme Court by a family whose son, who was 14 at the time, wanted to change the sex registration in his/her National Identity Card (<i>Documento Nacional de Identidad, DNI</i>, in its Spanish acronym). He was born and registered as a woman but he felt like a male from a very young age. Until now, the law regulating sex reassignment in the DNI required the person to be at least 18 years old to apply for it.</p>
Main reasoning/argumentation (max. 500 chars)	<p>The Court questioned the legal restriction that requires the person to be at least 18 years old to apply for it</p> <p>The Court had doubts that the legal restriction when affecting a minor who with sufficient maturity, who makes a serious request for being in a stable situation of transsexuality, may overcome the judgment of necessity and proportionality. The jurisprudence underpinned the merits of the change of sex in relation to the registration of transgender persons' based on the fundamental principles and rights recognized by the Spanish Constitution. Those principles and rights referred to the protection of physical and moral integrity, the right to personal privacy and to the right to self-image and the right to health, all of them in relation to the right to free development of personality.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Rights to physical and moral integrity, privacy and the protection of health, in relation to the dignity of the person and a free personality development. It concluded on the unconstitutionality of the legal restriction in so far as it prohibits changing the sex registration when referring to children who are mature enough and who are in a stable transsexuality situation.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Court supported that transgender minors with sufficient level of maturity can apply for gender reassignment at the Civil Registry and contends that the provision at issue constitutes age discrimination against transsexuals of legal age, and a discrimination on grounds of age and sexual identity against the elderly in general, which has no objective and reasonable justification.</p> <p>The legal restriction prosecuted infringed upon the best interests of the child. Therefore appreciates the infringement of the principle of personality development and the right to privacy, article 10.1 and article 18.1 of the Spanish Constitution respectively.</p>
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>in the case of a child with sufficient level of maturity making a serious request because of being in a stable situation of transsexuality,(cuando se trata de un menor con suficiente madurez que realiza una petición seria por encontrarse en una situación estable de transexualidad),</p> <p>doubts...about the absolute restriction which accounts the requirement of reaching the age of legal majority in order to be allow to request the change of registration of the sex and the name being in accordance with the fundamental principles and</p>

	rights conferred (dudas....la restricción absoluta que supone la exigencia de la mayoría de edad para poder solicitar el cambio en la mención registral del sexo y del nombre sea acorde a los principios y derechos fundamentales citados).
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Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.
Decision date	2 April 2019
Reference details	Spain, <a href="#">Barcelona Provincial High Court, Criminal Judgement (Sentencia Audiencia Provincial de Barcelona, Sala de lo Penal)</a> , 2018-219, 2 April 2019.
Key facts of the case (max. 500 chars)	In 2016, the defendant uploaded in his Facebook profile hatred comments towards Muslims and he attack a woman because of wearing a hijab. He was moved by an attitude of deep contempt and rejection towards people who profess the Muslim religion, and with the desire to generate feelings of violence and hatred against them. He posted on the internet several offensive expressions aimed at people related to that religion, such as: "kill Islamists" or "death to Islam" and obtained a great dissemination for them (2.532 friends and 135 followers on Facebook). Besides that he did attack a Moroccan national women who wore the hijab and hit her and as a result of it, she did suffered an injury.
Main reasoning/argumentation (max. 500 chars)	The Public Prosecutor's Office initiated the Provisional prosecution. The defendant agreed with the Public Prosecutor's Office's proposal. Then the Public Prosecutor considered unnecessary to continue with the trial. It was considered as a final judgment, since the parties have stated that the appeal would not be brought.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Public Prosecutor's Office agreed with the suspension for a period of 3 years but with the condition of applying the rules of conduct of Art. 83 CP: not committing any crime during the period of suspension, participating in a training program for human rights and respect for the diversity of people and participating in a program for the prevention and treatment of violent behaviours.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	It was declared responsible of a crime against fundamental rights in accordance with article 510 a) and 3, 5 and 6 of the Criminal Code that carried a penalty of 8 months in prison. It was defined as a crime against fundamental rights in accordance with article 510.2(a) and 5 of the Criminal Code and a crime against the moral integrity enshrined in Article 173.1 the Criminal Code that carried a penalty of 6 months in prison. A penalty of special disqualification for the educational profession or any others in the range of educational professions for a period longer than three years. The content described in the proven facts was withdrawal from the Facebook social network by the accused between 14 July 2018 and 2 August 2018 as requested. It was declared responsible of a minor offence in accordance with article 147.2 of the Criminal Code that carried a penalty of 1 month fine. To the payment of the procedural costs Civil liability: payment of 150 euros for the injuries suffered, and 300 euros for the moral damage caused. Then and in total the defendant was convicted of 8 months of prison + 6 months of prison + 1 month of fine + procedural costs + civil liability + the request to withdraw all the information from his Facebook profile.
Key quotation in original language and	...through the "Cipriano" Facebook profile and essentially moved by an attitude of deep contempt and rejection towards people who profess the Muslim religion,

translated into English with reference details (max. 500 chars)	and with the will to generate among the general public a sentiment of violence and hatred against them, he published on the internet several offensive expressions aimed at people related to that religion (a través del perfil Cipriano de la red Facebook movido esencialmente por una actitud de profundo desprecio y rechazo hacia las personas que profesan la religion musulmana, y con la voluntad de generar entre la población sentimientos de violencia y odio contra las mismas, publicó en internet varias expresiones ofensivas dirigida a las personas afines a dicha religión).
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Thematic area	<b>ROMA INTEGRATION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.
Decision date	24 October 2019
Reference details	Spain, Malaga Criminal Court nº 1 (Juzgado de lo Penal número 1 de Málaga), 227/19, 24 October 2019 (unpublished)
Key facts of the case (max. 500 chars)	The defendant created a webpage in late 2007 or early 2008 with the sole purpose was to spread ideas of contempt for the Roma race. The facts were reported by the Fundación Secretariado Gitano at the Barcelona Public Prosecutor's Office (Fiscalía de Barcelona) in November 2012, while the webpage remained still open. The Judicial proceedings were initiated in Barcelona and the case was referred to Malaga when the accused was identified as allegedly responsible and placed in Malga town. The Malaga Public Prosecutor initiated research investigations and the public prosecutor brought an appeal in the end.
Main reasoning/argumentation (max. 500 chars)	The Public Prosecutor's Office intervened in the exercise of the public action. Article 787.1 that allows the conformity of the penalty requested by the accused, issuing a judgement as per the agreement (de conformidad). Applicability of Article 510 of the Spanish Criminal Code: provocation of hate crime and discrimination because of the compliance with the conditions required by the legal doctrine and the jurisprudence.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Hate Crime, Hate Speech and Discrimination. Applicability of Article 510 of the Spanish Criminal Code: provocation of hate crime and discrimination.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	A penalty of 6 months of prison plus 1.200euros – 4 months with a daily rate of 10 euros. The webpage was closed. The Judgement was declared final and firmed “in voce” because both parties declared to agree with it and the defendant declared his will not to enter any subsequent appeal. He was condemned too to the payment of the trial fees.
Key quotation in original language and translated into English with reference details (max. 500 chars)	"The accused...creates a website accessible from the address <a href="http://www.freewebs.com/segar-death/index.htm">www.freewebs.com/segar-death/index.htm</a> , whose sole purpose was to spread ideas of contempt and revulsion towards the roma race, in which you could read expressions..." (El acusado...creo una página web accesible desde la dirección <a href="http://www.freewebs.com/segar-death/index.htm">www.freewebs.com/segar-death/index.htm</a> , cuya unica finalidad era difundir ideas de desprecio y repulsa a la raza gitana, en la que se podían leer expresiones...)

	...such expressions, as they are clearly vexatious and intended to provoke discrimination against the Roma social group..." (dichas expresiones, por considerarse claramente vejatorias y tendentes a provocar la discriminación contra el colectivo gitano...)
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Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b> Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
Decision date	22 May 2019
Reference details	Spain, Full. <a href="#">Judgment 76/2019 of 22 May 2019. Appeal of unconstitutionality 1405-2019. Enforcement of the National Ombudsman with regard to the first paragraph of Article 58a of Organic Law 5/1985 of 19 June on the general electoral regime, incorporated by Organic Law 3/2018, 5 December, on the protection of personal data and the guarantee of digital rights. Protection of personal data, principle of legal certainty, negative aspects of ideological freedom and the right to political participation: nullity of the legal provision that makes it possible to collect personal data by political parties citizens' political views</a> ( <i>Pleno. Sentencia 76/2019, de 22 de mayo de 2019. Recurso de inconstitucionalidad 1405-2019. Interpuesto por el Defensor del Pueblo respecto del apartado primero del artículo 58 bis de la Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general, incorporado por la Ley Orgánica 3/2018, de 5 de diciembre, de protección de datos personales y garantía de los derechos digitales. Protección de datos personales, principio de seguridad jurídica, vertiente negativa de la libertad ideológica y derecho a la participación política: nulidad del precepto legal que posibilita la recopilación por los partidos políticos de datos personales relativos a las opiniones políticas de los ciudadanos</i> ), Appeal 1405-2019, 22 of May 2019.
Key facts of the case (max. 500 chars)	On 5 March 2019, the Ombudsman brought an action of unconstitutionality against paragraph 1 of Article 58a of Organic Law 5/1985 of 19 June on the general electoral regime, incorporated into it by the final third provision, paragraph two, of Organic Law 3/2018, December 5, on the protection of personal data and guarantee of digital rights (Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general, incorporado a esta por la disposición final tercera, apartado dos, de la Ley Orgánica 3/2018, de 5 de diciembre, de protección de datos personales y garantía de los derechos digitales). The legal provision under appeal authorised political parties to collect personal data relating to the political opinions of persons in the context of their electoral activities.
Main reasoning/argumentation (max. 500 chars)	It claims: (i) it has not determined in itself the purpose of the actions referred to the collection of certain citizen´s public opinions by the political parties in the context of electoral activities, beyond the generic reference to the public interest; (ii) has not limited processing by regulating in detail restrictions on a fundamental law, (iii) it has not established adequate safeguards to protect the fundamental rights concerned. Due to these inadequacies, it was concluded a double and simultaneous infringement in accordance with articles 18.4 and 53.1 of the Spanish Constitution, for breaching the reservation of law and for not respecting the essential content of the fundamental right to personal data protection.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Protection of personal data, principle of legal certainty, negative aspects of the ideological freedom and the right to political participation, nullity of the legal provision that makes it possible to collect personal data by political parties on the citizens' political views.
Results (sanctions) and key consequences or	To uphold the unconstitutionality appeal and, consequently, to declare unconstitutionality and null and void the paragraph 1 of Article 58a of Organic Law 5/1985, of June 19, of the general electoral regime, incorporated into it by

implications of the case (max. 500 chars)	the final third provision, paragraph two, of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights (Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general, incorporado a esta por la disposición final tercera, apartado dos, de la Ley Orgánica 3/2018, de 5 de diciembre, de protección de datos personales y garantía de los derechos digitales).
Key quotation in original language and translated into English with reference details (max. 500 chars)	The generic reference “to the public interest” without specifying it is not sufficient to substantiate the intrusion on the right to protection of personal data, that entails the protection awarded to the processing of data referring to political opinions in favour of political parties in the also vague framework of their electoral activities (la genérica mención “al interés público” sin especificarlo no basta para fundamentar la intromisión que en el derecho a la protección de datos de carácter personal implica el amparo que se otorga al tratamiento de los datos relativos a opiniones políticas a favor de los partidos políticos en el también impreciso marco de sus actividades electorales)

Thematic area	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
Decision date	21 March 2019
Reference details	Spain, <a href="#">Supreme Court Criminal Chamber (Tribunal Supremo, Sala de lo Penal), nº 151/2019, Rec 826/2018</a> , 21 March 2019.
Key facts of the case (max. 500 chars)	Between 2012 and 2013, the accused began a systematic activity of contacts with various users of the network, all of them minors under the age of thirteen, through the program Facebook and with a libidinous spirit. He pretended to be a young girl, and having created three false female profiles: "Fermina", "Flower" and "Francisca" on that social network, that were and used them to maintain intimate conversations with the minors and to hide its true genre. To attract the minors, he sent photographs and videos of other girls performing acts of sexual nature. Then based on that mistaken belief that he was a young girl, the minors will take photos and activate their webcams, undressed and performing sexual acts such as masturbations and share them with him through both Facebook and Messenger.
Main reasoning/argumentation (max. 500 chars)	Use of minor for pornographic or exhibitionist purposes and / or for the elaboration of pornographic material, Article 189(1)(a) in conjunction with 3(a) of the Criminal Code. Dissemination of pornography to minors provided for in Article 186 of the Criminal Code. Conditional threats provided for in Article 169.1 of the Criminal Code. Possession of child pornography provided for in Article 189.2 of the Criminal Code. It was not accepted the view of the highly qualified mitigating circumstance of psychic impairment under Article 21.1 of the Criminal Code. It was questioned by the defense the legality of the intervention of the telecommunications company although it was finally inadmitted by the court. The appeal is dismissed, on the basis that the agreed investigative measures to find out the electronic data with which the accused operates on social media and the entry and registration at his home are in accordance with ordinary and constitutional legality.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Child pornography crime, Sexting crime and Paedophilia. It is not possible to apply sexting crime under Article 183 b.2 of the Criminal Code that refers to swindle cases through internet or other technologies contacting with minors under 16 asking them to show pornographic materials or images.

	The facts are qualified as aggravated and then it is applicable Article 189 of the Criminal Code related to the use of minors for the production of pornographic material.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Conviction of the accused as the author of 12 crimes because of use of minors for pornographic or exhibitionist purposes and/ or for the elaboration of pornographic material. 19 crimes because of dissemination of pornographic material among minors, two crimes because of conditional threats and another of possession of child pornography. The court sees the imposition of the security measure on probation as lawful.
Key quotation in original language and translated into English with reference details (max. 500 chars)	It was therefore not limited to carrying out the preparatory acts prior to the commission of the crime of child pornography as enshrined in Article 189 of the Criminal Court, ..., but achieved the material result of the crime of child pornography ..., and also in some cases in the aggravated form contained under paragraph 3(a). ....the Court complies with the typical requirements of Article 189 and clearly exceeds those laid down in the new Article 183b.2 c. of the Criminal Code (No se limitó, pues, a realizar los actos preparatorios previos a la comisión del delito de pornografía infantil previsto en el art. 189 del C. Penal , ....., sino que alcanzó el resultado material del delito de pornografía infantil ..., y además en algunos de los casos en la modalidad agravada de su apartado 3.a). ....el Tribunal sentenciador se ajusta a las exigencias típicas del art .189 y rebasa claramente las previstas en el nuevo art. 183 ter.2 del C. Penal)

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..
Decision date	4 July 2019
Reference details	Spain, <a href="#">Supreme Court Criminal Chamber (Tribunal Supremo, Sala de lo Penal), STS 2200/2019</a> , 4 July 2019.
Key facts of the case (max. 500 chars)	Five boys had sex with the 18-year-old victim on a housing portal in Navarra on 7 July 2016. The victim was secluded and taken into a narrow place that was chosen and desired by the defendants, with a single exit, surrounded by five males older than her and who had a strong build. They took advantage of the situation to perform with her various sexual acts. The five boys acted by mutual agreement. There were numerous anal, vaginal and oral penetrations suffered by the woman in very short periods of time, "up to ten times". They recorded her on video and took pictures of her while the sexual acts took place. There were videos recorded by the aggressors where the woman was screaming, trapped and crouched as well as several images taken by them in which they show themselves "boasting" and with a "triumph" attitude.
Main reasoning/argumentation (max. 500 chars)	The court endorsed the motto of "only yes is yes" (solo sí es sí), meaning that the sexual consent must be clear and express. It cited the Istanbul Convention to define consent. The case involved clear environmental intimidation. The victim was secluded and taken into a narrow place that was chosen and desired by the defendants, with a single exit, surrounded by five males older than her and who had a strong build. She felt impressed and without responsiveness. It is defined as a behaviour that was imposed on the victim and that was denigrating to the woman. The Supreme Court argued that both sexual offences and the concept of sexual freedom are likely to be affected by the evolution of social thought. It stated that there had been clear proofs on the role of legal norms in recreating the stereotypes and social roles that defined the unequal distribution of rights and obligations, discriminating against the possibilities of women for centuries.

Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Court stressed that the presence of several individuals, even without prior agreement, already implies the existence of environmental intimidation and also greater impunity. It does reduce the responsiveness of the victim, resulting in a qualitative increase in the seriousness of the situation. Intimidation along with violence was one of the conditions to classify the crime as sexual assault. It argued a moral damage suffered by the woman, and a secondary victimization that occurs because of the strong media coverage and because of the suffering caused by the judicial process itself.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	15 years in prison for each of the five men for a continuing a rape crime. And a monetary compensation for the survivor victim increased up to 100,000 euros.
Key quotation in original language and translated into English with reference details (max. 500 chars)	It is not permissible to force the right to extremes demanding the victims heroic attitudes that will inexorably lead them to suffer greater damages (No es admisible forzar el derecho hasta extremos de exigir de las víctimas actitudes heroicas que inexorablemente las conducirán a sufrir males mayores) ... impossibility of interpreting an absence of physical resistance as a will, the will must be expressly manifested or be clearly inferred from the circumstances (imposibilidad de interpretar una ausencia de resistencia física como tal voluntad, la misma debe manifestarse de forma expresa o deducirse claramente de las circunstancias)

Thematic area	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b>  Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
Decision date	20 March 2019
Reference details	Spain, <a href="#">Supreme Court Contentious-Administrative Chamber, Fourth Section (Tribunal Supremo, Sala de lo Contencioso-Administrativo, Sección Cuarta), STS 894/2019</a> , 20 March 2019.
Key facts of the case (max. 500 chars)	The Spanish Committee of Representatives of Persons with Disability (El Comité de Entidades Representantes de Personas con Discapacidad, CERMI, in its Spanish acronym) brought an administrative appeal against the inactivity of the Spanish Government in the obligation to adopt a regulatory rule governing the basic conditions of accessibility and non-discrimination for the access and use of goods and services available to the public by persons with disabilities. There was a non-compliance with a direct mandate to the Government asking for the regulatory development within two years that expired in December 2015.
Main reasoning/argumentation (max. 500 chars)	The existence of a varied and extensive set of impediments that deprive persons with disabilities of the full exercise of their rights and the effects of these obstacles materialize in a situation of social exclusion that must be inexcusably addressed by the public authorities. The application of Article 49 of the Spanish Constitution and the evolution of the regulatory guarantee on the rights of persons with disabilities and their families contained in Royal Legislative Decree 1/2013, of November 29, which approves the Consolidated Text of the Law General of the Rights of Persons with Disabilities and their Social Inclusion, in its third Final Provision, point 2, which was published on 3 December 2013.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The provision by the Government of Basic conditions of accessibility and non-discrimination for the access and use of goods and services available to the public are not limited to a mere mandate addressed to the government but requires: (a) that such approval takes place within two years of the entry into force of the legal texts; (b) that such basic conditions approved were mandatory; and (c) that the

	legislature finally decided to shorten that timetable, providing that such conditions are 2 years at the very most.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Judgment of the Supreme Court in favour of Spanish Committee of Representatives of Persons with Disability, condemning the Government to adopt the regulation on universal accessibility to goods and services. The administrative action brought by CERMI was upheld. Non Fee Court charges imposed.
Key quotation in original language and translated into English with reference details (max. 500 chars)	...against the inactivity of the Spanish State Government that is under the obligation to adopt a regulatory rule governing the basic conditions of accessibility and non-discrimination for the access and use of goods and services publicly available to persons with disabilities (contra la inactividad del Gobierno del Estado español en la obligación de aprobar una norma reglamentaria que regule las condiciones básicas de accesibilidad y no discriminación para el acceso y utilización de los bienes y servicios a disposición del público por las personas con discapacidad).