

# Frant National contribution to the Fundamental Rights Report 2023

**Spain**

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## Franet country study: policy and legal highlights 2022

<p>Issues in the fundamental rights institutional landscape</p>	<p>There was no national case law concerning the right to information and access and rectification concerning the use of the large-scale EU IT systems (Eurodac, SIS, and VIS) Article 3 of Directive 2002/90/EU.</p> <p>No impact assessment of a legislative proposal from a Charter perspective was found. As of 28 November 2022, the Spanish national Parliament had passed 56 legislative initiatives, including 13 organic laws, 23 laws and 20 royal decree laws.</p>
<p>EU Charter of Fundamental Rights</p>	<p>As of 31 December 2022, the Spanish national Parliament <a href="#">passed 73 legislative initiatives, including 15 organic laws, 38 laws and 20 royal decree laws</a>. A review of every one of these instruments yields the result that the Charter is mentioned up to 3 times: once in Preamble of <a href="#">Law 15/2022 of July 22, Integral Law for Equal Treatment and Non-Discrimination</a>, and twice in Article 56 of <a href="#">Law 11/2022, of June 28, General Telecommunications Law</a>.</p>
<p>Equality and non-discrimination</p>	<p>Comprehensive Law for equal treatment and non-discrimination.</p> <p>On June 2022, it was approved a <a href="#">new law on equal treatment and non-discrimination</a>. In terms of fostering equality and combating discrimination focusing on LGBTIQ people's right to equal treatment and non-discrimination in health care referred to the LGTBI collective as population groups with specific health needs.</p>
<p>Racism, xenophobia &amp; Roma Equality and Inclusion</p>	<p>Amendment of the Spanish Criminal Code</p> <p>On July 2022, <a href="#">the Spanish Criminal Code was amended</a> about equal treatment and non-discrimination, introducing the anti-Roma hate crime and other aggravating circumstances and the hate speech crime.</p>
<p>Asylum &amp; migration</p>	<p>Since 2019 <a href="#">Aena public company</a> has continued developing a program to implement biometric technology and facial recognition at airports, which was integrated into Aena's Strategic Digital Identity Program.</p>
<p>Data protection and digital society</p>	<p>Approval of a National Cybersecurity Plan</p> <p>In March 2022, the three years <a href="#">National Cybersecurity Plan</a> was approved. It envisaged the creation of the National Platform for Notification and Monitoring of Cyber incidents and Threats to exchange information on cyber-attacks and other cyber threats in real-time.</p>
<p>Rights of the child</p>	<p>National State Action Plan for the Implementation of the European Child Guarantee</p> <p>In July 2022, <a href="#">the National State Action Plan (2022-2030)</a> was approved. It was structured in three axes: combating child poverty and strengthening the social protection of children and adolescents;</p>

	<p>universalization of social rights; and the promotion of territorial equity, protective, equal, inclusive, and participatory environments.</p>
<p>Access to justice, including victims of crime</p>	<p>Protection and assistance to victims of gender-based violence</p> <p>In March 2022, a <a href="#">law was approved to improve the safety of orphans and victims of gender-based violence</a>. It meant extending the scope of the orphan's pension to include the direct victims of gender violence as beneficiaries.</p> <p>In September 2022, a <a href="#">Law for the comprehensive guarantee of sexual freedom</a> was approved to promote the prevention of sexual violence and all victims' rights guarantee.</p>
<p>Convention on the Rights of Persons with Disability</p>	<p>New procedure for recognition, declaration, and assessment of the degree of disability</p> <p>In October 2022, a <a href="#">regulation for the establishment and the glory, declaration, and evaluation of the degree of disability</a> entered into force. It updated the degree criteria for its evaluation and determination. It envisages the issue of a standard disability card to be valid throughout the national territory.</p>

# 1. Equality and non-discrimination

## 1.1 1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination focussing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance

On 23 June 2022, the Ministry of Equality approved a **Law 15/2022, comprehensive for equal treatment and non-discrimination** (*Ley 15/2022 integral para la igualdad de trato y la no discriminación*)<sup>1</sup>. In terms of fostering equality and combating discrimination focussing on LGBTIQ people Article 15 related to the right to equal treatment and non-discrimination in health care made reference to the LGTBI collective as a population group with specific health needs. It implied the amendment of the General Law for the Defence of Consumers and Users and other complementary laws. The publicity of the sanctions imposed, when they have become final in administrative proceedings, as well as the names, surnames, denominations, or business names of the natural or legal persons responsible; or bring cause in the dissemination of racist, xenophobic, violence against women, LGTBIphobic content.

In relation to **combat discrimination on the grounds of socio-economic status, health status and physical appearance**, the **Law 15/2022, comprehensive for equal treatment and non-discrimination**<sup>2</sup> in its Article 2.1 **included several reasons for discrimination**: (1) **Disease**: it is indicated that the disease may not protect differences in treatment other than those derived from the process of treatment, the objective limitations imposed for the exercise of certain activities or those required for reasons of public health (Article 2.3). It also meant the non discrimination based on pre-existing or intercurrent diseases (Article 15.2); (2) **Health condition**: it is said that the employer will not be able to inquire about the health conditions of the applicant for a job (Article 9.5); (3) **Serological status**: of particular interest due to the COVID-19 pandemic; Genetic predisposition to suffer pathologies and disorders; In general terms, any circumstance that is related to health can be included in this series. (4) **Sexual**

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<sup>1</sup> Spain, Head of State (*Jefatura de Estado*) (2022), [Law 15/2022, comprehensive for equal treatment and non-discrimination](#) (*Ley 15/2022 integral para la igualdad de trato y la no discriminación*), 12 July 2022.

<sup>2</sup> Spain, Head of State (*Jefatura de Estado*) (2022), [Law 15/2022, comprehensive for equal treatment and non-discrimination](#) (*Ley 15/2022 integral para la igualdad de trato y la no discriminación*), 12 July 2022.

**identity:** there was a Constitutional Court ruling<sup>3</sup> that defined gender identity or sexual identity as "*the identification of a person with gender-defining characters that may or may not coincide with the sex attributed to him, by virtue of the predominant biological characteristics that he presents since birth*" (*la identificación de una persona con caracteres definitorios del género que pueden coincidir o no hacerlo con el sexo que se le atribuye, en virtud de los caracteres biológicos predominantes que presenta desde su nacimiento*) (F.J. 3), as it will be the case of the transexual persons. The specific health needs for people belonging to the LGTBI collective were covered under (Article 15.3). (5) **Gender expression:** the aforementioned Constitutional Court judgment defined gender as "*the way in which a person externalizes his gender, in the context of social expectations, in relation to the way of dressing, the use of one or another name or pronoun, behavior, voice or aesthetics*" (*el modo en que una persona exterioriza su género, en el contexto de las expectativas sociales, en relación con el modo de vestir, el uso de uno u otro nombre o pronombre, el comportamiento, la voz o la estética*); (6) **Socio-economic situation:** it was mentioned in relation to the educational field and refers to homelessness when receiving health treatment (Article 15.2) and to situations of poverty (Article 16) or aporophobia.

**On 22 december 2022,** the Council of Ministers approved a Draft Law for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people (*Ley para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI*)<sup>4</sup> This law developed and guaranteed the rights of lesbian, gay, bisexual, trans and intersex people in order to eradicate situations of discrimination. The first Draft Law<sup>5</sup>. was entered **on 27 June 2022, and on 14 September 2022,** the consultive body of the the Public Prosecutor Council (*Consejo Fiscal*) issued an assessment of this Draft Law<sup>6</sup>. The assessment valued the text positively as pertinent and necessary to put an end to the discrimination suffered by those LGTBI groups. It considered that this

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<sup>3</sup> Spain, [Constitutional Court, 11083 Plenary. Judgement 67/2022, 2 June of 2022. Amparo appeal nº 6375-2019](#) (Tribunal Constitucional, 11083 Pleno. Sentencia 67/2022, de 2 de junio de 2022. Recurso de amparo 6375-2019), 4 July 2022.

<sup>4</sup> Spain, Ministry of the Presidency, Relations with the Courts and Democratic Memory, Ministry of Justice, Ministry of Equality (*Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Ministerio de Justicia, Ministerio de Igualdad*), [Draft Law for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people](#) (*Proyecto de Ley para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI*), 22 December 2022.

<sup>5</sup> Spain, Ministry of the Presidency, Relations with the Courts and Democratic Memory, Ministry of Justice, Ministry of Equality (*Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Ministerio de Justicia, Ministerio de Igualdad*), [Draft Law for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people](#) (*Anteproyecto de Ley para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI*), 27 June 2022.

<sup>6</sup> Spain, Council of State: Opinions. File number: 901/2022 (EQUALITY) (*Consejo de Estado: Dictámenes. Número de expediente: 901/2022 (IGUALDAD)*), [Draft Law for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people](#) (*Anteproyecto de Ley para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI*), 23 June 2022.

comprehensive draft law will contribute to overcoming the current policy fragmentation and to adapt the Spanish legal system to the international commitments assumed in the matter. It emphasized the importance of the law providing preventive measures (awareness-raising and training), protective measures (assistance to victims), and reparation. La norma reconoce la autodeterminación de género y desarrolla medidas para garantizar los derechos de las personas LGTBI. It recognize the gender self-determination through a system of double appearance, without medical or judicial guardianship. It incorporates the depathologization of trans people, who are no longer legally considered sick. A medical diagnosis will never again be required to access the sex registration change. The law also guarantees the right of foreigners to change documents issued in Spain if they cannot do so in their country. Couples of women are equated with heterosexual couples in terms of the right of filiation of their offspring. The marriage requirement will no longer be necessary. Another novelty of the law is the prohibition of conversion therapies. False conversion therapies are eradicated, even if they have the consent of the persons concerned, as they are considered mere torture, lacking any scientific basis.

In September 2022, the Spanish Minister of Equality and the German Minister of Family, Senior Citizens, Women, and Youth signed a *Memorandum of Understanding on Violence against Women and Cooperation in Defence of the Rights of LGTBI Persons*<sup>7</sup>. It is meant to be a basic framework to strengthen cooperation between the two countries in the violence against women and, in particular, for the prevention and comprehensive care of victims of violence against women, as well as in the rights of LGBTI persons. They meet once a year, and seek to facilitate the exchange of experiences and information on legislation and good practices in public policies to eliminate all forms of violence against women and equal treatment in issues related to sexual orientation.

**On 6 September 2022**, the State General Public Prosecutor (Fiscalía General del Estado) presented the **2021 data through the Prosecutor's Office Report in the Opening Act of the Judicial Year** (Memoria de la Fiscalía en la apertura del Año Judicial)<sup>8</sup>. It highlighted the need for a pending standardization of the grounds of discrimination to be accomplished through a reform of the Criminal Code necessary to complete the unification of the grounds of discrimination. Even though the reform introduced in 2021 by the Law 8/2021 on the comprehensive protection of children and adolescents against violence (Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia)<sup>9</sup> meant a significant advance when introducing age and aporophobia or

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<sup>7</sup> Spain, [La Moncloa, "España y Alemania refuerzan su cooperación en la lucha contra la violencia contra las mujeres y la defensa de los derechos LGTBI"](#), press release, 5 September 2022.

<sup>8</sup> Spain, State General Public Prosecutor (Fiscalía General del Estado), ["La Fiscal General del Estado presenta la Memoria de la Fiscalía en la apertura del Año Judicial"](#), press release, 6 September 2022.

<sup>9</sup> Spain, Head of State (Jefatura del Estado) (2021), [Organic Law 8/2021 on comprehensive protection of children and adolescents against violence \(Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia\)](#), 4 June 2021.



social exclusion as new grounds for discrimination, it did not solve the issue provoked by the fact that the aggravating circumstance of Article 22. 4ª of the Criminal Code neither contained the discriminatory grounds of "national origin" and "family situation" yet, nor in the different criminal conducts included in Article 510 of the Criminal Code as "age", "gender identity", and "social exclusion" were still absent within the discriminatory grounds introduced by that Law 8/2021.

**At the regional level, in May 2022,** it was approved the **Law 5/2022 on Sexual Diversity and LGTBI Rights in Castilla-La Mancha**<sup>10</sup>. The Law aimed to guarantee the equality of lesbian, gay, transsexual or trans, bisexual, and intersex people, as well as that of other people who, due to their sexual orientation, sexual identity, gender expression, differences in sexual development, or belonging to LGTBI families, may suffer discrimination in the region of Castilla-La Mancha.

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-economic status, health status and physical appearance**

**In March 2022, the National Ombudsman** (Defensor del Pueblo) published its [2021 Annual Report](#) (Informe Anual 2021)<sup>11</sup>. Regarding **experiences of discrimination against LGBTIQ people**, it mentioned that the actions against a possible breach in relation to the implementation of "Therapies to cure homosexuality" (Terapias para curar la homosexualidad). In 2019, the Alcalá de Henares (Madrid region) bishopric at the Regina Familiaee Family Guidance Center (Centro de Orientación Familiar Regina Familiaee) offered therapies that were against article 70 of the Madrid Law 3/2016 on Integral Protection against LGTBIphobia (Ley 3/2016, de 22 de julio, de Protección Integral contra la LGTBIfobia)<sup>12</sup>. The evidence was several call records, recordings, emails, and documentation provided by a journalist but obtained without the consent of one of the participants. The Madrid Council for Social Policies, Families, Equality, and Birth (Consejería de Políticas Sociales, Familias, Igualdad y Natalidad de la Comunidad de Madrid) reported that it was not possible to open a sanctioning

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<sup>10</sup> Spain, Castilla-La Mancha Regional Government (*Comunidad Autónoma de Castilla-La Mancha*), [Law 5/2022, of 6 May, on Sexual Diversity and LGTBI Rights in Castilla-La Mancha \(Ley 5/2022, de 6 de mayo, de Diversidad Sexual y Derechos LGTBI en Castilla-La Mancha\)](#), 12 May 2022.

<sup>11</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2023), [Annual Report 2022 \(Informe Anual 2022\)](#), Madrid, Defensor del Pueblo.

<sup>12</sup> Spain, Madrid Regional Government (*Comunidad de Madrid*), [Law 3/2016, of July 22, on Integral Protection against LGTBIphobia and Discrimination based on Sexual Orientation and Identity in the Community of Madrid \(Ley 3/2016, de 22 de julio, de Protección Integral contra la LGTBIfobia y la Discriminación por Razón de Orientación e Identidad Sexual en la Comunidad de Madrid\)](#), 22 July 2022.

procedure as it was argued that the evidence provided might violate "the right to privacy" of the so-called therapist in charge of those treatments<sup>13</sup>. "Once the arguments put forward have been assessed, since there is no evidence other than that obtained by the journalist without the consent of the interested party, it has been proposed that, it be agreed to end the period of prior information and not agree to initiate any sanctioning procedure" (*Una vez valorados los argumentos esgrimidos, al no contar con otras pruebas distintas a las obtenidas por el periodista sin el consentimiento de la interesada, se ha propuesto que se acuerde dar por finalizado el periodo de información previa y no acordar incoación de procedimiento sancionador alguno*) the Ministry considered that the information rights "must be properly reconciled with the right to privacy" (*debe conciliarse adecuadamente con el derecho a la intimidad*) because "a recording, as well as its subsequent use of it, can affect the right to privacy when the content of the recording affects peripheral parts of the recording" (*una grabación, así como su posterior utilización de la misma, puede afectar al derecho de la intimidad cuando el contenido de lo grabado afecte a parcelas periféricas de la grabación*). The right to information may justify an investigation by a journalist "but applied to the canon of proportionality in its contrast with the fundamental rights to privacy of the persons concerned" (*el derecho a la información puede justificar una investigación por parte de un periodista pero aplicado al canon de proporcionalidad en su contraste con los derechos fundamentales a la intimidad de las personas afectadas*). The regional government concluded that "in the case examined, it can be seen that he could have been satisfied without having to proceed to the recording of the conversation" (*en el supuesto examinado se aprecia que pudo ser satisfecho sin necesidad de proceder a la grabación de la conversación*).

Regarding **experiences of discrimination on the grounds of socio-economic status, health status and physical appearance**, there were no data recorded as those reasons for discrimination are not formally and officially registered.

**On 27 April 2022**, it was published an article on the **Current situation of the legal treatment of the sexual diversity and gender-based in Spain** (*Situación Actual del Tratamiento Jurídico de la Diversidad Sexual y de Género en España*)<sup>14</sup>. It analysed the legislative framework existing at the national and regional level. It described regulations of a programmatic nature, on mandates to the public authorities that still need for more financial resources for their correct implementation. It referred to the difficulties of the coexistence and applicability of supranational EU law, the international law, with the national and regional law. It concluded that at national and regional level they could be defined as an accumulation of sleeping laws. It also referred to level of complexity of the reality called to regulate and the need of finding a balance between an excess of

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<sup>13</sup> Cristianos Gays, "[Díaz Ayuso no sancionará a Reig Plá por las terapias para 'curar' la homosexualidad](#)", press release, 25 April 2022.

<sup>14</sup> Rivas Vañó, A. (2022), [Situation current of the legal treatment of the-sexual diversity and of gender in spain](#) (*Situación Actual del Tratamiento Jurídico de la Diversidad Sexual y de Género en España*), Madrid, Universidad Pablo de Olavide.

indeterminacy that prevents the explicit recognition of rights based on specific personal or social characteristics, and an extreme definition. It advocated for a more widespread technical use of the terms such as "sexual and gender diversity".

**In 2022**, it was published an article titled "**...Do you remember your first lgtb assault?: An analysis of testimonies from lgtb people in the #mequeer movement**"<sup>15</sup>. It was a qualitative study carried out using the interpretative research paradigm, employing purposive or convenience sampling in which 635 tweets were selected. **It concluded that** sexual orientation and gender identity continue to be obstacles to the promotion of LGTB well-being and social justice. This reality is reflected in the #MeQueer movement, where LGTB users give personal testimonies about situations of social bias or discrimination they have suffered in their daily lives. **It referred to** the existence of various false beliefs and erroneous knowledge related to sex roles, sexual behavior, and the reality of LGBT people. It also reflects the perpetuation of negative attitudes towards LGTB people in different spheres of society that manifest themselves both explicitly and hostile (e.g. physical aggressions) and implicitly and subtly (e.g. lack of recognition of LGTB rights). It is concluded that LGTB social bias and discrimination tend to take more subtle and difficult-to-identify forms due to the absence of any reference to sexual orientation or gender identity. It is considered necessary to train professionals in the field of social and health care and education in SOGIE.

**In 2022**, it was published research **titled *LGTBI invisibility in rural environments***<sup>16</sup>. **The objective** was the analysis of the LGTBI knowledge differences between rural and urban adolescents, given that the information is an essential variable to promote egalitarian and inclusive attitudes. In terms of methodology, it involved 103 adolescents (54% urban area and 46% rural area) between 12 and 19 years old (45% men and 55% women) who completed an ad-hoc online questionnaire on knowledge, attitudes, and sexual LGTBI experiences. The data were collected through an online form (*Google forms*) that was administered in a computer room of the centers, ensuring sufficient space between the students to guarantee their confidentiality and privacy. Once they accessed the online form, they were informed of the anonymous, voluntary and confidential nature of the study. The 5 questions used were the following: What does the acronym lgtbi mean? What is pansexuality? What is intersex? What is transsexuality? What is lgtbiphobia? Each of these four items had 4 response options, and only one was correct. It **concluded** that the urban area participants show more LGTBI knowledge than those from rural zones. **In the educational field**, it mentioned that the transmission of information on sexual diversity is limited, in most cases to isolated sessions. A limitation concluded by the study

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<sup>15</sup> Lara-Garrido, A. S., et al. (2022). "[... Do you remember your first lgtb assault?: An analysis of testimonies from lgtb people in the #mequeer movement](#)", *OBETS. Revista de Ciencias Sociales*, Vol. 17, nº 2, pp. 321-338.

<sup>16</sup> Martínez Gómez, N. et al. (2022), [LGTBI invisibility in rural environments](#) (*Invisibilización LGTBI en los entornos rurales*), *Agora Salut VIII*, pp. 181-188

was the scarcity of evaluation instruments on LGTBI knowledge. The researches had to develop an ad hoc scale evaluation questionnaire. And because of that it also concluded that a future line of research can be based on the development of a scale that evaluates conditions in lgtbi matters in the classroom, allowing to include new terms on Queer theories. It also highlighted the need to provide strategies and tools such as prevention of discrimination in rural educational centers, being the information and visibility of LGTBI realities, some of them.

In order to help LGTBI teenagers, regardless of their geographical location. It is essential to train professionals in sexual and gender diversity to be able to work mainstream an lgtbi perspective within the classroom, in order to promote safe free of LGTBIphobia spaces in educational centers.

## 2. Racism, xenophobia and related intolerance

### 1.3 2.1 Data research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

In February 2022, it was published an article titled “**Debating racism in Spain? Do we think we are more racist than immigrants claim?**” (*Debatiendo el racismo en España. ¿Pensamos los españoles que somos más racistas que lo que los inmigrantes declaran?*)<sup>17</sup>. It presented some results of a number of surveys sent to students about racism since 1986, followed by 1993, 1997, 1998, 2002, 2004, 2008, and the last one in 2019 (N = 2.476). It dealt with the evolution of racism (1986-2019), and the second part it contains the opinions of immigrants about their experiences of racism in Spain, according to a number of life stories and surveys developed since 1997 out of a total of 3,496. **One of the conclusions** was that the number of racist persons decreased, although the remaining ones are more militant, activist, and dangerous. Spanish nationals believe that they are more racist than immigrants perceived.

In March 2022, the National Ombudsman (Defensor del Pueblo) published its [2021 Annual Report](#) (Informe Anual 2021)<sup>18</sup>. Regarding **ethnic discrimination, racism and hate crime**, it highlighted cases of **school segregation** and stated the need to intensify actions to increase the schooling of Roma students within primary education. In 2021 and taking into consideration certain recommendations issued by ECRI, the national Ombudsman made a formal information request to the Ministry of Education and Vocational Training (Ministerio de Educación y Formación Profesional). The Ministry replied that a pilot study on the segregation of Roma students is under development aiming to obtaining relevant data that allow their evaluation and monitoring. In reference to this issue, ECRI also showed its concern on the absence of adequate statistical information. The Ministry pointed out that it was one of the aspects that the new National Strategy for the Equality, Inclusion and Participation of the Roma People 2021-2030 aimed to correct through the establishment of quantitative and qualitative indicators. Other issue referred to the **police identification checks** and the obligation to record in accrediting flyers the identification procedures (consignar en volantes acreditativos las diligencias de identificación practicadas en sede policial) carried out at the police headquarters, which continues not to be

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<sup>17</sup> Calvo Buezas, T. (2022), [Debating racism in Spain? Do we think we are more racist than immigrants claim?](#) (*Debatiendo el racismo en España. ¿Pensamos los españoles que somos más racistas que lo que los inmigrantes declaran?*), Madrid, Revista de Estudios Socieducativos, Vol. 10, No. 3, pp. 15–38.

<sup>18</sup> Spain, National Ombudsman (Defensor del Pueblo) (2022), [Annual Report 2021](#) (*Informe Anual 2021*), Madrid, Defensor del Pueblo.

implemented. This obligation was provided for by Instruction 7/2015 of the Secretary of State for Security<sup>19</sup>, and the inexistence of the recording of those identification procedures prevented any external institution from being able to investigate any possible related complaints. Other issue was the **opening of expulsion proceedings against foreign parents of Spanish children** that according to the National Ombudsman lacked legal support and therefore requested to cease without delay.

**In April 2022**, it was published a report titled as ***Analysis of the standards and recommendations of international, regional and European Union organizations in the fight against discrimination against the migrant population, racism and xenophobia***<sup>20</sup>. The report concluded that the intersectional approach still was scarce within the various national regulations, and only certain international bodies together with the jurisprudence of supranational courts took certain steps to approach it. It concluded that Member States had a pending task to address discrimination as a multidimensional and more complex problem than previously conceived.

**In 2022**, it was published a report on the ***Dialogue with African and Afro-descendant people 2021: Creating a future for the construction of a narrative of its own*** (*Diálogo con personas africanas y afrodescendientes 2021: Creando futuro para la construcción de una narrativa propia*)<sup>21</sup>. This report reflected the work carried out by the Working Group for Dialogue with Africans and People of African Descent. It underlined the relevance of the creation of the [Afroespaña website](#) in 2021. It was defined as an space where materials and experiences are collected for the knowledge of the current situation of African and Afro-descendant people in Spain. The report concluded the relevance of applying an intersectional dimension of discrimination against women and girls, including discrimination based on colour, gender, disability and economic and social conditions.

**In 2022**, it was published a report on ***the model of local learning communities against racism, xenophobia and hate speech, as a continuous training tool for local police*** (*El modelo de las Comunidades*

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<sup>19</sup> Spain, Ministry of Interior (*Ministerio del Interior*), [Order 7/2015, of the Secretary of State for Security Relative to the practice of the diligence of identification, the External body records and actions with children, Foreseen in the organic law 4/2015, of March 30, of Protection of the citizen security](#) (*Instrucción 7/2015, de la secretaria de estado de seguridad Relativa a la práctica de la diligencia de identificación, los Registros corporales externos y actuaciones con menores, Previstos en la ley orgánica 4/2015, de 30 de marzo, de Protección de la seguridad ciudadana*), 2015.

<sup>20</sup> "Bartolomé de las Casas" Institute of Human Rights, Carlos III University of Madrid (2022), [Analysis of the standards and recommendations of international, regional and European Union organizations in the fight against discrimination against the migrant population, racism and xenophobia](#), Madrid, Cyan, Proyectos Editoriales, S.A.

<sup>21</sup> Rocu, P. et al (2022), [Dialogue with african and afro-descendant people 2021: Creating a future for the construction of a narrative of its own](#) (*Diálogo con personas africanas y afrodescendientes 2021: Creando futuro para la construcción de una narrativa propia*), Madrid, Ministerio de Inclusión, Seguridad Social y Migraciones.



*Locales de Aprendizaje contra el Racismo, la Xenofobia y los discursos de odio, como herramienta de formación continua para la policía local*)<sup>22</sup>. The success of the open learning communities (*Comunidad Local de Aprendizaje*, CLAP, in its Spanish acronym) and the Local Learning Communities Against Racism, Xenophobia and Hate Speech (*Comunidades Locales de Aprendizaje Contra el Racismo, la Xenofobia y los discursos de odio*, CLARA, in its Spanish acronym) project lied in ensuring that the partners and allies reach agreements in the areas of action defined to achieve a significant social transformation within their localities in relation to the prevention and intervention on incidents and crimes of hate, racism and xenophobia.

**In April 2022**, it was published a ***Comparative study of norms and legislation on racial/ethnic discrimination, racism and xenophobia in Spain, France, Tunisia and Morocco*** (*Estudio comparado de las normas y de la legislación sobre discriminación racial/étnica, racismo y xenofobia en España, Francia, Túnez y Marruecos*)<sup>23</sup>. It was developed by the University of Salamanca within the framework of the European funded project "Living together without discrimination: an approach based on human rights and the gender dimension". It offered **a number of recommendations** that allow a technical transfer of the experiences developed already in a number of European countries for the training of public administration staff in Morocco for the prevention of racism and xenophobia. It analysed **the key factors of the success of the training programs** developed in four European countries (Spain, Ireland, Romania and Lithuania) in relation to the several areas of the Public Administration, such as: security, education, health, justice and social and local services. It reflected that a total of 113 training programs were identified, 12 of them in Lithuania, 24 in Romania, 14 in Ireland and 63 in Spain.

**On 11 April 2022**, the NGO Movement Against Intolerance (*Movimiento contra la Intolerancia*) published a Raxen Report<sup>24</sup> entitled ***Special 2021. Universal protection of victims of hate crimes***, which highlighted that Europe was once again facing the shocking reality of racist, anti-Semitic, xenophobic anti-Muslim and other hate crimes and incidents and hate crimes, as well as a growing climate

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<sup>22</sup> Antón, C. (2022), [The Model of local learning communities against racism, xenophobia and hate speech, as a continuous training tool for local police](#) (*El Modelo de las Comunidades Locales de Aprendizaje contra el Racismo, la Xenofobia y los discursos de odio, como herramienta de formación continua para la policía local*), Madrid, OBERAXE.

<sup>23</sup> Barranco Avilés, M.C. (2022) [Comparative study of norms and legislation on racial/ethnic discrimination, racism and xenophobia in Spain, France, Tunisia and Morocco](#) (*Estudio comparado de las normas y de la legislación sobre discriminación racial/étnica, racismo y xenofobia en España, Francia, Túnez y Marruecos*), Instituto de Derechos Humanos "Bartolomé de las Casas" de la Universidad Carlos III de Madrid.

<sup>24</sup> Movement Against Intolerance (*Movimiento contra la Intolerancia*), [Informe Raxen. Especial 2021 Protección Universal de las Víctimas de los Delitos de Odio](#), Madrid, Movimiento contra la Intolerancia.

of intolerance. Heinous acts, fostered by hate speech spreading across the Internet and Social Media.

**In September 2022**, the the Spanish Observatory of Racism and Xenophobia (*Observatorio Español del Racismo y Xenofobia*, OBERAXE, in its Spanish acronym), published the **Monitoring Quarterly on Hate Speech in Social Networks for the period September-October 2022** (*Boletín de Monitorización del Discurso de Odio en Redes Sociales del periodo septiembre-octubre de 2022*). This Bulletin aimed to monitor the daily hate speech in Spain on five social networks (Twitter, Facebook, YouTube, Instagram and TikTok). It stated that between 1 July and 31 August 2022, most of the contents of hate speech that incite xenophobia addressed against people from North Africa and Islamophobia. The predominant expressions of incitement to violence were the dehumanization or serious degradation of the victimized persons (59%) and the incitement to the expulsion of the Spanish territory (33%). It also concluded that the online platforms removed 30% of the reported hate speech content. **Since 1 July 2022**, OBERAXE introduced its own online monitoring tool to improve data collection.

On 6 September 2022, the State General Public Prosecutor (Fiscalía General del Estado) presented data of the 2021 [\*Prosecutor's Office Report in the Opening Act of the Judicial Year\*](#) (Memoria de la Fiscalía en la apertura del Año Judicial)<sup>25</sup>. It concluded that the number of related criminal proceedings maintained an upward trend already detected before 2020. The number of indictments issued by the Public Prosecutor's Office significantly increased a 44.44% compared to the previous year. As for the specific hate crimes, the injury to dignity covered under Article 510.2.a of the Criminal Code remained the most frequent crimes. With regard to the general criminal offences to which the aggravating circumstance for the grounds of discrimination in Article 22.4 of the Criminal Code applied, injury and threats had the highest numbers. There was also a sustained increase in the number of proceedings and indictments related to social networks or ICTs acts. The most frequent discriminatory grounds in proceedings and accusations continued to be that related to racism and xenophobia (racism, ethnicity, national origin and nation). And discriminatory motivations related to sexual and gender orientation and identity increased as well as the ideology reason.

**In October 2022**, it was published a report on racism in police and ethnic profiling titled as ***Transparency and accountability of police forces in Spain*** (*Transparencia y rendición de cuentas de los cuerpos policiales en el estado español*)<sup>26</sup>. It **raised certain conclusions** such as..."...it is essential that the Human Rights Committee expressed its concern regarding deficiencies within

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25 Spain, State General Public Prosecutor (*Fiscalía General del Estado*), « [La Fiscalía General del Estado presenta la Memoria de la Fiscalía en la apertura del Año Judicial](#) », press release, 6 September 2022.

<sup>26</sup> Bonilla Martínez, T. and alt. (2022), [Transparency and accountability of police forces in Spain](#) (*Transparencia y rendición de cuentas de los cuerpos policiales en el estado español*), Irídia & Novact & RIS.



Spain in the investigation of complaints and taking of disciplinary measures in relation to the use of force..."; "...The various internal police accountability mechanisms within Spain are not sufficiently independent or effective. They lack public transparency, and data on disciplinary proceedings is either unavailable or is not disaggregated by type of infringement, disciplinary measures taken, or the number of sanctions imposed in relation to the types of infringements committed..."; "...Deficiencies in internal police investigations into cases of torture and ill-treatment have an impact on the outcome of judicial investigations. Moreover, in such cases, the Public Prosecutor's Office appears prone to inactivity..."; "...The Ombudsman's Offices are limited in their investigation of cases of improper use of force by police officers but suffer scarce human resources and specialized materials needed..."; "...There is no police force which provides public access to its protocols, guidelines for action or internal instructions regulating the use of force and police resources and weapons. This lack of transparency, which is habitually justified on the grounds of public and national security, hampers full accountability and impedes public scrutiny of the risks to physical wellbeing and those associated with the use of certain weapons...".

**In August 2022**, it was published an academic article titled as "**Anti-LGTBI+ hate crimes. Opportunities, limits and challenges in the criminal justice system**"<sup>27</sup>. In reference to LGTBI+ people, the implementation of the legal protection measures introduced by the Law 1/2015, which incorporated the hate crimes into the Spanish Penal Code, meant an opportunity to combat discrimination, but it also exposed some limits and challenges. In the investigation, it was mentioned experiences of hate crimes as described by LGTBI+ people and contrast them with legal and institutional resources and critical criminological perspectives. To this end, qualitative interviews were conducted with 10 people from the LGTBI+ community and with 10 victims care professionals. The findings showed a representation of anti-LGTBI+ violence as an individualized issue disconnected from a cisheterocentric and LGTBI+phobic structural context. It also revealed the tendency to transfer social conflicts to criminal courts instead of addressing them from alternative forms of administrative justice, such as restorative justice.

**In 2022**, it was published an article titled "**Hate crimes. Incidence of the COVID pandemic on hate crimes in Spain**".<sup>28</sup> The objective was to analyze the evolution of hate crime from 2014 to 2022 in the field of changes that occurred and seeks, through comparative and statistical study, to see the evolution of the crime and crime rate specifically in crimes of hate. Documentation published between 2014-2021 was compiled using the Scielo, Dialnet, and Redalyc

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<sup>27</sup> Albertín Carbó, P. & Langarita Adiego J. (2022), [Hate crimes. Opportunities, limits and challenges in the criminal justice system](#) (*Anti-LGTBI+ hate crimes. Opportunities, limits and challenges in the criminal justice system*), Vol.20, N°1, Revista Española de Investigación Criminológica.

<sup>28</sup> Giraldo Pérez, S., (2022), [Hate crimes. Incidence of the COVID pandemic on hate crimes in Spain](#), Vol. 12, N°. 1, Sociología y tecnociencia: Revista digital de sociología del sistema tecnocientífico.

databases. It is concluded that hate crimes during the 2014-2020 period had an upward trend, with the exception of 2020, whose decline may be influenced by Covid-19 that merited confinement. It concluded that threatening contextual conditions that are adverse, such as COVID-19, could foster prejudice and discrimination towards other people who are part of minorities or disadvantaged groups.

**At the regional level, in August 2022,** the Basque Government presented a new ***Guide to local action against incidents of racist, xenophobic, anti-Roma, and LGTBiphobic hatred***<sup>29</sup> to support municipalities acting against hate crimes. It provided information to municipal entities on key concepts, principles of action, and concrete proposals for action. It made reference to the data and conclusions that appeared within the ***2021 Neurtu report***<sup>30</sup>. **The Neurtu report** stated that 42.5% of the population declared to hear or witnessed insults, 17.9% said that they knew about threats, and 13.5% claimed to be aware of physical attacks on members of the LGTBI people. The reasoning behind the publication of this guide was that even though several resources, services, and networks were already in place, there was a lack of better and greater coordination, especially in terms of the assistance of the victims. And there was also a lack of citizen knowledge and sometimes institutional ignorance about how to act in this type of situation, which could feed a generalized perception of vulnerability and neglect.

#### **1.4 2.2. Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive**

**On 21 March 2022,** the Spanish Ministry of Equality open [a public consultation](#) to be run from 22 March to 10 May 2022<sup>31</sup> to develop a **new law against racism, racial discrimination, and related intolerance**<sup>32</sup>. The law proposal intended to include basic elements for the fight against discrimination, in line with

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<sup>29</sup> Spain, Basque Regional Government (*Gobierno Vasco*), [Guide to local action against incidents of racist, xenophobic, anti-Roma and Lgtbiphobic hatred](#) (*Guía de actuación local frente a incidentes de odio racista, xenófobo, antigitano y Lgtbifóbico*), Bilbao.

<sup>30</sup> Ikuspegi. Basque Immigration Observatory (*Observatorio Vasco de Inmigración*) (2022), [Barometer on diversity in the CAE Perceptions and attitudes towards sexual and gender diversity](#) (*Barómetro sobre la diversidad en la CAE Percepciones y actitudes hacia la diversidad sexual y de género*), Bilbao, Neurtu 2021.

<sup>31</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Public consultation prior to the elaboration of a draft legislation consisting of an organic law against racism, racial discrimination and related intolerance](#) (*Consulta pública previa a la elaboración de un proyecto normativo consistente en una ley orgánica contra el racismo, la discriminación racial y formas conexas de intolerancia*)

<sup>32</sup> Spain, La Moncloa, ["institutional declaration for the international day for the elimination of racial discrimination"](#) (*Declaración institucional por el día internacional de la eliminación de la discriminación racial*), 15 March 2022.

international and European standards, such as the establishment of a sanctioning regime and the creation of an independent Equality body. The public consultation did not contain any particular reference to the relevant legal acts of the Spanish criminal code applied or to what extent it did comply with both the Racial Equality Directive and the Framework Decision on Racism and Xenophobia. The public consultation mentioned a number of objectives, such as the law aimed to act against racial discrimination in line with the EU Plan against Racism; to improve the care for victims of racial discrimination and associated intolerance; to improve the regulatory framework, specifying the infractions and sanctions to have a specific body of regulations that sanction conduct of racial discrimination, reducing the level of underreporting of victims and combating high levels of impunity for acts of racial discrimination and related intolerance; to combat the multiple or intersectional discrimination. It also recognized the link and relevance with the law for equal treatment and non-discrimination, which address all grounds of discrimination but it could not manage to affect some distinctive features and specific characteristics of racial discrimination and related intolerance, nor in the public policies necessary to respond to these distinctive features.

**In April 2022**, it was published the **II Action Plan for the fight against hate crimes (2022-2024)**<sup>33</sup> (*II Plan de Acción de la lucha contra los delitos de odio (2022-2024)*). It counted with the participation and support of both the police, state and regional bodies, as well as the specialized Prosecutor's Office and other civil society organizations.

**On 23 June 2022**, the Ministry of Equality approved a **Law 15/2022, comprehensive for equal treatment and non-discrimination**<sup>34</sup>, which also covered the cases of no discrimination on the basis of racism and xenophobia.

**On 6 July 2022**, the Spanish Government created a new phone **helpline (021) for racist hate crimes and racial or ethnic discrimination**<sup>35</sup>. The main objective of the counselling service was to act against the under-reporting of acts

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<sup>33</sup> Spain, Ministry of Interior (*Ministerio del Interior*) (2022), [II Action Plan for the fight against hate crimes \(2022-2024\)](#) (*II Plan de Acción de la lucha contra los delitos de odio (2022-2024)*), Madrid, Secretaría de Estado de Seguridad.

<sup>34</sup> Spain, Head of State (*Jefatura de Estado*), [Law 15/2022, comprehensive for equal treatment and non-discrimination](#) (*Ley 15/2022 integral para la igualdad de trato y la no discriminación*)<sup>34</sup>, 12 July 2022.

<sup>35</sup> Spain, Ministry of Economic Affairs and Digital Transformation (*Ministerio de Asuntos Económicos y Transformación Digital*), [Resolution of July 6, 2022, of the Secretary of State for Telecommunications and Digital Infrastructures, by which the number 021 is attributed to the service of assistance line to people who suffer or know situations of racial or ethnic discrimination, or racist hate crimes](#) (*Resolución de 6 de julio de 2022, de la Secretaría de Estado de Telecomunicaciones e Infraestructuras Digitales, por la que se atribuye el número 021 al servicio de línea de asistencia a las personas que sufran o conozcan situaciones de discriminación racial o étnica, o delitos de odio racistas*), 12 July 2022.

of racial or ethnic discrimination and racist hate crimes, as well as to improve assistance and guidance to victims by telephone.

**On 12 July 2022, the Criminal Code was amended by the Law 6/2022, of July 12 on integral for equal treatment and non-discrimination** (*Ley Orgánica 6/2022, de 12 de julio, complementaria de la Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación, de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*)<sup>36</sup>. Complementing comprehensive Law 15/2022 for equal treatment and non-discrimination, this Law 6/2022 modified the Criminal Code in three aspects. It modified the aggravating circumstances for discrimination stated under the Article 22.4 of the Criminal Code adding the commission of the facts specifically for anti-roma reasons, differentiating it from racist motives or from the belonging to an ethnic group or race. It entailed the amendment of Article 22.4 of the Criminal Code on the circumstances that aggravate criminal responsibility for committing a crime with discriminatory motivations concerning the aggravating circumstance of committing the crime for racist reasons. It aimed to protect the Roma race and the poor people (inclusion of the aporophobia concept that is defined as hatred, aversion or rejection towards people in poverty) and to aggravate the penalty in the crimes that are commented because of this circumstance. The concept of intersectional discrimination was also included to be taken into account for the application of measures and sanctions. It introduced penalties ranging from 1 to 4 years in prison, those who directly or indirectly encourage, promote or incite hatred, hostility, discrimination or violence against a group, a part of it or against a specific person by reason of their membership, for racist, anti-Semitic, anti-Roma reasons. It also amended Articles 510.1 and 510.2 of the Criminal Code which regulates the hate speech to include aporophobia and anti-roma in the type of crimes committed in connection with the exercise of fundamental rights and public freedoms guaranteed by the Spanish Constitution. This law 6/2022 provided for the establishment of an independent authority, which should be responsible for protecting and promoting equal treatment and non-discrimination.

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<sup>36</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 6/2022, of July 12, complementary to Law 15/2022, of July 12, integral for equal treatment and non-discrimination, amending Organic Law 10/1995, of November 23, of the Criminal Code](#) (*Ley Orgánica 6/2022, de 12 de julio, complementaria de la Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación, de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 12 July 2022.

### 3. Roma equality and inclusion

#### 1.5 3.1 Policy developments in regards to the implementation of national action plans

Development regarding the implementation of the action plans	
Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework? If yes, please provide a hyperlink	<p>No. The <b>action plan (plan operative 2021-2026)</b> is pending development and approval without any particular date established or envisaged for approval.</p> <p>The first action plan to be developed under the National Strategy for Equality, Inclusion and Participation of the Roma people 2021-2030 (<i>Estrategia Nacional para la Igualdad, la Inclusión y la Participación del Pueblo Gitano 2021-2030</i>)<sup>37</sup>.</p>
How were Roma and Traveller civil society organizations consulted for the development of the action plan (please check with the competent national authorities and the most significant Roma organizations)?	<p>Between 1 January 2021 and 31 October 2024, certain activities such as working group meetings, technical conferences, surveys were envisaged to be implemented<sup>38</sup>. Within that framework, <b>in February 2022</b>, there was a Joint meeting of the the State Council of the Roma People (<i>Consejo Estatal del pueblo Gitano, CEPG</i>, in its Spanish acronym) Health Group and the Working Group of the Autonomous Communities on Health Equity and the Roma Population to elaborate the Health actions of the Strategy for the equality, inclusion and participation of the gypsy people 2021-2030 (<i>Estrategia para la igualdad, inclusión y participación del pueblo gitano 2021-2030</i>).</p>

<sup>37</sup> Spain, Ministry of Social Rights and Agenda 2030 (*Ministerio de Derechos Sociales y Agenda 2030*) (2021), [National Roma Strategy for Equality, Inclusion and Participation 2021 2030](#) (*Estrategia Nacional para la Igualdad, la Inclusión y la Participación del Pueblo Gitano*), Madrid, Secretaria de Estado de Derechos Sociales.

<sup>38</sup> For more information, see the Spanish Government's webpage on [9.5.1. Participation of Roma people in public health policies](#) (*Participación del pueblo gitano en las políticas públicas sanitarias*).

<p>Was the Equality Body and the NHRI and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent national authority, the Equality body, NHRI and Ombuds institution)?</p>	<p>No applicable. The action plan (plan operative 2021-2026) is pending development and approval.</p>
<p>Does the national strategic framework and the action plan foresee a regular monitoring and review? If yes, who will conduct this.</p>	<p>Yes. The national strategic framework foresees it under Section 4.4. Monitoring and Evaluation (<i>Seguimiento y evaluación</i>) pages 83 to 87. And Section 5. Annexes and its section 5.1 Indicators Definition (<i>Definición de Indicadores</i>) pages 88 to 95.</p> <p>In terms of the authority in charge of providing regular monitoring and review of the national strategy, it will be the General Directorate of Family Diversity and Social Services (<i>Dirección General de Diversidad Familiar y Servicios Sociales, DGDFFS</i>, in its Spanish acronym) at the Ministry of Social Services and 2030 Agenda. It will be responsible for coordinating and leading the monitoring of operational plans and strategy. It will assume the task of preparing the progress report, supporting the collection of the corresponding information and the analysis of this information. The State Council of the Roma People (<i>Consejo Estatal del Pueblo Gitano</i>) and the different thematic working groups will actively participate in the processes of consultation and collection of data and information during the process and monitoring and evaluation.</p> <p>In 2022, the Plataforma Khetane published as part of the Roma civil monitor its evaluation of the national Roma strategy<sup>39</sup>.</p>

<sup>39</sup> Roma Civil Monitor (2022), [Civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion, and participation in Spain](#), russels, European Commission Directorate General for Justice and Consumers.

	<p>It highlighted issues such as: in terms of Education is the area which has seen most progress concerning the objectives established in the NRIS, although these objectives were not achieved; And it also made reference to the institutional and political structure in Spain, with high levels of decentralisation in the management of public policies, especially those relating to social inclusion (education, employment, health, housing, and social services) which are the responsibility of the Autonomous Communities (Spanish regions), means an objective difficulty for the coordination and effectiveness of the established national strategies, especially affecting the most vulnerable groups, such as the Romany population.</p>
<p><b>Implications of the war in Ukraine on the situation of Roma</b></p>	
<p>Have Roma from Ukraine entered your country?</p>	<p>No data officially recorded / No data recorded by specialized NGO working with Roma population.</p>
<p>If Roma from Ukraine entered your country how was this communicated in the media?</p>	<p>No records of Roma population from Ukraine entering Spain were published. There were only references to the difficult situation lived by Roma population in other UE countries when living Ukraine.</p>
<p>Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or energy prices etc.) on Roma? If yes, provide reference</p>	<p>No references available. Roma population is usually considered as a vulnerable group and therefore every time vulnerable groups are mentioned Roma population may be included. But no references to one particular group are done.</p>

### **1.6 3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion**

In January 2022, it was published a conference paper entitled as the Autonomous Policies in Spain in the European Framework of Action for the Inclusion of the Roma Population (*Las Políticas Autonómicas en España en el Marco Europeo de*



*acción para la inclusión de la población gitana*)<sup>40</sup>. Its objective was to deepen the analysis of the different regional policies on the Roma population. The results obtained revealed that the regional response is very disparate, contemplating different levels of intervention and social coverage. In short, factors such as political will, budget allocation, geographical location or difficulties in identifying the characteristics of this group, generate different types of social intervention depending on the context.

**In February 2022, it started** the first work meetings of the Sub-Commission for **the study of a State pact against anti-Roma and for the inclusion of the Roma people** (*Subcomisión para el estudio de un pacto de Estado contra el antigitanismo y por la inclusión del pueblo Gitano*)<sup>41</sup>. It counted on the participation of several experts to analyse the policies implemented by the public authorities and prepare a report. This Sub-Commission was an initiative promoted by the Socialist Parliamentary Group and approved by unanimity in 2021.

**In February 2022,** the European Health Observatory on Health Systems and Policies published an article counting on the participation of the Ministry of Health (*Ministerio de Sanidad*) titled **"How did public Health agencies and services communicate with specific groups during the COVID-19 pandemic?"**<sup>42</sup>. It analyzed a spanish **Case Study titled: 'Why do I get vaccinated?' - COVID-19 vaccination and the Roma population in Spain**. It concluded that case study from Spain showed that it is important to carry out tailor-made communication with a participatory approach. It must respond to the specific needs of the population and consider the specific important reasons to get vaccinated.

On 18 March 2022, the National Ombudsman (*Defensor del Pueblo*) published its 2021 Annual Report (*Informe Anual 2021*)<sup>43</sup>. Regarding Roma population, it highlighted cases of discrimination based on ethnic, racial or national origin school segregation and stated the need to intensify actions to increase the schooling of Roma students within primary education. In 2021, and taking into consideration certain recommendations issued by ECRI in 2020, the national Ombudsman made a formal information request to the Ministry of Education and Vocational Training (*Ministerio de Educación y Formación Profesional*). The Ministry replied that a pilot study on the segregation of Roma students is under development aiming to

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<sup>40</sup> Haz Gomez, F. et al (2022), [The Autonomous Policies in Spain in the European Framework of Action for the Inclusion of the Roma Population](#) (*Las Políticas Autonómicas en España en el Marco Europeo de acción para la inclusión de la población gitana*), paper given at the Conference: VIII Congreso de la Red Española de Política Social (REPS) 2021, 15, 16 and 17 March 2021.

<sup>41</sup> Spain, National Parliament (*Congreso*), « [Arrancan los trabajos de la Subcomisión para un Pacto de Estado contra el antigitanismo](#) », press release, 16 February 2022.

<sup>42</sup> European Health Observatory on Health Systems and Policies, [How did public Health agencies and services communicate with specific groups during the COVID-19 pandemic?](#), Cross country analysis, 9 February 2022.

<sup>43</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2022), [Annual Report 2021](#) (*Informe Anual 2021*), Madrid, Defensor del Pueblo.



obtaining relevant data that allow their evaluation and monitoring. In reference to this issue, ECRI also showed its concern on the absence of adequate statistical information. The Ministry pointed out that this is one of the aspects that the new National Strategy for the Equality, Inclusion and Participation of the Roma People 2021-2030 aimed to correct through the establishment of quantitative and qualitative indicators.

**On 5 July 2022**, the State Council of the Roma People (*Consejo Estatal del pueblo Gitano*, CEPG, in its Spanish acronym) was officially constituted for the period 2022-2026. **On 19 May 2022**, it was published in a Resolution of the Secretary of State for Social Rights containing the list of twenty civil society organizations appointed as members of the State Council of the Roma People, on behalf of the Roma social associative movement<sup>44</sup>.

**On 11 July 2022**, the NGO **Roma Secretariat Foundation** (*Fundación Secretariado Gitano*) published its **Annual Report 2021**<sup>45</sup> (*Informe Anual 2021*). In 2021, highlighted the Minimum Vital Income (*Ingreso Mínimo Vital*) implementation within the framework of the Spanish Recovery Plan of the Next Generation Funds, which aims to reach Roma children against poverty through socio-educational actions. It included references to the publication of an **Results Assessment and Impact of the Acceder 2000-2020** (*Evaluación de resultados del programa Acceder de Fundación Secretariado Gitano*)<sup>46</sup>, an employment program running for 20 years, which facilitated access to employment to 4 out of 10 participants. In the field of employment, an **awareness campaign titled "The Challenge of tomorrow"** (*El Reto de mañana*)<sup>47</sup> was launched calling for more effective active employment policies for the Roma population.

**On 12 July 2022**, the Spanish **Criminal Code was amended by the Organic Law 6/2022**, **complementary to Law 15/2022 on integral for equal treatment and non-discrimination**, (*Ley Orgánica 6/2022, de 12 de julio, complementaria de la Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación, de modificación de la Ley Orgánica 10/1995, de 23*

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<sup>44</sup> Spain, Ministry of Social Rights and Agenda 2030 (*Ministerio de Derechos Sociales y Agenda 2030*), [Resolution of May 10, 2022, of the Secretary of State for Social Rights, which resolves the selective process for the appointment of the members of the State Council of the Roma People, on behalf of the Roma associative movement](#) (*Resolución de 10 de mayo de 2022, de la Secretaría de Estado de Derechos Sociales, por la que se resuelve el proceso selectivo para la designación de los vocales del Consejo Estatal del Pueblo Gitano, en representación del movimiento asociativo gitano*), 10 May 2022.

<sup>45</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2022), [Annual Report 2021](#), Madrid, Fundación Secretariado Gitano.

<sup>46</sup> Red2Red Consultores (2021), [Evaluation of Results and Impact of the Acceder 2000-2020](#) (*Evaluación de resultados del programa Acceder de Fundación Secretariado Gitano*), Madrid, Fundación Secretariado Gitano.

<sup>47</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*), [The Challenge of tomorrow](#) (*El Reto de mañana*), official website, 2022.

*de noviembre, del Código Penal*)<sup>48</sup>. It introduced **anti-Roma (antigitanismo) as a specific hate crime towards the Roma population**. It meant that those who directly or indirectly encourage, promote or incite hatred, hostility, discrimination or violence against a group, a part of it or against a specific person by reason of their membership, for racist, anti-Semitic, anti-roma reasons could be punished with penalties ranging from 1 to 4 years in prison. It amended the Article 22.4 of the Criminal Code in relation to the circumstances that aggravate criminal responsibility for committing a crime with discriminatory motivations and it also amended **Articles 510.1 and 510.2 of the Criminal Code** under which it is regulated the hate speech crime.

**On 12 July 2022**, the Government approved the **Law 15/2022, of July 12, regulating equal treatment, without discrimination**<sup>49</sup> (*Ley 15/2022, de 12 de julio, reguladora de la igualdad de trato, sin discriminación*). Its **Article 13 that address the "Right to equal treatment and non-discrimination in education"** (*Derecho a la igualdad de trato y no discriminación en la educación*) included a particular reference to the need to the deepening on the knowledge and respect of other cultures, in particular the Roma and other groups and collectives.

**On 6 September 2022**, the State General Public Prosecutor (Fiscalía General del Estado) presented data of the 2021 **Prosecutor's Office Report in the Opening Act of the Judicial Year** (Memoria de la Fiscalía en la apertura del Año Judicial)<sup>50</sup>. It stated that there was a 1.4% of the cases based on anti-roma discriminatory reasons present within the Criminal Investigation Proceedings and there was a 2.1% of the convicted cases based on anti-roma discriminatory grounds and crimes.

**On 19 September 2022**, the NGO **Roma Secretariat Foundation** (*Fundación Secretariado Gitano*) published a pilot research **Exploratory pilot study on school segregation of Roma students**<sup>51</sup>. **The objectives** were: to analyze the distribution of Roma students in Primary Education and Compulsory Secondary Education centers, in the geographical areas included in the study and detection of those where there are concentrations of these students above 30%; identify

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<sup>48</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 6/2022, of July 12, complementary to Law 15/2022, of July 12, integral for equal treatment and non-discrimination, amending Organic Law 10/1995, of November 23, of the Criminal Code](#) (*Ley Orgánica 6/2022, de 12 de julio, complementaria de la Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación, de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 12 July 2022.

<sup>49</sup> Spain, Head of State (*Jefatura de Estado*), [Law 15/2022, comprehensive for equal treatment and non-discrimination](#) (*Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación*), 12 July 2022.

<sup>50</sup> Spain, State General Public Prosecutor (*Fiscalía General del Estado*), "[La Fiscalía General del Estado presenta la Memoria de la Fiscalía en la apertura del Año Judicial](#)", press release, 6 September 2022.

<sup>51</sup> Roma Secretariat Foundation (*Fundación Secretariado Gitano*) (2022), [Exploratory pilot study on school segregation of Roma students](#) (*Estudio piloto exploratorio sobre la segregación escolar del alumnado gitano*), Madrid, Ministerio de Educación y Formación Profesional.

the different types of school segregation that were taking place and their scope; determine the effects of segregated educational contexts on schools and students, and identify possible good practices or measures to counteract the negative effects of the high concentration of Roma students. The **target group of the study** included all primary and secondary education centres, both public and private and semi-public (*concertados*), in six cities in five different regions with a high number of resident Roma population. Three neighborhoods within each city, with different degrees of concentration of this population were selected. **The study concluded** that: there were improvements in terms of attendance at early childhood education (95%), schooling in primary and secondary education in men – and it was possible to reduce the percentage of young Roma population that neither studies nor works (63%); Progress was made in enrolling Roma children in the age-appropriate course. The objectives of enrolment in secondary education for women was not achieved. The reduction in the illiteracy rate in the adult population improved only a 13.8% for women and 5.6% for men, and the access of the Roma population to post-compulsory studies improve a 3.15%.

**In November 2022**, the Fundación Secretariado Gitano (*Fundación Secretariado Gitano*, FSG in its Spanish acronym) presented its 18th annual Report ***Discrimination and Roma Community Discriminación y Comunidad Gitana***<sup>52</sup> with the focus on the discriminatory bias in the use of artificial intelligence and its impact on the Roma community. The report gathered 554 cases of discrimination and antigypsyism registered in 2021. It concluded that the increase in the awareness of Roma people about cases suffering from discrimination stands out, although barriers that limit the adoption of more active reporting measures and on access to justice remain. It also referred to gender as one of the most common determinants of intersectional discrimination. The extent of discrimination is also related to the spread of anti-Roma hate messages on the internet and social networks ranging from negative stereotypes to the spread of anti-Roma hate speech. In addition, it concluded that hoaxes and false news multiply exponentially in these networks, through automated programs, false accounts or bots.

In December 2022, it was published a report on Young people and racism. Study on racist and xenophobic perceptions and attitudes among the young population of Spain (*Jóvenes y racismo. Estudio sobre percepciones y actitudes racistas y xenófobas entre la población joven de España*)<sup>53</sup>. According to this study, people of Roma ethnicity were those who suffer the greatest discrimination by Spanish youth. It was based on opinions collected from 1.200 young persons between the

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<sup>52</sup> Fundación Secretariado Gitano (*Fundación Secretariado Gitano*) (2022), [Discrimination and Roma Community Discriminación y Comunidad Gitana](#) (*Informe Anual 2022. Discriminación y Comunidad Gitana*), Madrid, Fundación Secretariado Gitano.

<sup>53</sup> Andújar, A.; Sánchez, N.; Pradillo, S. & Sabín, F. (2022), "[Young people and racism. Study on racist and xenophobic perceptions and attitudes among the young population of Spain](#)" (*Jóvenes y racismo. Estudio sobre percepciones y actitudes racistas y xenófobas entre la población joven de España*), Madrid, Centro Reina Sofía sobre Adolescencia y Juventud, Fundación Fad Juventud.

age of 15 and 29 years old. The study tries to know the degree of discrimination suffered and exercised by the young population for reasons of origin, ethnicity, culture and / or religion, as well as the degree to which it is perceived that such discrimination operates in our society, taking into account the existence of stereotypes, racist or xenophobic attitudes and experiences of coexistence and coexistence. The young people surveyed highlight three main reasons why discrimination is made in Spain: ethnic origin (42.3%), sex or gender (40.5%) and sexual orientation (39%). Study highlights the high degree of discrimination and racism suffered by people of Roma ethnicity: it is the group most rejected as neighbour (24%) of the young people surveyed do not want to have a Roma neighbour), to occupy positions of responsibility at work or teaching (24% would not be happy with them), to occupy police positions (more than 25% express disagreement with them occupying this position) and to exercise the position of mayor (rejected by 30% of youth). 16.3% of the people surveyed indicate that they would prefer not to have a personal relationship with people of Roma ethnicity, with people of Roma ethnicity being the worst valued when making a new friendship or establishing an intimate relationship.

**At regional level, on 1 March 2022**, the Basque Country Regional Government (*Gobierno Vasco*) approved **the Basque Strategy with the Roma People 2022-2026**<sup>54</sup> (*Estrategia Vasca con el Pueblo Gitano 2022-2026*). It aimed to seek a broad institutional, political and social consensus. It will promote the adoption of a comprehensive Basque Law on Equal Treatment and Non-Discrimination with the main purpose of establishing a general framework of regulation counting also with a feminist approach.

**At regional level, in Catalunya from 15 September 2022**, it was open the first call for grants for Roma students to facilitate the continuity for post-compulsory studies for the for the 2022-2023 academic year<sup>55</sup>. It included a transport aid, material aid and and an exceptionally extraordinary aid for the payment of registration grants be given to post-compulsory students who adequately justify the need to receive the tuition aid (studying in private universities or private institutes); Continue to carry out training for access to the University for people over 25 and 45 years of age; Previous accompaniment of Roma students who try to access post-compulsory and/or university studies, as well as subsequent follow-up once they accessed it. Identify Roma students who are achieving good academic results in compulsory secondary education; Prioritize and facilitate the access of Roma students to post-compulsory and/or university studies related to health, education and the social sphere; Guarantee a system of

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<sup>54</sup> Spain, Basque Regional Government (*Gobierno Vasco*) (2022), [Basque Strategy with the Roma People 2022-2026](#) (*Estrategia Vasca con el Pueblo Gitano 2022-2026*), Vitoria-Gasteiz, Departamento de Igualdad, Justicia y Políticas Sociales.

<sup>55</sup> Spain, Catalunya Regional Government (*Generalitat de Catalunya*), [Actuacions d'atenció al poble gitano](#), official website, 2022.

public or private financial aid aimed at Roma students who are studying post-compulsory and/or university studies.

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

### 1.7 4.1 National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

EUMS	Implementation of Article 3 of <a href="#">Directive 2002/90/EC</a>	
	<p><b>How has your EUMS implemented Article 3 of Directive 2002/90/EU</b></p>	<p><b>Hyperlinked legal provision in EN and national language</b></p> <ol style="list-style-type: none"> <li>1. The <a href="#">Organic Law 4/2000 on rights and liberties of aliens in Spain and their social integration</a><sup>56</sup> includes a the Article 318 bis within the Section XV related to the crimes against the rights of the foreign nationals (<i>Título XV bis. Delitos contra los derechos de los ciudadanos extranjeros</i>).</li> <li>2. Articles 318 and 318 bis and Article 188 of the <a href="#">Criminal Code</a><sup>57</sup> address the combat against migrant smuggling.</li> <li>3. Article 318 bis stated that:</li> <li>4. "1. Those who promote, favour or facilitate the smuggling of migrants from, in transit or to Spain shall be punished by imprisonment for a term of 6 months to 3 years and a fine of 6 to 12 months". (<i>Los que promuevan, favorezcan o faciliten el tráfico ilegal de personas desde, en tránsito o con destino a España serán castigados con las penas de prisión de seis meses a tres años y multa de seis a doce meses</i>).</li> </ol>

<sup>56</sup> Spain, [Organic Law 4/2000 of 11 January 2000 on rights and liberties of aliens in Spain and their social integration, 12 January 2000](#) (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*), 11 January 2000.

<sup>57</sup> Spain, Head of State (*Jefatura de Estado*), Organic Law 10/1995 of the Criminal Code (*Ley Orgánica 10/1995 del Código Penal*), 24 November 1995.

		<p>5. 2. "Those who carry out the conduct described in the previous section for profit, or using violence, intimidation or deception or abusing a situation of need of the victim, shall be punished with prison sentences of 2 to 4 years and a fine of 12 to 24 months" <i>(Los que realicen las conductas descritas en el apartado anterior con ánimo de lucro, o empleando violencia, intimidación o engaño o abusando de una situación de necesidad de la víctima, serán castigados con las penas de prisión de dos a cuatro años y multa de doce a veinticuatro meses)</i></p> <p>6. 3. "The corresponding penalties shall be imposed in the upper half of those provided for in the preceding paragraphs, when the life, health or integrity of the persons has been endangered in the commission of the acts or the victim is a child" <i>(Se impondrán las penas correspondientes en su mitad superior a las previstas en los apartados anteriores, cuando en la comisión de los hechos se hubiere puesto en peligro la vida, la salud o la integridad de las personas o la víctima sea menor de edad)</i></p> <p>4. "In the same penalties of the previous section and also in the absolute disqualification of 6 to 12 years will incur those who carry out the acts taking advantage of their status as an authority, agent of this or public official" <i>(En las mismas penas del párrafo anterior y además inhabilitación absoluta de seis a doce años incurrirán los que realicen los hechos prevaliéndose de su condición de autoridad, agente de ésta o funcionario público)</i></p> <p>5. "Penalties shall be imposed in a manner greater than those provided for in the preceding paragraphs, in their respective cases, where the offender belongs to an organisation or association, even of a transitional nature, which is engaged in carrying out such activities" <i>(Se impondrán las penas superiores en grado a las previstas en</i></p>
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		<p><i>los apartados anteriores, en sus respectivos casos, cuando el culpable perteneciere a una organización o asociación, incluso de carácter transitorio que se dedicare a la realización de tales actividades).</i></p> <p>The <a href="#"><u>Organic Law 4/2000 on rights and liberties of aliens in Spain and their social integration</u></a><sup>58</sup> <b>included a third final provision to amend Articles 515, 517 and 518 of the <a href="#"><u>Spanish Criminal Code</u></a></b> (<i>Disposición final tercera. Modificaciones en los artículos 515, 517 y 518 del Código Penal</i>).</p> <p><b>Article 515.6 of the <a href="#"><u>Spanish Criminal Code</u></a></b> stated that "Illicit associations are punishable, taking into account that: those that promote the smuggling of migrants" (<i>Son punibles las asociaciones ilícitas, teniendo tal consideración: 6.º Las que promuevan el tráfico ilegal de personas</i>).</p> <p><b>Article 517</b> was amended to read as follows: "In the cases provided for in paragraphs 1 and 3 to 6 of Article 515, the following penalties shall be imposed. 1º To the founders, directors and presidents of the associations, those of imprisonment of 2 to 4 years, fine of 12 to 24 months and special disqualification from employment or public office for a period of 6 to 12 years. 2.º To the active members, those of imprisonment of 1 to 3 years and fine of 12 to 24 months" (<i>En los casos previstos en los números 1.º y 3.º al 6.º del artículo 515 se impondrán las siguientes penas: 1.º A los fundadores, directores y presidentes de las asociaciones, las de prisión de dos a cuatro años, multa de doce a veinticuatro meses e inhabilitación especial para empleo o cargo público por tiempo de seis a doce años. 2.º A los miembros activos, las de prisión de uno a</i></p>
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<sup>58</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 4/2000 of 11 January 2000 on rights and liberties of aliens in Spain and their social integration, 12 January 2000](#) (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*), 11 January 2000.



		<p><i>tres años y multa de doce a veinticuatro meses).</i></p> <p><b>Article 518</b> was amended to read as follows:          "Those who, with their economic or any other kind of cooperation, in any relevant case, favor the foundation, organization or activity of the associations included in numbers 1 and 3 to 6 of article 515, will incur the penalty of imprisonment of 1 to 3 years, a fine of 12 to 24 months, and disqualification from employment or public office for a period of 1 to years" (<i>Los que con su cooperación económica o de cualquier otra clase, en todo caso relevante, favorezcan la fundación, organización o actividad de las asociaciones comprendidas en los números 1.º y 3.º al 6.º del artículo 515, incurrirán en la pena de prisión de uno a tres años, multa de doce a veinticuatro meses, e inhabilitación para empleo o cargo público por tiempo de uno a cuatro años).</i></p> <p>In Spain, <b>the law does not cover any administrative sanctions or penalties in reference to the actions described under artículo 1. b) of the Directive 2002/90/EC</b> when referring to the adoption of sanctions.</p>
	<b>Cases [incident numbers] of criminalisation of humanitarian assistance</b>	
	<b>Number of cases recorded by the police in 2022</b>	<b>Number and details of cases (if available)</b> Not available. Not published yet.
	<b>Number of investigations initiated in 2022</b>	<b>Number and details of cases (if available)</b> Not available. Not published yet.
	<b>Number of court</b>	No one court decision was identified.

	<b>decisions taken in 2022</b>	
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## **1.8 4.2 Use of the large-scale IT Systems in the area of asylum, migration and border control**

**On 7 February 2022**, the Ministry of the Interior opened a procurement file for the acquisition and commissioning of equipment for manual control at border posts within the Entry and Exit System<sup>59</sup>. **In June 2022, Thales enterprise was selected<sup>60</sup> in collaboration with the company Zelenza, to install a biometric system for the entry and exit of passengers at airports.** It will provide a fast and secure identity registration and authorisation process for non-EU citizens at the borders. It will provide more than 1,500 units located at the border officer checkpoint, which will be equipped with Thales EES border control authorization software and Thales devices. It included document readers with integrated document verification, fingerprint scanners and facial pods with a facial capture system. It was financed by the EU Internal Security Fund.

**On 10 March 2022**, the Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) published an updated online information on the Schengen Information System (SIS)<sup>61</sup> and the Visa Information System (VIS)<sup>62</sup>.

[Aena Spanish public company](#) that manages airports in Spain works on the implementation of **biometric technology and facial recognition at airports**. The program was integrated into the company's Strategic Digital Identity Program (*Programa Estratégico de Identidad Digital*) and it was under development since 2019. The **goal of the program** was to use biometric technology at as many points as possible at the airport. It seeks to allow travelers to board an airplane without using a card or any other method of identification other than their own face. Aena will store your selfie image, that of the passport or DNI and the personal data and image of the NFC chip of your identification document in order to verify your identity and the validity of the documentation<sup>63</sup>.

<sup>59</sup> Spain, Ministry of Interior (*Ministerio del Interior*), [Procurement file for the acquisition and commissioning of equipment for manual control at border posts within the Entry and Exit System \(Adquisición y puesta en marcha de equipamiento para control manual en puestos fronterizos en el marco del Sistema de Entradas y Salidas\)](#), 7 February 2022.

<sup>60</sup> Actualidad AereoEspacial, "[España elige a Thales para instalar un sistema biométrico de entrada y salida de pasajeros en los aeropuertos](#)", press release, 17 June 2022.

<sup>61</sup> Spain, AEPD, "[Sistema de Información Schengen \(SIS\). ¿Cómo está organizado?](#)", press release, 10 March 2022.

<sup>62</sup> Spain, AEPD, "[Sistema de Información de Visados \(VIS\). El Sistema](#)", press release, 10 March 2022.

<sup>63</sup> Spain, Aena (2022), [Transformación de la Estrategia de Aena hacia la Innovación](#); Dirección de Innovación y Proyectos Estratégicos Transversales.



## 5. Information society, privacy and data protection

### 5.1 Initiatives in the use of artificial intelligence in both private and public sectors

Actor	Type	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Government/ Parliamentary (ES)	National Draft Acts / Adopted Acts	<b>A new Law was approved – the Law 15/2022, comprehensive for equal treatment and non-discrimination.</b> It contains the first regulation of the use of Artificial Intelligence by public bodies and companies in Spain. Its Article 23 was titled as Artificial Intelligence and automated decision-making mechanisms <i>(Inteligencia Artificial y mecanismos de toma de</i>	Yes, it is a general law which operates as a general legislation for the protection against any discrimination including <b>gender based approach.</b>  <b>Ethics and Fundamental Rights:</b> Article 23.3 Public administrations and companies will promote the use of an ethical, reliable and respectful Artificial Intelligence with fundamental rights.  <b>Data Protection:</b> it mentioned several times that actions related to the use of data will be implemented in accordance with the legislation in place on the protection of personal data.	Spain, Head of State ( <i>Jefatura de Estado</i> ), <a href="#">Law 15/2022, comprehensive for equal treatment and non-discrimination</a> ( <i>Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación</i> ), 12 July 2022.

		<p><i>decisión automatizados).</i></p> <p>It indicated how the Public Administrations Bodies should design the algorithms used in that decision making.</p> <p>It designs broad lines of action for the public bodies seeking to "favouring", "promoting" and "prioritizing" certain policies and practices related to the use of "algorithms involved in decision-making".</p>		
Government/ Parliamentary (ES)	Other (European Project )	The <b>sandbox project</b> aimed to bring the competent authorities closer to the companies that develop Artificial Intelligence to jointly define good practices that serve as a basis for	No reference at all to Human Rights' issues.	Spain, Government of Spain. Ministry of Economic Affairs and Digital Transformation ( <i>Gobierno de España. Ministerio de Asuntos Económicos y Transformación Digital</i> ), " <a href="#">The government of Spain in</a>

		<p>the implementation of the future European regulation of Artificial Intelligence (Artificial Intelligence Act).</p> <p>It aimed to ensure that the Artificial Intelligence Act will be implemented in two years. It also served to start the consultations for the creation of a Spanish Agency for the Supervision of Artificial Intelligence (<i>Agencia Española de Supervisión de la Inteligencia Artificial</i>).</p> <p>An example of project was the financial <b>sandbox</b> (<i>Sandbox financiero</i>), which made possible to test technological innovations applicable to the financial system</p>		<p><a href="#">collaboration with the European Commission presents a pilot for EU's first AI regulatory Sandbox</a>", press release, 27 June 2022.</p> <p>Spain, Spanish Central Bank (<i>Banco de España</i>) (2022), <a href="#">El sandbox español</a>, Madrid, KREAB.</p> <p>Spain, Spanish Central Bank (<i>Banco de España</i>) (2022), <a href="#">Document of conclusions on the development and results of the tests of the project "NDT - Explainable AI in Risk Management" presented by Equifax Ibérica, S.L.</a> (<i>Documento de conclusiones sobre el desarrollo y los resultados de las pruebas del proyecto "NDT - IA explicable en la gestión de Riesgos" presentado por Equifax Ibérica, S.L.</i>),</p>
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	<p>in a test environment controlled by the supervisory authorities.</p> <p>Other project related to IA was <b>the project "NDT - Explainable AI in Risk Management"</b> (<i>NDT - IA explicable en la gestión de Riesgos</i>) introduced a proposal for a credit risk rating model, based on Machine Learning algorithms with monotony restrictions, called NeuroDecision Technology (NDT). It aimed at demonstrating that: 1) Improves the predictive capacity of traditional logistic regression models used by the entities; 2) Mitigates the black box effect, meeting the requirements of</p>		<p>Madrid, Departamento de Funciones Horizontales Dirección General de Supervisión.</p>
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		<p>transparency and explanation requested to the artificial intelligence.</p> <p>The results will be collected in a guide of good practices and implementation guidelines, which will be published during the Spanish Presidency of the Council of the EU, in the second half of 2023. And it will be funded by the Recovery, Transformation and Resilience Plan with a total budget of approximately 4.3 million euros.</p>		
Government/ Parliamentary (ES)	Other	The Government launched 32 university-business chairs in Artificial Intelligence and cybersecurity. The areas of knowledge will	No reference at all to Human rights' issues.	Spain, Ministry of Economic Affairs and Digital Transformation ( <i>Ministerio de Asuntos Económicos y Transformación Digital</i> ), " <a href="#">El Gobierno lanza 32 cátedras</a> "



		<p>be: Aeronautics and aerospace Agriculture; Data economics Language; technologies Robotics; Green algorithms Law Responsible; AI and ethics; Geopolitics; Music and arts Sustainable development; Public sector; Health sciences and Demographic challenge</p> <p>It is framed, in turn, in the Digital Spain 2025 agenda, the National Artificial Intelligence Strategy (ENIA)<sup>64</sup> and the Recovery, Transformation and Resilience Plan.</p> <p>The call is open to all types of participants</p>		<p><a href="#">universidad-empresa en Inteligencia Artificial y ciberseguridad</a>”, press release, 14 November 2022.</p>
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<sup>64</sup>Spain, Ministry of Economic Affairs and Digital Transformation (*Ministerio de Asuntos Economicos y Transformación Digital*) (2022), [the National Artificial Intelligence Strategy \(ENIA\)](#), Madrid, España Digital 2025.

		(citizens, private and public agents, research centres and universities of any kind), who have knowledge in the application of AI-based solutions or in the development and training of AI models.		
Govern ment/ Parliame ntary (ES)	Other	<p>The National Institute of Cybersecurity (<i>Instituto Nacional de Ciberseguridad</i>) launched a public call to develop 16 research chairs in cybersecurity. Projects for those initiatives were submitted until December 2023 and will have a maximum duration of four years.</p> <p>The program promoted the development of scientific research in the field of AI from a</p>	No reference at all to Human rights' issues.	<p>Spain, Moncloa, "<a href="#">El Gobierno lanza 32 cátedras universidad-empresa en Inteligencia Artificial y ciberseguridad</a></p> <p><a href="#">Asuntos Económicos y Transformación Digital</a>", press release, 14 November 2022</p>

	<p>multidisciplinary perspective. This program is part of the National Artificial Intelligence Strategy (ENIA), which aims to promote the development of digital capabilities, enhance national talent and attract global talent related to this technology.</p> <p>It also addressed the development of research projects that can then be transferred to the industry sector. It is expected to promote the transfer of knowledge between universities and companies at a transversal level in fields ranging from health, sustainability,</p>		
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		rights or the data economy.		
Academia (ES)	Report/ study	The publication analysed the challenge facing Spain and Europe in the face of the new technological tendencies related to the Artificial Intelligence. It referred to a double gap in innovation: between Europe and the United States and China, and between the most innovative Europe and the most backward Europe. Spain starts from a very backward position in terms of a number of relevant indicators for the development of AI, therefore Spain is concluded that it should propose its own solutions and take advantage of European initiatives, through the	No reference at all to Human Rights' issues.	Moreno-Izquierdo, L & Navarro-Navarro, J & Núñez-Romero, M. & Peretó Rovira, A., Grupo de Investigación Economía de la Innovación y de la Inteligencia Artificial (ECO-IA), (2022), <a href="#">A note on the state of artificial intelligence in Spain</a> ( <i>Una nota sobre el estado de la inteligencia artificial en España</i> ), Apuntes Fedea, Vol.13.

		Next Generation funds, for the renewal of the productive fabric and a more innovative specialization.		
Business (ES)	Report/study	<p>The report highlighted <b>a number of conclusions such as:</b></p> <ul style="list-style-type: none"> <li>-Currently 91% of Spanish companies consider that Artificial Intelligence will help them in their growth objectives, but only 22% are using it.</li> <li>- The Artificial Intelligence is one of the least understood technological advances: the lack of knowledge and experience is usually the main challenge when it comes to turning it into a reality.</li> </ul>	Yes, Human Rights were only mentioned in terms of the concerns raised about <b>data compliance/data privacy/data protection issues;</b>	Cobisa, I., Plain Concepts (2022), <a href="#">Artificial Intelligence as a lever for value generation: Market maturity in Spain</a> ( <i>Inteligencia Artificial como palanca de generación de valor: Madurez del mercado en España</i> ), Madrid, IDC.

		<p>-The resources, financial and human, necessary to carry out a real and effective change were not yet allocated, the budgets used in this area are often limited with a 54% of organizations still allocate less than € 50,000 per year and others by the difficulty of both hiring talent and knowledge.</p>		
Business	Other (World Congress)	<p><b>On 16 September 2022</b>, it was hosted the <b>I European Forum on Artificial Intelligence (AI)</b> with a focus on Research, Innovation and Entrepreneurship for the well-being, health and inclusion of people in Alicante (Spain) #ForumEuropeoIASalud)</p>	<p>Yes, Human Rights were mentioned in terms of the concerns raised about <b>data compliance/data privacy/data protection issues</b>.</p>	<p><a href="#">NOW Meetings - European Forum on Artificial Intelligence</a> (<i>Encuentros NOW - Forum Europeo de Inteligencia Artificial</i>), 16 September 2022.</p> <p>For more information, see the organisation's webpage <a href="#">on the I European Forum on Artificial Intelligence within</a></p>

		It was organized under the framework of the <a href="#">ELLIS 2022 Doctoral Symposium</a> , which is an annual world congress of Artificial Intelligence.		<a href="#">the Simposio Doctoral ELLIS 2022</a>
Other (ES)	Other (European Project)	<p>A <b>project of the Royal Spanish Academy for the Spanish Language and Artificial Intelligence</b> (<i>Real Academia Española Lengua Española e Inteligencia Artificial</i>, LEIA, in its Spanish acronym). Its objective the defence and good use of the Spanish language in the digital scenarios.</p> <p>The initiative was promoted together with Telefonica, and counting on the collaboration of other important technology companies such as Google,</p>	<p>Yes, <b>Gender</b> is mentioned as one of the six key principles for the deployment of the New Language Economy is structured around.</p> <p><b>Equality and non-discrimination</b> The language used by AI is defined as a key element in terms of the principles to be applied when the AI technology is in place. It referred to principles such as: accessibility, equality and non-discrimination and the general protection of the individual and collective rights of citizens.</p>	<p>Spanish Royal Academy (<i>Real Academia Española</i>), "<a href="#">¿Qué es LEIA? Lengua Española e Inteligencia Artificial</a>", press release, 3 April 2020.</p> <p>Spain, Ministry of Economic Affairs and Digital Transformation (<i>Ministerio de Asuntos Económicos y Transformación Digital</i>), <a href="#">Royal Decree 632/2022, of 26 July, which regulates the direct granting of a subsidy to the Royal Spanish Academy for the realization of the Spanish Language and Artificial Intelligence (LEIA) project, within the framework of the Recovery,</a></p>

		<p>Amazon, Microsoft, Twitter and Facebook, in addition to the support of the Endesa Foundation.</p> <p>It seek to work with the Academy in the development of its voice assistants, word processors, search engines, chatbots, instant messaging systems, social networks and any other resource, as well as to follow the criteria on good use of Spanish approved by the Royal Spanish Academy.</p>		<p><a href="#">Transformation and Resilience Plan</a> (Real Decreto 632/2022, de 26 de julio, por el que se regula la concesión directa de una subvención a la Real Academia Española para la realización del proyecto Lengua Española e Inteligencia Artificial (LEIA), en el marco del Plan de Recuperación, Transformación y Resiliencia), 26 July 2022.</p>
<p>Government/ Parliamentary (ES)</p>	<p>National Draft Acts / Adopted Acts</p>	<p>It stated that Spain will be the first European country with an Artificial Intelligence (AI) supervisory body, anticipating the future EU Regulation on AI.</p>	<p>The candidate locations were requested to have a strong business and research ecosystem on AI, in addition to being prepared to generate and receive multidisciplinary technical talent, with knowledge both in new technologies, different AI systems and their supervisory models, as well as in the fields of <b>ethics</b>, social and legal sciences.</p>	<p>Spain, Head of State (Jefatura del Estado), <a href="#">Law 20/2021, of 28 December, on urgent measures for the reduction of temporary employment in public employment</a> (Ley 20/2021, de 28 de diciembre, de</p>



		<ul style="list-style-type: none"> <li>-The Agency will carry out the tasks of supervision and minimization of risks and seeks to generate an Artificial Intelligence research and business ecosystem.</li> <li>- The future headquarters will also respond to the commitment of decentralization of the public sector of the Government and structuring of the territory.</li> <li>- Spain is positioned as a leading country and reference in Artificial Intelligence from a humanist point of view, which respects the rights of citizens and generates a climate of trust.</li> </ul>		<p><i>medidas urgentes para la reducción de la temporalidad en el empleopúblico</i>), 29 December 2021.</p> <p>Spain, Ministry of Economic Affairs and Digital Transformation (<i>Ministerio de Asuntos Económicos y Transformación Digital</i>), "<a href="#">El Gobierno inicia el proceso para elegir la sede de la Agencia Española de Supervisión de la Inteligencia Artificial</a>", press release, 13 September 2022.</p> <p>Spain, Ministry of Territorial Policy (<i>Ministerio de Política Territorial</i>), <a href="#">Royal Decree 209/2022, of 22 March, which establishes the procedure for the determination of the physical headquarters of the entities belonging to the state</a></p>
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		<p>Among its competences was to be responsible for creating measures to protect citizens from the possible risks arising from this technology, both in terms of their physical security and those related to their fundamental rights. It had the capacity to carry out its own actions, in coordination with other authorities or supporting private entities. It will also be responsible for controlling the algorithms of social networks or delivery applications to ensure their correct use in the workplace, study their impact on mental health or check if certain systems are discriminatory. It was</p>		<p><a href="#">institutional public sector and creates the Advisory Commission for the determination of the headquarters</a> (<i>Real Decreto 209/2022, de 22 de marzo, por el que se establece el procedimiento para la determinación de las sedes físicas de las entidades pertenecientes al sector público institucional estatal y se crea la Comisión consultiva para la determinación de las sedes</i>), 25 March 2022.</p> <p>Spain, Ministry of the Presidency, Relations with the Cortes and Democratic Memory (<i>Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática</i>)</p> <p><a href="#">Order PCM/1203/2022, of 5 December, by which publishes the Agreement of</a></p>
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		<p>also in charge of the development, supervision and monitoring of the projects framed within the National Strategy for Artificial Intelligence and all those promoted by the European Union on this technology, in particular those related to the regulatory development of AI and its possible uses.</p> <p><b>In December 2022</b>, it was decided that A Coruña city will be the location where the headquarters.</p>		<p><a href="#">the Council of Ministers of 5 December 2022, by which determines the physical headquarters of the future Spanish Agency of Supervision of Artificial Intelligence. Ministry of the Presidency, Relations with the Cortes and Democratic Memory (Orden PCM/1203/2022, de 5 de diciembre, por la que se publica el Acuerdo del Consejo de Ministros de 5 de diciembre de 2022, por el que se determina la sede física de la futura Agencia Española de Supervisión de Inteligencia Artificial), 5 December 2022.</a></p>
Government/ Parliamentary (ES)	Other	<p>The Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>) developed a number of resources and tools to facilitate compliance</p>	<p>Yes, Human Rights were mentioned in terms of the compliance with data protection rules concerns raised about data protection issues.</p>	<p>The Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>), <a href="#">Treatments including artificial intelligence (AI)</a> (<i>Tratamientos que incluyen</i></p>

		<p>with the GDPR, focusing on supporting SMEs and entrepreneurs. In the Innovation and technology area and to promote and disseminate knowledge of risk management for the rights and freedoms of individuals.</p> <p>It referred to the main barriers or problems that hinder the implementation of Artificial Intelligence systems in a company nowadays.</p>		<p><i>inteligencia artificial (IA) Mapa de referencia),</i></p> <p>The Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>) (2022), <a href="#">ENISA Reference Map: 'The adoption of pseudonymization techniques. The case of the healthcare sector (ENISA: 'La adopción de técnicas de seudonimización. El caso del sector sanitario)</a>, Agencia Española de Protección de Datos.</p> <p>The Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>), <a href="#">"Neurodatos y neurotecnología: privacidad y protección de datos personales"</a>, press release, 17 November 2022.</p>
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<p>Government/ Parliamentary (ES)</p>	<p>National Draft Acts / Adopted Acts</p>	<p>On <b>8 July 2022</b>, the Spanish Government presented a <b>Digital Spain 2026</b>. One of its strategic axes in terms of infrastructures and technology referred to the data economy and the Artificial Intelligence. It seeks to move towards a data economy, guaranteeing security and privacy and taking advantage of the opportunities offered by Artificial Intelligence with the aim that at least 25% of companies use Artificial Intelligence and Big Data within five years.</p> <p>It was stated that the digitalization process should be humanist and inclusive, putting the people at its</p>	<p>Yes, Human Rights were covered through the inclusion and implementation of the Charter of Digital Rights.</p>	<p>Spain, Spanish Government (<i>Gobierno de España</i>), <a href="#">España Digital 2026. Executive Summary</a>, Madrid,</p> <p>For further information see the website <a href="#">Digital Spain 2026</a>.</p>
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	<p>core, in order to ensure that nobody is left behind,</p> <p>and to guarantee the principles, values, and rights</p> <p>that represent the society we have built.</p> <p><b>It included a Charter of Digital Rights</b> to provide</p> <p>the general society with certainty about the new digital reality and to increase the public confidence in the face of disruptions caused by technology. The Charter intended to be a compass that guided</p> <p>the legal proposals of the future and ensures that the rights and freedoms enjoyed by</p>		
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		<p>people living in Spain are equal in the online and offline world. In line with this commitment to humanist digitalization, the Chair of Artificial Intelligence and Democracy was created, in partnership with the European University Institute, and numerous works and debates on the social and political challenges resulting from new technologies have been promoted, among which the initiatives of the Digital Future Society programme stand out.</p>		
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		<p>In AI, and during 2022, the first programmes of the National Artificial Intelligence Strategy were implemented, with the launch of grants for research and development (R&amp;D), missions in artificial intelligence and projects to integrate this technology into industrial value chains. The network to develop the first quantum computing system in southern Europe, Quantum Spain, was also launched, with the involvement of public research centres from all over Spain coordinated by the National Supercomputing</p>		
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		Centre (Barcelona supercomputing Centre).		
Academia (ES)	Report/study	<p>It made reference to the European Commission proposal for AI, as not addressing two issues of high ethical content: (1) the impact of AI on employment, an essential part of the social dimension and the trust of citizens who fear above all the effect of automation at work; and (2) the absence of the impact on the emission of greenhouse gases, to marry the digital transition with the ecological one in the face of an AI that increasingly consumes more electricity.</p> <p>It highlighted a fundamental criticism</p>	Yes, Human rights are mentioned when stating that the AI regulation proposal at EU level went beyond the ethical requirements contained within the OECD existing regulations.	Ortega, A. (2022), <a href="#">Towards a European Artificial Intelligence control regime</a> , Madrid, Real Instituto Elcano.

		<p>that can be made of the Commission's proposal. It questioned if is AI really possible to be regulated with a general regulation? It questioned to what extent won't be a problem if it is introduced as a blanket law instead of promoting the regulation through the address of specific issues. This is like trying to write a single law that covers "cars", i.e. drunk driving, GHG emissions standards, parking, tax treatment of roads, etc. It concluded that Commission proposal and draft of rules and definitions will most probably prove useless in a few years.</p>		
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		<p>It also contained a reference to the opinion of the European Consumers' Association (BEUC) in relation to the European Commission proposal for AI, which considered it weak in terms of consumer protection, being too dependent on the industry's own assessments, and contemplating too many exceptions.</p>		
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## 5.2 Legal and policy initiatives on data protection and private life

**On 29 March 2022**, the Council of Ministers approved the **National Cybersecurity Plan**<sup>65</sup> for the next three years, as a measure included in the National Cybersecurity Strategy 2019. The **Plan contained** more than 130 actions, a total amount of 1000 million euros. It envisaged the creation of the National Platform for Notification and Monitoring of Cyber incidents and Threats (*Plataforma Nacional de Notificación y Seguimiento de Ciberincidentes y Amenazas*) to exchange information in real time on cyber attacks and other cyber threats among public and private organizations. A system of cybersecurity indicators can be created at the national level, which will allow the detection of threats and attacks when they occur or are about to happen. Another measure envisaged was the implementation of the Cybersecurity Operations Center of the General State Administration and its Public Bodies (*Centro de Operaciones de Ciberseguridad de la Administración General del Estado y sus Organismos Públicos*, COCS, in its Spanish acronym).

**On 29 March 2022**, approved the **5G Cybersecurity Law** (*Ley de Ciberseguridad 5G*)<sup>66</sup>. It seek the transposition into the Spanish legislation of the European legal framework for the secure deployment of 5G networks. It established the following obligations: to strengthen security in the installation and operation of 5G networks and in the provision of mobile and wireless communications services using these networks; to determine the level of risk of 5G network and connectivity providers based on their level of security and establish the controls that these operators must make in their networks and supply chains; 5G operators and providers must analyse network risks, detect vulnerabilities and threats that may affect them economically, infrastructure, resources and services.

**On 12 May 2022**, Spain signed<sup>67</sup> the **Second Additional Protocol to the Convention on Cybercrime**<sup>68</sup>. It pursued the facilitation of the investigation and prosecution of criminal offenses since it will provide our procedural system with new tools that streamline, facilitate and provide legal certainty in obtaining electronic evidence outside our borders. It also speed up the obtaining of

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<sup>65</sup> Council of Ministers approved the National Cybersecurity Plan; Spain, Council of Ministers (*Consejo de Ministros*), [El Gobierno aprueba el Plan Nacional de respuesta a las consecuencias de la guerra en Ucrania](#), press release, 29 March 2022.

<sup>66</sup> Spain, Head of State (*Jefatura del Estado*), [Royal Decree-Law 7/2022, of 29 March, on requirements to guarantee the security of fifth-generation electronic communications networks and services](#) (*Real Decreto-ley 7/2022, de 29 de marzo, sobre requisitos para garantizar la seguridad de las redes y servicios de comunicaciones electrónicas de quinta generación*), 29 March 2022.

<sup>67</sup> Spain, Ministry of Foreign Affairs (*Ministerio de Asuntos Exteriores*), "[España firma el Segundo Protocolo Adicional al Convenio de Budapest](#)", press release, 12 May 2022.

<sup>68</sup> Council of Europe, [Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence](#), CETS No. 224. Strasbourg, 12 May 2022.

electronic evidence. The protocol complements the provisions of the 2001 Council of Europe Convention on Cybercrime as well as the 2003 Additional Protocol.

**On 3 May 2022**, Ministry of Economic Affairs and Digital Transformation (*Ministerio de Asuntos Económicos y Transformación Digital*) approved **the National Security Scheme Ministry of Economic Affairs and Digital Transformation** (*Real Decreto 311/2022, de 3 de mayo, por el que se regula el Esquema Nacional de Seguridad Ministerio de Asuntos Económicos y Transformación Digital*)<sup>69</sup>.

**On 16 June 2022**, the Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) adopted two resolutions<sup>70</sup> calling for the Annual Awards.

On 28 July 2022, it was updated and amended the Organic Law 9/2022, establishing rules to facilitate the use of financial and other information for the prevention, detection, investigation or prosecution of criminal offences, amending Organic Law 8/1980 on the Financing of the Autonomous Communities and other related provisions and amending Organic Law 10/1995 of the Criminal Code<sup>71</sup> (*Ley Orgánica 9/2022, de 28 de julio, por la que se establecen normas que faciliten el uso de información financiera y de otro tipo para la prevención, detección,*

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<sup>69</sup> Spain, Ministry of Economic Affairs and Digital Transformation (*Ministerio de Asuntos Económicos y Transformación Digital*), [Royal Decree 311/2022, of 3 May, regulating the National Security Scheme Ministry of Economic Affairs and Digital Transformation](#) (*Real Decreto 311/2022, de 3 de mayo, por el que se regula el Esquema Nacional de Seguridad Ministerio de Asuntos Económicos y Transformación Digital*), 3 May 2022.

<sup>70</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), [Resolution of June 16, 2022, of the Spanish Agency for Data Protection, by which the regulatory bases are approved and the Award for Proactivity and Good Practices in Compliance with the General Regulation of Data Protection and the Organic Law of Protection of Personal Data and Guarantee of Digital Rights is convened](#) (*Resolución de 16 de junio de 2022, de la Agencia Española de Protección de Datos, por la que se aprueban las bases reguladoras y se convoca el Premio a la Proactividad y Buenas Prácticas en el Cumplimiento del Reglamento General de Protección de Datos y la Ley Orgánica de Protección de Datos Personales y Garantía de los Derechos Digitales*); Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*), 16 June 2022; [Resolution of June 16, 2022, of the Spanish Agency for Data Protection, by which the regulatory bases are approved and the Award for Good Educational Practices in Privacy and Protection of Personal Data for a Responsible and Safe Use of the Internet by Children is convened](#) (*Resolución de 16 de junio de 2022, de la Agencia Española de Protección de Datos, por la que se aprueban las bases reguladoras y se convoca el Premio a las Buenas Prácticas Educativas en Privacidad y Protección de Datos Personales para un Uso Responsable y Seguro de Internet por los Menores*), 16 June 2022.

<sup>71</sup> Spain, Head of State (Jefatura de Estado), [Organic Law 9/2022, of 28 July, establishing rules to facilitate the use of financial and other information for the prevention, detection, investigation or prosecution of criminal offences, amending Organic Law 8/1980, of 22 September, on the Financing of the Autonomous Communities and other related provisions and amending Organic Law 10/1995, of 23 November, of the Criminal Code](#) (*Ley Orgánica 9/2022, de 28 de julio, por la que se establecen normas que faciliten el uso de información financiera y de otro tipo para la prevención, detección, investigación o enjuiciamiento de infracciones penales, de modificación de la Ley Orgánica 8/1980, de 22 de septiembre, de Financiación de las Comunidades Autónomas y otras disposiciones conexas y de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 28 July 2022.

*investigación o enjuiciamiento de infracciones penales, de modificación de la Ley Orgánica 8/1980, de 22 de septiembre, de Financiación de las Comunidades Autónomas y otras disposiciones conexas y de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*). The modification of its Article 61 served to adapt its sanctioning regime established by Organic Law 7/2021, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and execution of criminal sanctions regarding the sanctioning regime<sup>72</sup>.

**On 28 July 2022**, the Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) published **an update of the Cookie Guide** (*Guía de Cookies*)<sup>73</sup>. It seeks to respond to the need to comply with the new guidelines of the European Data Protection Board. The **main changes introduced** are the following: the elimination of the option to obtain consent through the "continue browsing"; the prohibition of the use of cookie walls if an alternative to consent is not offered; certain aspects related to the methods for informing about the revocation of consent to users are modified and clarified. The AEPD established a transitional period until 31 October 2022 for the application of the new criteria.

**In April and August 2022**, certain reforms were initiated in the context of the PEGASUS revelations. This was the case with the **unblocking of the Resources Reserve Committee** (*Comisión de control de los créditos destinados a gastos reservados*, usually called *Comisión de Secretos Oficiales*) through the **Resolution of the President of the Congress of Deputies on Official Secrets**<sup>74</sup> on 26 April 2022; and the **approval of the Draft Law on Classified Information** (*Anteproyecto de Ley de Información Clasificada*) in the Council of Ministers<sup>75</sup> on 1 st August 2022. The draft law reflected the Spanish Constitution and the standards for the treatment of classified information of the European Union and NATO partners. The Draft Law establishes four categories of classification: top secret, secret, confidential and restricted. Each level is assigned a different level of protection depending on the danger that unauthorized disclosure or misuse may pose to national security or defense. The competence to

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<sup>72</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 7/2021, of May 26, on the protection of personal data processed for the purposes of prevention, detection, investigation and prosecution of criminal offenses and execution of criminal sanctions regarding the sanctioning regime](#) (*Ley Orgánica 7/2021, de 26 de mayo, de protección de datos personales tratados para fines de prevención, detección, investigación y enjuiciamiento de infracciones penales y de ejecución de sanciones penales*), 26 May 2021.

<sup>73</sup> Spain, Spanish Data Protection Agency (*Agencia Española de Protección de Datos*) (2022), [Guide on the use of the Cookies](#) (*Guía sobre el uso de las Cookies*), Madrid, Spanish Data Protection Agency.

<sup>74</sup> Spain, President of the National parliament (*Presidenta del Congreso de los Diputados*), [411/000004 Resolución de la Presidencia del Congreso de los Diputados sobre secretos oficiales, de 26 de abril de 2022](#), press release, 26 April 2022.

<sup>75</sup> Spain, Minister for the Presidency, Parliamentary Relations and Democratic Memory (*Ministro de la Presidencia, Relaciones con las Cortes y Memoria Democrática*), ["Draft Law on Classified Information](#) (*Anteproyecto de Ley de Información Clasificada*)", press release, 1 August 2022.

classify any document as top secret or secret lies with the Council of Ministers. The classification as restricted or confidential may be made by certain authorities, such as the heads of ministries, the director of the National Intelligence Centre, the director of the National Security Department, the delegates and sub-delegates of the Government, and the directors general of the Police and the Guardia Civil. In addition, the law provides for automatic declassification after a certain period of time, depending on the level of protection of the cases. Top secret content will be declassified after 50 years and may be extended for a further 15 years; and secret content after 40 years, with an extension of up to 10 years. Information classified as confidential will be declassified between 7 and 10 years and restricted information between 4 and 6 years. These deadlines, according to the minister are "reviewable".

**From the 21 to 23 September 2022**, it took place **the second edition of the CyberWall training congress**<sup>76</sup> at the National Police School in the Ávila province. The C1b3rWall was a project born in 2018 at the National Police School with the purpose of creating a public-public and public-private initiatives and training actions in cyber security. There were more than 5,000 people registered. Most were professionals linked to the information and communication technologies sector, as well as members of the Security Forces of different countries, Spanish and foreigner's members of the Armed Forces, along with university professors and students.

**On 20 October 2022**, it was published the updated version of the **Official Personal Data protection review**<sup>77</sup>. It included a reference to the **Law for the General Telecommunications approved in June 2022**<sup>78</sup> that included chapter III Safeguarding fundamental rights, the secrecy of communications, and protection of personal data and public rights and obligations relating to electronic communications networks and services (Articles 56 to 63).

**At regional level, on 15 June 2022**, the Madrid Regional government **approved a Draft law to create a Cyber security Agency**<sup>79</sup>. It seek to shield the public administration from cyber-attacks and promoting computer security in companies, SMEs and citizens. This public body will be in charge of protecting the regional administration from potential cyber-attacks and promoting the use of

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<sup>76</sup> Spain, Ministry of Interior (*Ministerio del Interior*), "[El director general de la Policía inaugura la II edición de C1b3rWall](#)", press release, 21 June 2022.

<sup>77</sup> Spain, Ministry of the Presidency, Relations with the Cortes and Democratic Memory (*Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática*) (2022), [Official Personal Data protection review](#) (Protección de Datos de Carácter Personal), Agencia Estatal Boletín Oficial del Estado.

<sup>78</sup> Spain, Head of State (*Jefatura del Estado*), [Law 11/2022, of June 28, General Telecommunications](#) (*Ley 11/2022, de 28 de junio, General de Telecomunicaciones*), 28 June 2022.

<sup>79</sup> Spain, Madrid Regional Government (*Comunidad de Madrid*), [Draft Law creating the Cybersecurity Agency of the Community of Madrid](#) (*Anteproyecto de Ley por la que se crea la Agencia de Ciberseguridad de la Comunidad de Madrid*), 17 May 2022.

cyber security solutions, especially where these capabilities do not exist, such as local entities of less than 20,000 inhabitants. It will also boost the computer security of companies, SMEs and citizens of the community; support the development of specialist talent; and improve the security of critical infrastructures, such as health, develop a strategy of coordination and action in cyber security for the entire region, and will promote collaboration with the central government, especially with the National Cryptological Center (*Centro Criptológico Nacional*, CCN-CERT, in its Spanish acronym).



## 6. Rights of the child

### 1.9 6.1 Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee

Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the [EU Child Guarantee](#).

<b>Legislative changes</b>	<p><b>On 1 February 2022, it was approved a Royal Decree 95/2022 by which establishes the ordination and the minimum educations of the Infantile Education<sup>80</sup>.</b> For the first time, it provided with a regulation and endowed of educational character to the first cycle of the education program for the children between 0 to 3 years of age. It seek to reduce the early school leaving and the risk of poverty and exclusion; to improve the educational outcomes and it will become an equity factor. In addition, it guarantee the harmonization between the educational system cycles throughout the whole Spanish territory. Previously, classrooms from 0-3 were governed by different regional rules. The regulation established for the first time minimum requirements and maximum ratios per classroom that all Spanish nursery schools, public and private, to be in place in the 2023-2024 academic year onwards.</p> <p><b>On 26 April 2022, the Annual Employment Policy Plan for 2022 (<i>Plan Anual de Política de Empleo para 2022</i>) was approved and including the Youth Guarantee Plus Plan 2021-2027 (<i>Plan de Garantía Juvenil Plus 2021-2027</i>)<sup>81</sup>.</b></p>
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<sup>80</sup> Spain, Ministry of Education and Vocational Training (Ministerio de Educación y Formación Profesional), [Royal decree 95/2022, of 1 February, by which establishes the ordination and the minimum educations of the Infantile Education](#) (*Real Decreto 95/2022, de 1 de febrero, por el que se establece la ordenación y las enseñanzas mínimas de la Educación Infantil*), 1 February 2022.

<sup>81</sup> Spain, Ministry of Labour and Social Economy (*Ministerio de Trabajo y Economía Social*), [Resolution of April 26, 2022, of the Secretary of State for Employment and Social Economy, by which the Agreement of the Council of Ministers of April 19, 2022, approving the Annual Plan of Employment Policy for 2022 is published, as established in article 11.2 of the consolidated text of the Employment Law, approved by Royal Legislative Decree 3/2015, of 23 October, 4 May 2022](#) (*Resolución de 26 de abril de 2022, de la Secretaría de Estado de Empleo y Economía Social, por la que se publica el Acuerdo del Consejo de Ministros de 19 de abril de 2022, por el que se aprueba el Plan Anual de Política de Empleo para 2022, según lo establecido en el artículo 11.2 del texto refundido de la Ley de Empleo, aprobado por el Real Decreto Legislativo 3/2015, de 23 de octubre, 4 May 2022*), 26 April 2022.

The first professional experience will be provided so that young people can access decent employment in accordance with their level of training through employment and training programs; it included a commitment that within a maximum period of four months, young people will receive an offer of training or employment that had a special follow-up; it will make it possible to combat discrimination against LGTBI people and will launch a pilot labor insertion programme for them.

**On 10 June 2022, the Spanish government approved a National Strategic Plan for the Reduction of Childhood Obesity (2022 - 2030) (*Plan Estratégico Nacional para la Reducción de la Obesidad Infantil (2022 - 2030)*)<sup>82</sup>.** It made reference to the child poverty as one of the factors that increase the likelihood of being overweight. Data showed that the prevalence of excess weight was concentrated to a greater extent among Roma, migrant and disabled children. These particularly vulnerable groups were priorities for the Plan's actions. It was coordinated by the High Commissioner against Child Poverty together with the Gasol Foundation (*Fundación Gasol*).

**On 6 July 2022, the Spanish government approved the Children with Rights. National State Action Plan for the Implementation of the European Child Guarantee (2022-2030) (*Infancia con Derechos. Plan de Acción Estatal para la Implementación de la Garantía Infantil Europea (2022-2030)*)<sup>83</sup> as an implementation tool for the European Child Guarantee<sup>84</sup>.** It was structured in three axes: combating child poverty and strengthening the social protection of children and adolescents; universalization of social rights through access to quality, accessible and inclusive essential

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<sup>82</sup> Spain, High Commissioner against Child Poverty (*Alto Comisionado contra la Pobreza Infantil*) (2022), [National Strategic Plan for the Reduction of Childhood Obesity \(2022 - 2030\)](#) (*Plan Estratégico Nacional Para La Reducción de La Obesidad Infantil (2022 - 2030)*), Madrid, Alto Comisionado contra la Pobreza Infantil.

<sup>83</sup> Spain, Ministry of Social Rights and Agenda 2030 (Ministerio de Derechos Sociales y Agenda 2030), [Children with Rights. National State Action Plan for the Implementation of the European Child Guarantee \(2022-2030\)](#) (*Infancia con Derechos. Plan de Acción Estatal para la Implementación de la Garantía Infantil Europea (2022-2030)*)

<sup>84</sup> Spain, High Commissioner against Child Poverty (*Alto Comisionado contra la Pobreza Infantil*) (2022), [Children with Rights. State Action Plan for the Implementation of the European Child Guarantee \(2022-2030\), the main tool with which Spain will be able to implement the European Child Guarantee \(GIE\)](#), (*Infancia con Derechos. Plan de Acción Estatal para la Implementación de la Garantía Infantil Europea (2022-2030)*), la herramienta principal con la que España podrá en marcha la Garantía Infantil Europea (GIE)), Madrid, Alto Comisionado contra la Pobreza Infantil.

services; and the promotion of territorial equity, protective, equal, inclusive and participatory environments. In addition, the plan contained 25 objectives and more than 80 concrete measures. It distinguished three services that must be free of charge: early childhood education and care; education and extracurricular activities; and at least one free of charge healthy meal at school. In addition, three other services must be affordable: healthy nutrition, sanitation and adequate housing. It included actions such as the expansion of oral health within the portfolio of the National Health System; the configuration of an early care system that guarantees that no child will wait more than 45 days to receive such care; or the increase in the schooling rate from 0 to 3 years. This plan was drawn up with the participation of the ministries responsible for the matter, each autonomous communities and Ceuta and Melilla, the local authorities and a large number of non for profit organizations, universities, experts, children and adolescents. The child protection system aimed to end macro-centres and that there will be no children under 10 years of age in residential centres by 2031. To this end, a recruitment and training platform will be created to increase the number of foster families.

**In October 2022, the Government approved the More Energy Security Plan (*Plan Mas Seguridad Energética*)** to protect consumers and reduce gas consumption<sup>85</sup>. The protection of the population was guaranteed by expanding the coverage of the electricity and thermal social bonus. There was a reinforcement of the social shield, which contemplated the increase of the maximum incomes and the automatic renewal of the Minimum Vital Income (*Ingreso Mínimo Vital*, IMV, in its Spanish acronym). In addition, the minimum aid of the thermal social bonus (*bono social térmico*) increased to an average amount of 375 euros, and it could not be less than 40 euros. In 2019 the aid is between 25 and 123.94 euros. The Autonomous Communities and Cities with Statutes of Autonomy were responsible for the management of the 2020 Thermal Social Bonus. In addition, a new figure contemplated within the thermal social bonus (*bono social térmico*) was created.: The Energy

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<sup>85</sup> Spain, Council of Ministers (*Consejo de Ministros*), "[El Gobierno aprueba el Plan Más Seguridad Energética para proteger a los consumidores y reducir el consumo de gas](#)", press release, 11 October 2022.

	<p>Justice Bond (<i>bono de justicia energética</i>) to face the increase in their vulnerability caused by the energy supply costs. This <b>energy justice bond</b> intended to be temporary and to run until the end of 2023. It was established by Article 10 of a Law 18/2022<sup>86</sup> that included the temporary application of the social electricity bonus to low-income households particularly affected by the energy crisis. In terms of <b>the beneficiaries profile</b>, it addressed the holders of electricity supply contracts who were recipients of the social electricity bonus and who were recognized the condition of severe vulnerable or severe vulnerable at risk of social exclusion, in accordance with the categories defined by the Royal Decree 897/2017<sup>87</sup>, which regulates the figure of the vulnerable consumer, the social bonus and other protection measures for domestic consumers of electricity. It could also be received by all households whose income is between 1.5 and twice the total amounting the 14 payments Public Indicator of Income of Multiple Effects (<i>Indicador Público de Renta de Efectos Múltiples</i>, IPREM, in its Spanish acronym), with the multipliers applied to the conventional social bonus. In 2022, the IPREM amounted to 579.02 euros per month, € 6,948.24 (annual in 12 payments) or € 8,106.28 (annual of 14 payments). It applied a 40% discount on the voluntary price for small consumers (<i>el precio voluntario para el pequeño consumidor</i>, PVPC, in its Spanish acronym) for low-income households particularly affected by the energy crisis. Consumers who own the electricity supply point in their habitual residence who, being natural persons, are covered by the PVPC, may benefit from the energy justice bond, the annual joint income of the cohabitation unit to which it belongs, is equal to or less than 2 times the IPREM of 14 payments (€ 16,212.56) and greater than 1.5 times the IPREM of 14 payments (€ 12,159.42). The income multipliers with respect to the IPREM index of 14 will be increased in the same</p>
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<sup>86</sup> Spain, Head of State (Jefatura de Estado), [Royal Decree-Law 18/2022, of 18 October, approving measures to strengthen the protection of energy consumers and contribute to the reduction of natural gas consumption in application of the "Plan + security for your energy \(+SE\)", as well as measures regarding the remuneration of personnel at the service of the public sector and the protection of temporary agricultural workers affected by drought](#) (*Real Decreto-ley 18/2022, de 18 de octubre, por el que se aprueban medidas de refuerzo de la protección de los consumidores de energía y de contribución a la reducción del consumo de gas natural en aplicación del "Plan + seguridad para tu energía (+SE)", así como medidas en materia de retribuciones del personal al servicio del sector público y de protección de las personas trabajadoras agrarias eventuales afectadas por la sequía*), 18 October 2022.

<sup>87</sup> Spain, Ministry of Energy, Tourism and Digital Agenda (*Ministerio de Energía, Turismo y Agenda Digital*), [Royal Decree 897/2017, of 6 October, which regulates the figure of the vulnerable consumer, the social bonus and other protection measures for domestic consumers of electricity. Ministry of Energy, Tourism and Digital Agenda](#) (*Real Decreto 897/2017, de 6 de octubre, por el que se regula la figura del consumidor vulnerable, el bono social y otras medidas de protección para los consumidores domésticos de energía eléctrica*), 6 October 2017.

	<p>proportion and under the same criteria as those established in article 3.3 of Royal Decree 897/2017<sup>88</sup>. The final consumers of electricity to whom this energy justice electricity bond is applicable will not be beneficiaries of the thermal social bonus.</p> <p>The discounts of the pre-existing social bonus were also been increased, so that for vulnerable consumers went from 60% to 65%, while for severe vulnerable consumers went from 70% to 80%. And the annual energy volume subject to the discount increases by 15%, to 1,587 kWh in a cohabitation unit of one or two people and up to 4,761 kWh in a unit of five or more persons.</p> <p>In December 2022, the Government approved a Royal Decree-Law 20/2022, on measures to respond to the economic and social consequences of the War in Ukraine and to support the reconstruction of the island of La Palma and other situations of vulnerability<sup>89</sup>. The measures of the Royal Decree-Law aimed at containing prices and supporting the most affected citizens and companies in five main areas: (i) energy (ii) food (iii) transport (iv) intensive gas industry (v) economic and financial stability (vi) social shield.</p>
<p><b>Policy changes</b></p>	<p><b>In January 2022</b>, the High Commissioner against Child Poverty (<i>Alto Comisionado contra la Pobreza Infantil</i>) signed the <b>Digital Pact for the Protection of Persons</b> (<i>Pacto Digital para la Protección de las Personas</i>) of the Spanish Data Protection Agency (<i>Agencia Española de Protección de Datos</i>). This agreement promoted the responsibility and ethics of companies in terms of privacy and data protection, in business models and sustainability policies.</p> <p><b>On 1 January, 2022, a new benefit of 100 euros was included within the General State Budgets for 2022</b><sup>90</sup>. It</p>

<sup>88</sup> Spain, Ministry of Energy, Tourism and Digital Agenda (*Ministerio de Energía, Turismo y Agenda Digital*), [Royal Decree 897/2017, of 6 October, which regulates the figure of the vulnerable consumer, the social bonus and other protection measures for domestic consumers of electricity. Ministry of Energy, Tourism and Digital Agenda](#) (*Real Decreto 897/2017, de 6 de octubre, por el que se regula la figura del consumidor vulnerable, el bono social y otras medidas de protección para los consumidores domésticos de energía eléctrica*), 6 October 2017.

<sup>89</sup> Spain, Head of State (*Jefatura del Estado*), [Royal Decree-Law 20/2022, of 27 December, on measures to respond to the economic and social consequences of the War in Ukraine and to support the reconstruction of the island of La Palma and other situations of vulnerability](#) (*Real Decreto-ley 20/2022, de 27 de diciembre, de medidas de respuesta a las consecuencias económicas y sociales de la Guerra de Ucrania y de apoyo a la reconstrucción de la isla de La Palma y a otras situaciones de vulnerabilidad*), 28 December 2022.

<sup>90</sup> Spain, Ministry of Inclusion, Social Security and Migration (*Ministerio de Inclusión, Seguridad Social y Migraciones*), [Real Decreto 65/2022, de 25 de enero, sobre actualización de las pensiones del sistema de la Seguridad Social, de las pensiones de Clases Pasivas y de otras prestaciones sociales públicas para el ejercicio 2022](#)<sup>90</sup> (*Royal Decree 65/2022, of 25 January, on updating the*

addressed those households in a situation of vulnerability and for those who receive the minimum vital income. It was a monthly benefit of 40 to 100 euros for each dependent son or daughter that can also be requested whoever are in a situation of unemployment and single-parent families.

**In January 2022, the Ministry of Health** (*Ministerio de Sanidad*) **approved a Plan for the extension of the oral health services within the National Health System Plan** (*Plan para la ampliación de la cartera común de servicios de salud bucodental en el Sistema Nacional de Salud*)<sup>91</sup>. One of the objectives was to increase the services provided by public health system, with a preventive approach and prioritizing the following groups: **children and adolescents**, pregnant women, people with disabilities and people with cancer, specifically those people diagnosed with oncological processes in the cervicofacial body area.

**On 18 January 2022, the Spanish Data Protection Agency** (*Agencia Española de Protección de Datos*) **signed an agreement**<sup>92</sup> **to enter as a member of the Zero Child Poverty Country Alliance** (*Alianza País Pobreza Cero Infantil*) that is an initiative promoted by the High Commissioner for the Fight against Child Poverty since 2021, whose objective is to promote policies and social alliances that allow progress towards the eradication child poverty. It counts with more than 150 partner's members. **In 2022**, other institutions apart from AEDP who decided to join the initiative such as the San Sebastian Film Festival or Coca Cola or the Agbar company, among others.

**On 14 July 2022, the Ministry of Labour and Social Economy** (*Ministerio de Trabajo y Economía Social*) issued a **resolution which sets the criteria for territorial distribution and the resulting distribution between autonomous communities and the cities of Ceuta and Melilla, for the Programme for the Protection of the Family and**

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pensions of the Social Security system, the pensions of Passive Classes and other public social benefits for the year 2022), 25 January 2022.

<sup>91</sup> Spain, Ministry of Health (*Ministerio de Sanidad*) 2022, [Plan for the extension of the oral health services within the National Health System Plan](#) (*Plan para la ampliación de la cartera común de servicios de salud bucodental en el Sistema Nacional de Salud*), Madrid, Ministerio de Sanidad.

<sup>92</sup> Spain, Agencia, [La AEPD y el Alto Comisionado contra la Pobreza Infantil se alían en el compromiso para cumplir con la Agenda 2030 y los ODS](#), press release, 18 January 2022



	<p><b>Attention to Child Poverty</b><sup>93</sup>. The purpose of this agreement was to distribute among the autonomous communities and cities of Ceuta and Melilla the budget for the Programme for the Protection of the Family and Attention to Child Poverty together with the Basic Benefits of Social Services, and the distribution of the funding within the Roma Development Plan.</p> <p><b>The digital skills programme for children and adolescents at risk of digital exclusion</b> (<i>Programa de competencias digitales básicas para niños, niñas y adolescentes en riesgo de exclusión digital</i>) with a budget of 222 million euros. It aimed to close the digital social divide from childhood within the framework of the "National Digital Skills Plan" (<i>Plan Nacional de Competencias Digitales</i>).</p> <p>The <b>family protection and child poverty care programme</b> (<i>Programa de Protección a la Familia y atención a la pobreza infantil</i>) with 199 million euros in 2022, more than double the amount in 2018<sup>94</sup>;</p> <p>The <b>programme for Guidance, Advancement and Educational Enrichment PROA+</b>, (<i>Programa para la orientación, avance y enriquecimiento educativo #PROA+</i>) which with an allocated budget of 360 million euros. This program intended to strengthen schools supported with public</p>
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<sup>93</sup> Spain, Ministry of Labour and Social Economy (*Ministerio de Trabajo y Economía Social*), [Resolution of July 14, 2022, of the Secretary of State for Social Rights, which publishes the Agreement of the Territorial Council of Social Services and the System for Autonomy and Attention to Dependency, which sets the criteria for territorial distribution and the resulting distribution between autonomous communities and the cities of Ceuta and Melilla, of the appropriation for the financing in 2022 of the Programme for the Protection of the Family and Attention to Child Poverty](#) (*Resolución de 14 de julio de 2022, de la Secretaría de Estado de Derechos Sociales, por la que se publica el Acuerdo del Consejo Territorial de Servicios Sociales y del Sistema para la Autonomía y Atención a la Dependencia, por el que se fijan los criterios de distribución territorial y la distribución resultante entre comunidades autónomas y las ciudades de Ceuta y Melilla, del crédito destinado a la financiación en 2022 del Programa de Protección a la Familia y Atención a la Pobreza Infantil*), 14 July 2022.

<sup>94</sup> Spain, Ministry of Social Rights and Agenda 2030 (*Ministerio de Derechos Sociales y Agenda 2030*), [Resolution of the Secretary of State for Social Rights, which publishes the certified reports of the projects of the programs "Protection of the family and attention to child poverty. Development of basic social services" and "Comprehensive social intervention for the care, prevention of marginalization and insertion of the Roma people", approved with the autonomous communities and cities of Ceuta and Melilla for the year 2021](#) (*Resolución de la Secretaría de Estado de Derechos Sociales, por la que se publican las relaciones certificadas de los proyectos de los programas "Protección a la familia y atención a la pobreza infantil. Desarrollo de prestaciones básicas de servicios sociales" y de "Intervención social integral para la atención, prevención de la marginación e inserción del pueblo gitano", aprobados con las comunidades autónomas y las ciudades de Ceuta y de Melilla para el año 2021*), 22 March 2022

	<p>funds of Primary and Secondary Education that present greater educational complexity, in order to improve the school results, especially the most vulnerable, and increase the percentage of students who remain in the system.<sup>95</sup></p> <p>The <b>Personal and Family Accompaniment and Guidance Units for educationally vulnerable students</b> (<i>Unidades de Acompañamiento y Orientación personal y familiar del alumnado educativamente vulnerable</i>) with an allocated budget of 125 million euros is proposed as an innovative measure with a specific function: to accompany the educational trajectories of the most vulnerable students in an area or sector to prevent failures and promote their learning and school success, in collaboration with other professionals in the area or sector during the school years 2021-2022, 2022-2023 and 2023-2024<sup>96</sup>.</p>
<p><b>Other measures or initiatives</b></p>	<p><b>In January 2022</b>, the High Commissioner for Child Poverty (<i>Alto Comisionado Pobreza Infantil</i>) launched <b>the awards named as "Break the Circle"</b> (<i>Rompe el Círculo</i>)<sup>97</sup> created with the aim of recognizing those organizations and companies and people that could have achieved substantial changes in the fight against Child Poverty. In addition, it aimed to highlight good practices and content disseminated through the media, as well as to identify persons who could be defined as agents of change to fight against child poverty.</p> <p><b>Data from the Labour Force Survey</b> (<i>Encuesta de Población Activa</i>, EPA in its Spanish acronym )<sup>98</sup> indicate that <b>households without income with at least one child or adolescent maintain the downward trend of 2021</b> in the first two quarters of 2022 and consolidate at levels prior to the 2008 crisis with a reduction of 53% compared to the highest point of the series in 2013. The relative weight of this type of</p>

<sup>95</sup> Spain, Ministry of Education and Vocational Training (Ministerio de Educación y Formación Profesional), [Programme for Guidance, Advancement and Educational Enrichment PROA+ \(Programa para la orientación, avance y enriquecimiento educativo #PROA+\)](#), official website, Ministerio de Educación y Formación Profesional.

<sup>96</sup> Spain, Ministry of Education and Vocational Training (*Ministerio de Educación y Formación Profesional*), [Personal and Family Accompaniment and Guidance Units for educationally vulnerable students](#) (*Unidades de Acompañamiento y Orientación personal y familiar del alumnado educativamente vulnerable*), Official Website, Ministerio de Educación y Formación Profesional.

<sup>97</sup> Spain, High Commissioner for Child Poverty (*Alto Comisionado Pobreza Infantil*), "[El Alto Comisionado crea los 'Premios Rompe el círculo' para reconocer las mejores prácticas en la lucha contra la pobreza infantil](#)", press release, 18 January 2022.

<sup>98</sup> Spain, National Institute of Statistics (*Instituto Nacional de Estadística*), Data from the Labour Force Survey (*Encuesta de Población Activa*), press release, 27 October 2022.



household in the total number of households without income also continues to decline, accounting for 18% of households in this situation, the lowest percentage since the first quarter of 2008. With this reduction, the number of households without income with at least one dependent child is further away from the peak of 222,900 households in 2013 (118,100 fewer households) as a result of the economic crisis of 2008, as well as the peak experienced in the second quarter of 2020 due to the confinement measures.

**In June 2022**, the **NGO Save the Children** published its comments in response **to the data published with the Living Conditions Survey: Save the Children** warns that child poverty is increasing and already reaches 2.4 million children (*Encuesta de Condiciones de Vida: Save the Children alerta de que la pobreza infantil aumenta y ya alcanza a 2,4 millones de niños y niñas*)<sup>99</sup>. It included three proposals, such as: an universal aid to upbringing to be included within the 2023 general national state budgets granting at least 100 euros per month per dependent child; to profit from the existence of the action plan for child guarantee in Spain to ensure access for children in poverty to key services such as health, education, nutrition and school canteens or housing; the request for the ESF+ to devote more than the mandatory minimum of 5% to the fight against child poverty.

**In the case of the children displaced from the Ukrainian crisis**, and in terms of the schooling between the ages of 6 and 16 is compulsory in Spain. To join the Spanish educational system up to 4th grade of the Secondary education (until 16 years old), there was not requested any formal recognition of the qualifications. Only for it will be requested in relation to the non compulsory education.

**In June 2022**, the High Commissioner, the CSD, the FEMP and ADESP **signed an Action Protocol for the Federated Sports Practice of Ukrainian children and adolescents in Spain** (*Protocolo de Actuación para la Práctica Deportiva Federada de niños, niñas y adolescentes ucranianos en España*)<sup>100</sup> to work for the inclusion of children and young

<sup>99</sup> Save the Children, "[Encuesta de Condiciones de Vida: Save the Children alerta de que la pobreza infantil aumenta y ya alcanza a 2,4 millones de niños y niñas](#)", press release, 29 June 2022.

<sup>100</sup> Spain, High Commissioner against Child Poverty (*Alto Comisionado contra la Pobreza Infantil*) [Alto Comisionado contra la Pobreza Infantil, El Alto Comisionado, el CSD, la FEMP y ADESP se alían](#)

	<p>people displaced Ukrainians through sport, facilitating access to sport for children in vulnerable situations. This inclusion is defined as key to their health and emotional well-being, as it has a restorative potential and fosters social inclusion and cohesion, essential to overcome the aftermath of war and displacement.</p>
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## **1.10 6.2 Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings.**

<p><b>Legislative changes</b></p>	<p><b>On 21 March 2022, it was approved an Organic Law 2/2022 on improving the protection of orphans victims of gender based violence<sup>101</sup>. It meant the amendment of Articles 216.3 and 224 of the General Law on Social Security to extend the scope of the orphan's pension and to include the direct victims of gender violence. The uncertainty about the procedure applicable to the liquidation of the community of property (<i>liquidación de la sociedad de gananciales</i>) in the cases of women victims of violence. It also meant the formal jurisdiction over the procedures of liquidation of the matrimonial property regime for the courts of violence against women when requested by the heirs who died due to crimes of gender based violence.</b></p> <p><b>On 6 September 2022, it was approved a law for the comprehensive guarantee of the sexual freedom<sup>102</sup>. It aimed to promote the prevention of sexual violence and guarantee the rights of all victims. It applied to</b></p>
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[en la inclusión de niños, niñas y jóvenes desplazados ucranianos a través del deporte](#), press release, 22 June 2022.

<sup>101</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 2/2022, of March 21, on improving the protection of orphans victims of gender violence](#) (*Ley Orgánica 2/2022, de 21 de marzo, de mejora de la protección de las personas huérfanas víctimas de la violencia de género*), 22 March 2022.

<sup>102</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom](#) (*Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual*), 6 September 2022.

	<p>women and children who were victims of sexual violence in Spain, regardless of their nationality and administrative status; or abroad if they hold a Spanish nationality. In the case of the foreign victims of sexual violence in an irregular situation when reporting this type of situations the administrative disciplinary proceedings will not be open, or the ones opened will be suspended, as well as their expulsion or return. In addition, they may apply for a residence and work permit based on exceptional circumstances from the moment a protection order was issued in their favor or, failing that, a report from the Public Prosecutor's Office indicating the existence of indications of gender-based or sexual violence. Those authorisations shall not be resolved until the conclusion of the criminal proceedings. In the meantime, a provisional residence and work permit will be granted in favor of the foreign woman and, where appropriate, provisional residence authorizations in favor of her child or disabled children, or residence and work if they are over sixteen years old, provided that they are in Spain at the time of the complaint. It served to establish the basis for the implementation in Spain of the Children's House – the model Barnahus.</p>
<p><b>Policy developments</b></p>	<p><b>On 18 March 2022</b>, the <b>National Ombudsman</b> (<i>Defensor del Pueblo</i>) presented its <b>Annual Report<sup>103</sup> to the National Parliament</b>. This report contained a specific annex titled Children and adolescents in the annual report (<i>Los niños y los adolescentes en el informe anual</i>) where under the Section 6.3.1 addressing the strengthening the guarantees and protection of children in the family jurisdiction and judicial system for the comprehensive protection of children (<i>Fortalecimiento de las garantías y la protección de los menores en la jurisdicción de familia y sistema judicial de protección integral de los menores</i>). The report concluded that there are deficiencies affecting the system of identification of the special needs of child victims of trafficking with international protection needs and there is a need to revise them.</p>

103 Spain, National Ombudsman (*Defensor del Pueblo*) (2022), [Annual Report 2021](#) (*Informe Anual 2021*), Madrid, Defensor del Pueblo.

<p><b>Other measures or initiatives</b></p>	<p><b>At regional level</b>, there were several initiatives related to the promotion of new Barnahus house in different regions. <b>In Catalunya, in July 2022</b>, the regional government of Catalunya declared its commitment to open 15 Barnahus houses. The approval in the Consell Executive of the Barnahus Strategy for the comprehensive approach to sexual abuse against children and adolescents through which 13 units will be opened<sup>104</sup>. The proper functioning of this service, which has handled 451 cases since its inception, has pushed the Government to extend its model. The projects proposals related to the cities of Lleida and Manresa were already introduced and in the coming years 13 will be opened. Of the 451 cases treated, 374 victims were women and 77 men and 279 were boys and girls born in 2009 or earlier.</p> <p><b>In June 2022</b>, the <b>Vitoria city</b> within the Basque country was chosen to host the first Basque Barnahus. The pilot project in Vitoria will count on the technical support of the NGO Save The Children and will be subject to a continuous evaluation process. <b>Save The Children and the Balears Region government</b> agreed to establish a new Barnahus house known as "Casa del menor" in the island of Ibiza.</p> <p><b>In 15 October 2022</b>, the Chaplaincy Training Course will be taught only for Prisons and Juvenile and Offender Centers (<i>Curso de Formación de Capellanía</i>)<sup>105</sup>. The Course aimed at people belonging to evangelical churches who were members of the Federation of Evangelical Religious Entities of Spain (<i>Federación de Entidades Religiosas Evangélicas de España</i>, FEREDE, in its Spanish acronym).</p>
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<sup>104</sup> Spain, Catalonia Government (*Generalitat de Catalunya*), "[El Govern aprova l'Estratègia Barnahus per a l'abordatge integral dels abusos sexuals contra la infància i l'adolescència](#)", press release, 26 July 2022.

<sup>105</sup> Actualidad Evangelica, "[Nuevo Curso de Capellanía para Prisiones y Centros de Menores Infractores](#)", press release, 15 September 2022.

## 7. Access to justice – Victims’ Rights and Judicial Independence

### 1.11 7.1 Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025

In March 2022, the National Ombudsman (*Defensor del Pueblo*) published its **2021 Annual Report** (*Informe Anual 2021*)<sup>106</sup>. Regarding **gender-based violence**, the National Ombudsman initiated an action, after verifying the lack of a homogeneous criterion between the immigration offices, when interpreting the reference to the administrative situation of the victim of gender violence. The Secretary of State for Migration shared this assessment of the Ombudsman and, with the aim of generating a clear, harmonized framework, and that provides legal certainty, approved on November 24, 2021, Instruction SEM 2/2021, on the authorization of temporary residence and work due to exceptional circumstances of foreign women victims of gender violence<sup>107</sup>. In 2021, according to the Observatory against Domestic and Gender Violence (*Observatorio contra la Violencia Doméstica y de Género*), there were 43 women killed because of gender-based violence, the lowest figure recorded since the official registration of victims in 2003. However, in 2021, the number of children killed because of gender violence increased, from three children in 2020 to 7 registered in 2021. Those children should also be considered as victims of gender-based violence since it is violence exercised within relationships. It concluded that the situation of children who are direct and indirect victims of gender-based violence was one of the issues that should receive the utmost attention from public authorities. It also mentioned that in 2021, the Spanish courts received around 125,000 complaints of gender-based violence, which meant a downward trend that began in 2020 in terms of the number of complaints.

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106 Spain, National Ombudsman (*Defensor del Pueblo*) (2022), [Annual Report 2021](#) (*Informe Anual 2021*), Madrid, Defensor del Pueblo.

<sup>107</sup> Spain, Ministry of Inclusion, Social Security and Migration (*Ministerio de Inclusión, Seguridad Social y Migraciones*), [Order SEM 2/2021, on temporary residence and work authorization for exceptional circumstances of foreign women victims of gender violence](#) (*Instrucción SEM 2/2021, sobre autorización de residencia temporal y trabajo por circunstancias excepcionales de mujeres extranjeras víctimas de violencia de género*), 24 November 2021.

On **21 March 2022**, it was approved an **Organic Law 2/2022 on improving the protection of orphans victims of gender-based violence**<sup>108</sup>. It meant the amendment of articles 216.3 and article 224 of the General Law on Social Security<sup>109</sup> to extend the scope of the orphan's pension and to include the direct victims of gender violence. It seek to solve the uncertainty about the procedure applicable to the liquidation of the community of property (*liquidación de la sociedad de gananciales*) in the cases of women victims of violence. It guaranteed the formal jurisdiction over the procedures of liquidation of the communities of property regime for the courts of violence against women when requested by the heirs who died due to crimes of gender-based violence. The previous situation was harming the orphans since it is delaying that they can access to the liquidation of the matrimonial regime of their mothers needed the agreement of the murderers with the provoking negative consequences because of the delay or blocking of the granted procedure.

On 3 March 2022, the Spanish Government approved a Preliminary draft of the Organic Law amending the Law 2/2010 on sexual and reproductive health and voluntary interruption of pregnancy<sup>110</sup>. In August 2022, it was sent to the National Parliament. It addressed the prevention of violence against women in the reproductive field. It recognised the surrogacy as a form of violence against women, prohibiting advertising by brokerage agencies and carrying out campaigns that reinforce the illegality of these practices. It responded to the ratification of the Istanbul Convention, including some more linked to reproductive rights.

**On 21 March 2022, it was approved an Organic Law 2/2022 on improving the protection of orphans victims of gender based violence**<sup>111</sup>. It meant the amendment of Articles 216.3 and 224 of the General Law on Social Security to extend the scope of the orphan's pension and to include the Direct victims of gender violence. The uncertainty about the procedure

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<sup>108</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 2/2022, of March 21, on improving the protection of orphans victims of gender violence](#) (*Ley Orgánica 2/2022, de 21 de marzo, de mejora de la protección de las personas huérfanas víctimas de la violencia de género*), 22 March 2022.

<sup>109</sup> Spain, Ministry of Employment and Social Security (, [Royal Legislative Decree 8/2015, of 30 October, approving the revised text of the General Law on Social Security](#) (*Real Decreto Legislativo 8/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley General de la Seguridad Social*), 2 January 2016.

<sup>110</sup> Spain, Ministry of Equality (Ministerio de Igualdad), [Preliminary draft of the Organic Law amending Organic Law 2/2010, of 3 March, on sexual and reproductive health and voluntary interruption of pregnancy](#) (*Anteproyecto de Ley Orgánica por la que se modifica la Ley Orgánica 2/2010, de 3 de marzo, de salud sexual y reproductiva y de la interrupción voluntaria del embarazo*), 3 March 2022.

<sup>111</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 2/2022, of March 21, on improving the protection of orphans victims of gender violence](#) (*Ley Orgánica 2/2022, de 21 de marzo, de mejora de la protección de las personas huérfanas víctimas de la violencia de género*), 22 March 2022.

applicable to the liquidation of the community of property (*liquidación de la sociedad de gananciales*) in the cases of women victims of violence. It also meant the formal jurisdiction over the procedures of liquidation of the matrimonial property regime for the courts of violence against women when requested by the heirs who died due to crimes of gender based violence.

**On 13 July 2022**, the **UN Committee on the Elimination of Discrimination against Women (CEDAW) issued a decision**<sup>112</sup> stating that a woman living in Spain was subjected to premature induction of labour and caesarean section without her consent was a victim of obstetric violence, that is considered as a particular type of violence suffered by women in health centres during childbirth care health systems.

**In July 2022**, the Ministry of Equality approved a **Resolution for equality and against gender-based violence, which publishes the agreement of the sectoral conference on equality regarding the administrative accreditation of the status of victims of trafficking in human beings and / or sexual exploitation**<sup>113</sup>. The agreement included the exploitation of prostitution, sexual servitude, and other types of sexual services, such as pornographic acts or the production of such material. Furthermore, it included actions of labor exploitation when including some manifestation of sexual violence. The accreditation will be effective throughout the State, and it facilitates access to the exercise of information rights, to referral to support services and resources and to the minimum vital income allowance (*ingreso mínimo vital*). The administrative procedure for the accreditation shall be initiated ex officio or at the request of a party.

**On 6 September 2022**, it was approved a **Law for the comprehensive guarantee of the sexual freedom**<sup>114</sup> known as "*Law of only yes means yes*" (*ley del solo sí es sí*). It aimed to promote the prevention of sexual violence and guarantee the rights of all victims. It applied to women and children who were victims of sexual violence in Spain, regardless of their

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<sup>112</sup> UN, Committee on the Elimination of Discrimination against Women, [Views adopted by the Committee under article 7 \(3\) of the Optional Protocol, concerning communication No. 149/2019\\*](#), CEDAW/C/82/D/149/201, 13 July 2022.

<sup>113</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Resolution of July 7, 2022, of the Secretary of State for Equality and against Gender Violence, which publishes the Agreement of the Sectoral Conference on Equality of May 27, 2022, regarding the administrative accreditation of the status of victim of trafficking in human beings and / or sexual exploitation and its Annexes I and III](#) (*Resolución de 7 de julio de 2022, de la Secretaría de Estado de Igualdad y contra la Violencia de Género, por la que se publica el Acuerdo de la Conferencia Sectorial de Igualdad de 27 de mayo de 2022, relativo a la acreditación administrativa de la condición de víctima de trata de seres humanos y/o explotación sexual y sus Anexos I y III*), 13 July 2022.

<sup>114</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom](#) (*Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual*), 6 SEptember 2022.



nationality and administrative status; or abroad if they hold a Spanish nationality. It addressed certain gaps in comprehensive protection against all forms of violence against women, especially in relation to sexual violence, included in the Istanbul Convention. Likewise, the law complied with the recommendations made in the first evaluation report of Spain's application of the Istanbul Convention, carried out by the Group of Experts on Combating Violence against Women and Domestic Violence (GREVIO), of the Council of Europe, of November 25, 2020<sup>115</sup>. This **law defined sexual violence** as any act of a sexual nature that is not consensual or that conditions the free development of sexual life in any public or private sphere. It included the sexual assault, the sexual harassment, the exploitation of the prostitution of others, the female genital mutilation, forced marriage, sexually connotated harassment, trafficking for sexual exploitation and the killing of women linked to sexual violence. In addition, the **women's access to justice was improved with the amendment of the Free Legal Aid Regulation (*Asistencia Jurídica Gratuita*)** to ensure a level of quality that guarantees the right to defence. It established that legal and prosecutorial professionals who provide free legal assistance to victims of gender-based violence cannot have a criminal record for threatening life, physical integrity, freedom, moral integrity, freedom and sexual indemnity or privacy in the field of violence against women. This prohibition was extended to victims of trafficking in human beings, so that professionals cannot exercise the legal defense of victims of crimes of the same nature for which they have been convicted. In the case of **the foreign victims of sexual violence in an irregular situation** when reporting this type of situations the administrative disciplinary proceedings will not be open, or the ones opened will be suspended, as well as their expulsion or return. In addition, they may apply for a residence and work permit based on exceptional circumstances from the moment a protection order was issued in their favor or, failing that, a report from the Public Prosecutor's Office indicating the existence of indications of gender-based or sexual violence. Those authorisations shall not be resolved until the conclusion of the criminal proceedings. In the meantime, a provisional residence and work permit will be granted in favor of the foreign woman and, where appropriate, provisional residence authorizations in favor of her children or disabled children, or residence and work if they are over sixteen years old, provided that they are in Spain at the time of the complaint.

In relation to the issuance of this “only yes means yes” law, which entered into force on 7 October 2022, there were negative developments or critical aspects in this area stemming from its jurisprudential application of it. As a consequence of it and

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<sup>115</sup> Spain, Ministry of equality, Ministry of foreign affairs, European Union and cooperation, Ministry of justice, Ministry of the interior, (*Ministerio de igualdad, ministerio de asuntos exteriores, unión europea y cooperación, ministerio de justicia y ministerio del interior*), [Agreement approving the institutional declaration on the occasion of the International Day for the Elimination of Violence against Women](#) (*Acuerdo por el que se aprueba la declaración institucional con motivo del Día Internacional de la eliminación de la violencia contra las mujeres*), 25 November 2022.



once it was stated to be implemented, it allowed reducing sentences for sexual abuse based on its article 178, which no longer distinguished between abuse and sexual assault, but united them under the term "a wider range of crimes". The crime of sexual assault absorbs that of sexual abuse, which means that a crime that until now included more serious conduct incorporates a less serious one, so the criminal range has also been extended to cover the full range of behaviours now punishable as sexual assault. It also established that aggression does not need violence or intimidation to qualify as such. The judgements ranged from four to twelve years, instead of six to twelve years as previously. The reduction of minimum sentences provoked the reduction of a number of judgments for sexual abuse by a number of Provincial or High Courts of Justice across Spain. The convictions prior to the law could also be reviewed and reduced based on the general principle of retroactivity for the most favourable sanctions in the application of article 2 of the Criminal Code, which specifies that criminal laws that favour the accused shall have a retroactive effect, even though the accused could be already in prison when it entered into force. The consequence was a dispute between the Ministry of Equality that promoted the law and the judicial system. The Ministry of Equality stated that the possible reduction of the previous judgement was caused by a machinist interpretation of the law. As a consequence of it, the central government decided to wait for a uniformed court formal position for the law to be applied. Otherwise, a formal amendment to the law was envisaged in a short term. **On October 2022**, the Public Prosecutor Office issued a decree for all public prosecutors asking for a uniform response for the reviews of the final convictions raised after the entry into force of the law. **On 29 November 2022**, the Supreme Court stated that Law 10/2022 may be applied for the benefit of the defendant when a lower penalty could be issued in those cases where appropriate, but analyzing case by case.

**On 20 September 2022**, the Ministry of Equality approved a **Road Plan (*Plan Camino*)** to provide economic, labor, and social alternatives to victims of trafficking and sexual exploitation<sup>116</sup>. **The objective** was the implementation of the measures included in the Law on the Integral Guarantee of Sexual Freedom<sup>117</sup> as well as complementing the actions of the National Strategic Plan against Trafficking and Exploitation of Human Beings 2021-2023 in relation to trafficking for sexual exploitation. It seeks to consolidate a comprehensive care itinerary for those victims, through programs for access to social and economic rights such as housing, health, and employment. such as the **I Plan for Socio-labor Insertion for Victims of Trafficking, Sexual**

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<sup>116</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), "[El Gobierno aprueba el Plan Camino para dar alternativas económicas, laborales y sociales a las víctimas de trata y explotación sexual](#)", press release, 20 September 2022.

<sup>117</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom](#) (*Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual*), 6 September 2022.

**Exploitation, and for Women in Contexts of Prostitution (2022-2026)**<sup>118</sup>. According to that I Plan, the women will be able to access the rights of social and labor insertion that arise with the accreditation approved in Royal Decree-Law 6/2022, of March 29, which adopts urgent measures within the framework of the National Plan for response to the economic and social consequences of the war in Ukraine and in the Sectoral Conference on Equality on May 27<sup>119</sup>. It was known as “The Camino Plan” (*Plan Camino*) and it included 28 measures in 5 lines of action to be implemented between 2022 and 2026, and it counted on an financial allocation of 204 million euros. The priority of the Plan was to support the victims through the socio-labor insertion. A number of civil society organizations were designed as beneficiaries to carry out actions aimed at socio-labor insertion and support to women victims of trafficking in human being through the establishment of comprehensive programs to participate in labor internships within companies and to receive support in the job search and training to face job interviews. Those entities will also be able to set up a free telephone number for information, guidance and socio-labor referral, as well as the legal counselling along the administrative processes for those women to access to a residence permit in Spain. Those CSOs were Doctors of the World (Medicos del Mundo), Adorers (Adoratrices), Women in Conflict Zone (*Mujeres en Zona de Conflicto*), APRAMP and the White Cross Foundation (*Fundación Cruz Blanca*).

**On 29 November 2022**, the Council of Ministers approved **a preliminary draft of the comprehensive organic law against the trafficking and exploitation of human beings**<sup>120</sup>. It contemplated a reform of the Aliens Act to modify some aspects of the regularization of foreign trafficking victims in an irregular situation, without the need for them to report, but they will have to be properly identified. It jointly addresses the fight against all forms of trafficking in human beings and against all forms of exploitation that constitute the purpose of trafficking, criminalizing forced labor, servitude, slavery, and all forms of exploitation. the National Referral Mechanism (*Mecanismo Nacional de Derivación*, MND, in its Spanish acronym) will be created

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<sup>118</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Operational plan for the protection of the human rights of women and girls victims of trafficking, sexual exploitation and women in contexts of prostitution \(2022 – 2026\) "plan camino"](#) (*plan operativo para la protección de los derechos humanos de mujeres y niñas víctimas de trata, explotación sexual y mujeres en contextos de prostitución (2022 – 2026. Plan camino*), Madrid, Secretaría de estado de igualdad y contra la violencia de género.

<sup>119</sup> Spain, Head of State (*Jefatura del Estado*), [Royal Decree-Law 6/2022, of March 29, which adopts urgent measures within the framework of the National Plan for response to the economic and social consequences of the war in Ukraine and in the Sectoral Conference on Equality on May 27](#) (*Real Decreto-ley 6/2022, de 29 de marzo, por el que se adoptan medidas urgentes en el marco del Plan Nacional de respuesta a las consecuencias económicas y sociales de la guerra en Ucrania y en la Conferencia Sectorial de Igualdad del 27 de mayo*), 29 March 2022.

<sup>120</sup> Spain, Ministry of Justice (*Ministerio de Justicia*), [El Gobierno aprueba el Anteproyecto de Ley Orgánica Integral contra la Trata](#), press reléase, 29 November 2022.

as the body responsible for the immediate referral of the victims of trafficking. It also amended the Law on Criminal Responsibility of Children<sup>121</sup> providing that the children victims of trafficking shall be exempt from criminal liability for criminal offenses committed in the situation of exploitation suffered, provided that their participation in them was a direct consequence of the situation of having been the object of the crime of trafficking.

**At regional level, on 19 September 2022**, the Rioja Regional Government approved a the **Draft Law against gender-based violence**<sup>122</sup>. It was relevant as La Rioja was the only Spanish region that did not have a specific law on the matter. It included the so called vicarious violence that refers to the violence against children committed by the father, or by the man with whom the mother maintains or has maintained an affective relationship of couple, with or without coexistence, in order to inflict on the mother a psychological or emotional abuse. The concept applied by this law was broad, including women, their children and other dependents, who are subject to the custody or guardianship of the woman who is a victim of gender violence or in her care. physical, psychological, social, economic, sexual, environmental, symbolic, institutional, second-order violence and digital violence or cyberviolence.

## 1.12 7.2 Measures addressing violence against women

According to the **Monthly report on gender-based violence** (*Informe mensual sobre violencia de género*) published by the Observatory against Domestic and Gender Violence since January and until November 2022<sup>123</sup>, the total number of active cases as of October 2022 was 74,684, an increase of 0.35% compared to September 2022 (74,424) and an increase of 9.53% compared to October 2021 (68,188). The number of women with police protection (active cases with an assessed level of risk)

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<sup>121</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 5/2000, of 12 January, regulating the criminal responsibility of children](#) (*Ley Orgánica 5/2000, de 12 de enero, reguladora de la responsabilidad penal de los menores*), 12 January 2000.

<sup>122</sup> Spain, La Rioja Regional Government (*Gobierno de la Rioja*), [Draft Law against Gender based Violence](#) (*Proyecto de Ley contra la violencia de género de La Rioja*), 19 septiembre 2022.

<sup>123</sup> Spain, Ministry of Equality (*Ministerio de igualdad*) (2022), [Main data on gender violence. October 2022](#) (*Principales datos sobre violencia de género. Octubre 2022*), Madrid, Delegation of the Government against Gender Violence.

as of 31 October 2022 is 43,333, representing an increase of 1.06% compared to September 2022 (42,877) and an increase of 16.79% compared to October 2021 (37,103). The highest percentage of active cases is found among women aged between 31 and 45 years. In 2022, 35 women were killed by gender-based violence. 71.43% of the fatalities were aged between 31 and 60 years. And there were 24 orphans due to gender-based violence.

**Since January 2022**, Spain implemented a new mechanism for the data collection of the cases femicides outside the scope of relationships such as the family, sexual, social and vicarious femicides. The cases of femicide violence in the field of the couple or ex-partner were already included in the 2004 Law<sup>124</sup> and counted from 2003 to December 2021. The categories since 2022 were typified as follows: a) **Femicide in the couple or ex-partner** in reference to the murder of a woman currently contemplated by Organic Law 1/2004 on Comprehensive Protection Measures against Gender Violence<sup>125</sup>; b) **Family femicide in reference to the murder of a woman at the hands of men in her family environment**. This may be, in turn, general family femicide and femicide for honor crime (it is considered that the victim has caused discredit to the family); c) **Sexual femicide** in reference to the murder of a woman without a relationship of partner or family, linked to sexual violence included in the Organic Law Project of integral guarantee of sexual freedom and it also referred to the cases of trafficking in human beings, prostitution, sexual exploitation, female genital mutilation or forced marriage; d) **social femicide, in reference to the murder of a woman by assault, which is not of a sexual nature, by a man with whom she had no relationship or partner or family member (a friend, acquaintance, co-worker, a stranger, etc.)**; e) **vicarious femicide** in reference to the murder of a woman or minor children, by a man who intends to cause harm or harm to another woman. In this section, only women and minors are collected. In turn, vicarious femicide will be divided into two: the one that has occurred within the couple and the one that has not. In addition, it also recorded all the children killed by any type of violence against women. They will be disaggregated into vicars if the woman was not killed in the same event, and not vicar, otherwise.

**In February 2022**, the Spanish network against the trafficking in Human Beings (*Red Española contra la Trata*, RECTP, in its Spanish acronym) published a set of **Recommendations for GRETA of the Spanish Network Against Trafficking in**

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<sup>124</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), « [Igualdad presenta por primera vez los datos oficiales de feminicidios fuera del ámbito de la pareja y/o expareja](#) », press release, 12 Septiembre 2022; Spain, Ministry of Equality (*Ministerio de Igualdad*), [Notas metodológicas ¿Cómo se clasifican los feminicidios?](#), Madrid, Delegación del Gobierno contra la Violencia de Género.

<sup>125</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 1/2004 on Comprehensive Protection Measures against Gender Violence](#) (*Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género*), 28 December 2004.

**Persons (RECTP) to the Third Report on the implementation of the European Convention on the fight against Trafficking in Human Beings** (*Recomendaciones para GRETA de la Red Española Contra la Trata de Personas (RECTP) al Tercer Informe Relativo a la implementación del Convenio de Europa sobre la lucha contra la Trata de Seres Humanos*)<sup>126</sup>. It focused on the access to justice and effective remedies for the victims of the trafficking in human beings. It advocated for a comprehensive law against trafficking, where it considered necessary to modify Article 177 bis of the Spanish Criminal Code to cover all purposes of trafficking and/or forms of exploitation expanding the list of commissioning means and defining in a broad and open manner the concept of "a situation of vulnerability". In addition, it proposed new and autonomous criminal offences be included within the Criminal Code related to trafficking for labour exploitation, such as slavery, servitude and forced labour. Finally, it recommended that the victim should be recognized procedural guarantees independently of their participation in the criminal process to guarantee their access to rights and their non-re-victimization.

**In 2022**, the Government Delegation against Gender-Based Violence published a report titled **Impact of the COVID-19 pandemic on gender-based violence in Spain** (*Impacto de la pandemia por COVID-19 en la violencia de género en España*)<sup>127</sup>. The study was divided into three large sections: The first section evaluated three large time periods when analyzing the incidence of the pandemic on gender-based violence issues; The second section examined gender-based violence with respect to homicides, complaints filed and protection orders adopted, number of phone calls received by the telephone helpline -016, the comparison with violence in general and with domestic violence in particular, and some of the consequences and situations related to violence; The third section presented the conclusions and indications about the circumstances concluded from the analyses carried out. It **concluded** that The COVID-19 pandemic impacted gender-based violence through three mechanisms: a) it enhances the factors that aggressors habitually use to exercise violence (isolation, justification, control, etc.) in circumstances that make it difficult to identify them; b) it makes it difficult for women to escape violence because they don't have the opportunity; c) it limits women's access to care. It also revealed that the pandemic created circumstances that

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<sup>126</sup> Spanish network against the trafficking in Human Beings (*Red Española contra la Trata*) (2022), [Recommendations for GRETA of the Spanish Network Against Trafficking in Persons \(RECTP\) to the Third Report on the implementation of the European Convention on the fight against Trafficking in Human Beings](#) (*Recomendaciones para GRETA de la Red Española Contra la Trata de Personas (RECTP) al Tercer Informe Relativo a la implementación del Convenio de Europa sobre la lucha contra la Trata de Seres Humanos*), Madrid, *Red Española contra la Trata*.

<sup>127</sup> Lorente Acosta, M. Luna del Castillo, J. Montero Alonso, M. and Badenes Sastre, M., Granada University (*Universidad de Granada*) (2022), [Impact of the COVID-19 pandemic on gender-based violence in Spain](#) (*Impacto de la pandemia por COVID-19 en la violencia de género en España*), Madrid, Ministerio de Igualdad; [Executive summary in English](#).

led to a significant decrease in the number of gender-based homicides, especially during the lockdown. Furthermore, the analysis of gender-based homicides and general homicides revealed that while gender-based homicides and homicides against men decreased in 2020 compared to the average between 2015 and 2019, where homicides against women due to causes other than gender-based violence increased.

**In 2022, the Ministry of Equality** with the NGO [Hybridas Association](#) worked and published a report titled ***Gender-based political violence in Spain*** (*La violencia política por razón de género en España*)<sup>128</sup>. The first section examined the term political violence and collected and made visible a number of academic research as well as the legislative efforts and organizations to act against it. The third section analyzed the legislation developed so far at the international level. It included a historical synthesis that includes the development of political violence based on gender and a qualitative analysis of this violence through the experiences of various women whose political activity was considered relevant for the research. It concluded that there were no normative mechanisms in Spain that regulate this violence, which needs legislation and also "ad intra" protocols of political institutions to liaise between stakeholders and the justice courts, or between the social organizations and the public administrations' bodies, and also among the different media to address the awareness, detection, action, and reparation of this violence. It pointed out the relevance of generating spaces for debate and encounter around this violence so that it ceases to be a "reality in search of concept", a silenced problem, an individual or collective experience that those who experience go through in solitude, fear, or uncertainty. Gender-based political violence was not perceived or treated as a specific problem neither within the analysis of political violence nor within gender-based violence.

**In March 2022**, the Ministry of Equality (*Ministerio de Igualdad*) announced that the **preparatory works for a comprehensive national law against the trafficking in Human Beings** started. There was a public consultation opened from 19 April 2022 to 8 May 2021 as requested for the preparatory works to develop a new Comprehensive Law against Trafficking in Human Beings<sup>129</sup>.

El pasado 17 de marzo de 2022 tuvo lugar el «Seminario Internacional sobre el Convenio de Estambul y la Violencia Sexual en España: Avances, retos y recomendaciones», organizado por la Fundación para la Convivencia Aspacia en el marco del Día

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<sup>128</sup> Hybridas Association (2022), [Gender-based political violence in Spain](#) (*La violencia política por razón de género en España*), Madrid, Ministry of Equality.

<sup>129</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*), [Igualdad inicia sus trabajos para la elaboración de una Ley Integral Contra la Trata](#), press release, 18 March 2021.

Internacional de las Mujeres. En el seminario se reflexionó sobre los avances, los retos y los desafíos que hay en España en materia de violencia sexual; y se apuntaron algunas iniciativas para implementar de manera efectiva el Convenio de Estambul en el país.<sup>130</sup>

**In March 2022**, it was published a report on **public policies against digital gender-based violence**<sup>131</sup>. It concluded that the digital gender-based violence is a very relevant problem, which affects broad layers of society, especially adolescent and young women, making it difficult for many of them to use and enjoy digital technologies at a time when they are key to personal and professional development. A 54% of women who experienced harassment through social networks have experienced panic attacks, anxiety or stress. More than 25% of women between 16 and 25 years old in Spain have received insinuations considered inappropriate through networks. In less than a decade, crimes were multiplied by five in Spain. It stated that the first step in addressing gender-based digital violence is to conceptualize and delimit it. The digital gender-based violence does have an strong component of anonymity, and serves to reproduce the verbal and psychological aggressions of the physical world. The recommendations to eradicate it were structured in three main areas: prevention, attention to victims and prosecution of crime. It contained a reference to the Crime Statistics Portal of the Ministry of the Interior stated that in 2020, 1,068 victimizations of women due to illegal computer access, 5,134 for threats, 1,069 for coercion and 1,245 for discovery and or disclosure of secrets. Official statistics maintain a growing trend.

**In May 2022**, the Women Foundation published a report titled **Scope and consolidation for the protection of orphans of gender-based violence**.<sup>132</sup> It included **certain recommendations such as**: to consider that the follow-up information on orphans and orphans of gender violence is scarce, limiting, in a generalized way, to the figures on children provided by the Government Delegation against Gender Violence; problems related to the management of pensions and benefits recognized under Law 3/2019, of March 1, on improving the orphanhood situation of the daughters and sons of victims of gender violence

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<sup>130</sup> Fundación para la convivencia ASPACIA (2022), [Recomendaciones Seminario Internacional ASPACIA Convenio de Estambul y Violencia Sexual en España. Avances, retos y recomendaciones](#), Madrid, Ministerio de Asuntos Exteriores, Unión Europea y Cooperación.

<sup>131</sup> Observatorio Nacional de Tecnología y Sociedad (2022), [Violencia digital de género: una realidad invisible. Policy brief para abordar su impacto en la sociedad](#), Madrid, Ministerio de Asuntos Económicos y Transformación Digital.

<sup>132</sup> Women Foundation (2022), [Scope And Consolidation Of Protection For Huérfan@S Gender-Based Violence](#) (Alcance y Consolidación de la Protección a Huérfan@S de la Violencia de Género), Madrid, Fundación Mujeres.



and other forms of violence against women<sup>133</sup>; eventhough the status of direct victims of gender-based violence of sons and daughters of women victims is expressly recognized within the legislation in force since 2015, it was conclude that there are still many situations in which the mechanisms for access to measures to repair the damage for them have not been foreseen, or are not developed.

**On 10 May 2022, the National Statistics Institute** (*Instituto Nacional de Estadística*) published the last **2021 data corresponding to domestic violence and gender-based violence** (*Estadística de violencia doméstica y violencia de género. Año 2021*)<sup>134</sup>. The number of women victims of gender-based violence increased by 3.2% in 2021, to 30,141. The rate of victims of gender-based violence was 1.4 per 1,000 women aged 14 and over. The number of victims of domestic violence decreased by 0.5%.

**On 22 July 2022,** the Observatory against Domestic and Gender Violence (*Observatorio contra la Violencia Doméstica y de Género*) published a report titled as **Analysis of the sentences handed down in 2019 related to homicides or murders due to gender based and domestic violence** (*Análisis de las sentencias dictadas en el año 2019 relativas a homicidios o asesinatos por violencia de género y doméstica*)<sup>135</sup>. The study focuses on the 50 Sentences collected – 26 for the death of women due to Gender Violence, 5 for the death of children (one of the sentences reflects the death of a child and his mother), 5 for Intimate Domestic Violence, and 15 cases of femicide in its concept expanded by the Istanbul Convention issued during 2019 by the Provincial Courts in Jury Court proceedings. In all of them, it has been affirmed, after the oral trial with all the guarantees, that the result of death is attributable to the person against whom the accusation has been directed. Of the total sentences studied in 2019, except for children, 41 involved the murder of a woman (89.1%) and 5 that of a man (10.9%). The nationality of the aggressors is recorded in all sentences handed down for gender-based violence. The author is Spanish in 18 of the 26 cases (69.2%). In the remaining 8 judgments (30.6 percent), the author is of foreign origin. In terms of the

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<sup>133</sup> Spain, Head of State (*Jefatura del Estado*), [Law 3/2019, of March 1, on improving the orphanhood situation of the daughters and sons of victims of gender 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.

<sup>134</sup> Spain, National Statistics Institute (*Instituto Nacional de Estadística*), [2021 data corresponding to domestic violence and gender-based violence](#), press release, 10 May 2020.

<sup>135</sup> Observatory against Domestic and Gender Violence (*Observatorio contra la Violencia Doméstica y de Género*) (2022), [Analysis of the sentences handed down in 2019 related to homicides or murders due to gender based and domestic violence](#) (*Análisis de las sentencias dictadas en el año 2019 relativas a homicidios o asesinatos por violencia de género y doméstica*), Madrid, Observatorio contra la Violencia Doméstica y de Género.



nationality of the victims in the 26 sentences handed down in 2019. There were Spanish victims in 20 cases (76.9%). In the remaining 16 sentences (23.1%), the victim was a foreigner.

In July 2022, the Spanish network against the trafficking in Human Beings (Red Española contra la Trata) published a Supplementary report on a Comprehensive Law against Trafficking in Human Beings within the Recommendations for GRETA of the Spanish Network Against Trafficking in Persons (RECTP) to the Third Report on the implementation of the European Convention on the fight against Trafficking in Human Beings<sup>136</sup>. This supplementary report highlighted certain criteria to be applied by the new comprehensive law such as: to address all the purposes of trafficking (sexual exploitation, labor exploitation, forced labor, organ trafficking, criminal activities, forced marriage ...) and / or types of exploitation and all people; to consolidate the comprehensive care and protection in the face of this serious violation of human rights; to have the rank of Organic Law, consolidating the advances occurred in this area in recent years and providing a stable framework of obligations, providing coherence to the current legal system; to incorporate a human rights approach and a clear gender and children's perspective.

**On 6 September 2022**, the State General Public Prosecutor (*Fiscalía General del Estado*) presented its 2021 annual report titled **Prosecutor's Office Report in the opening act of the judicial year** (*Memoria de la Fiscalía en la apertura del Año Judicial*)<sup>137</sup>. It included a particular reference to the vulnerability of women with a foreign nationality or origin. It registered that: 33.13% of the complaints filed in 2021 referred to foreign women, as well as 32.54% of the protection orders issued (Article 31bis of the Aliens Law)<sup>138</sup>: To improve the care and protection of these victims, some prosecutors' offices claimed the need for specialized services of official translation in line with what is established by Article 6 of the Law 4/2015. In relation to the victims of Trafficking in human beings in 2021, there was an increase of 37.5% over the previous year, and 187 legal

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<sup>136</sup> Spanish network against the trafficking in Human Beings (Red Española contra la Trata) (2022), [Supplementary report on a Comprehensive Law against Trafficking in Human Beings within the recommendations for GRETA of the Spanish Network Against Trafficking in Persons \(RECTP\) to the third Report on the implementation of the European Convention on the fight against Trafficking in Human Beings](#), Madrid, Red Española contra la Trata.

<sup>137</sup> Spain, State General Public Prosecutor (*Fiscalía General del Estado*), "[La Fiscalía General del Estado presenta la Memoria de la Fiscalía en la apertura del Año Judicial](#)", press release, 6 September 2022.

<sup>138</sup> Spain, Head of State (*Jefatura del Estado*), [Organic Law 4/2000 of 11 January 2000 on rights and liberties of aliens in Spain and their social integration, 12 January 2000](#) (*Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social*), 11 January 2000.

proceedings were initiated. Out of those, 67.27% referred to trafficking for the purpose of sexual exploitation. In relation to the victims, 277 victims were detected, 98.55% were women or girls (incl. 5 children and 1 with disabilities). In terms of gender-based violence, the main novelty was that the Prosecutor's Office assumed the name de "feminicide" (*femenicidio*) for homicides and murders of women due to gender-based violence. It included two main differentiated categories such as family or intimate femicide (*feminicidio familiar o íntimo*) when the aggressor is a partner or ex-partner of the victim or has some family or kinship relationship by consanguinity or affinity; and non-intimate femicide (*feminicidio no íntimo*), when committed by a man with whom the victim has no or has had any relationship of those mentioned above. Along with these two categories, there was a third under the name femicide by connection (*feminicidio por conexión*) to refer to those homicides or murders of third parties committed when defending the woman to whom the attack was directed (not including vicarious violence (*violencia vicaria*), since this is defined as extended or expanded femicide). In 2021, it was recorded a total of 50 intimate femicides of couples, 8.6% more than in 2020, but lower than the data for 2019 (59 fatalities) and 2018 (51 fatalities).

**On 8 August 2022**, the Ministry of Equality presented an **awareness-raising campaign, "Wanting Us Alive. Wanting us free"** (*Querernos Vivas. Querernos libres*)<sup>139</sup>. The initiative seeks to help victims of sexual abuse. The campaign focuses on three cases: the viralization of a video recorded in privacy, after numerous women reported punctures while partying; attention is paid to abuse in childhood. Previously **on 8 September 2022**, the Ministry of Equality presented another awareness-raising campaign, **"The Soft Man"** (*El hombre blandengue*). The campaign is aimed at men with examples that show everything we have advanced in Spain during these years, while also showing that, with the advance of feminism and equality between men and women, they also win and therefore benefit the whole society.

**On 27 September 2022, the Ministry of the Interior** published the **Statistical Yearbook of the Ministry of the Interior 2021**<sup>140</sup> (*Anuario Estadístico del Ministerio del Interior 2021*). In terms of violence against women, in 2021, the number of women killed by gender-based violence amounted to a total of 44. In terms of victims of trafficking in human beings, in 2021

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<sup>139</sup> Spain, Ministry of Equality (*Ministerio de Igualdad*) (2022), [El Ministerio de Igualdad lanza la campaña "Querernos Vivas. Querernos Libres" para prevenir la violencia sexual](#), 8 August 2022.

<sup>140</sup> Spain, Ministry of the Interior (*Ministerio del Interior*), [Statistical Yearbook of the Ministry of the Interior 2021](#) (*Anuario Estadístico del Ministerio del Interior 2021*), Madrid, Ministerio del Interior.

there were 136 victims of trafficking for sexual exploitation detected; 51 for forced labor, servitude, and slavery, and 2 for other purposes (forced marriages).

**In 2022**, it was published a **Digital Gender Gap Report**<sup>141</sup>. It concluded that in recent years, efforts were made to intensify and to reverse this trend, through the visualization of reference models of women, among others. But it remains a long way to go. In terms of digital skills, there is hardly any difference by gender, so equal opportunities could be assumed. And yes, only 2% of society lacks digital skills, but the problem is that, in that minority, the majority are women. Another of the most pronounced gaps had to do with technological professions. In the field of work, women mothers were facing unequal situations for some time, due to the lack of work-life balance policies in companies. Their working hours are usually shorter for this reason, they are usually the **ones who ask for** the reduced working day where only 6.2% of men ask for it or part-time jobs, and, in general, they give up or cannot access certain jobs and positions, many times, due to conciliation.

**In 2022**, the NGO Accem is working on a **project** funded by the Spanish Ministry of Social Rights and Agenda 2030 **to develop a Participatory Action Research** (*Investigación Acción Participativa*, IAP, in its Spanish acronym) **on digital sexual violence against migrant women**<sup>142</sup>. Later an executive report with the conclusions obtained will be published together with a guide with information for detection and prevention. It seeks to guarantee the use and enjoyment of digital practices free of violence against women violence.

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<sup>141</sup> Velasco, L. , Observatorio Nacional de Tecnología y Sociedad (ONTSI) (2022), [Digital Gender Gap Report](#) (*Informe Brecha Digital de Género*), Colección Brechas en la digitalización en España.

<sup>142</sup> Accem, ["Investigación Acción Participativa de Accem sobre la violencia sexual digital contra las mujeres"](#), press release, 26 August 2022.

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

### 1.13 8.1 CRPD policy and legal developments & implementation of the European Accessibility Act

In January 2022, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) published a document of proposals on the political agenda and the **participation of people with disabilities, their families and their representative organizations in the semester of the Spanish presidency of the European Union (EU)**, scheduled for the months of July to December of the year 2023 (*Documento de propuestas sobre la agenda política y la participación de las personas con discapacidad, sus familias y sus organizaciones representativas en el semestre de presidencia española de la Unión Europea (UE), previsto para los meses de julio a diciembre del año 2023*)<sup>143</sup> asked for the Spanish Presidency of the European Union (EU) of the second half of 2023 serve to make real the regulation of the European card of person with disabilities, in order to grant mutual homologation to the official recognitions of disability of each member state.

On 3 May 2022, the Spanish Government approved **the II Spanish Disability Strategy 2022-2030**<sup>144</sup>. It focused on **three priority aspects: gender equality and feminist approach, rurality and demographic challenge and people with great needs for support**. It was built with a participatory methodology. A survey will be carried out with more than 8,000 responses,

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<sup>143</sup> Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) (2022), [Document of proposals on the political agenda and the participation of people with disabilities, their families and their representative organizations in the semester of the Spanish presidency of the European Union \(EU\), scheduled for the months of July to December of the year 2023](#) (*Documento de propuestas sobre la agenda política y la participación de las personas con discapacidad, sus familias y sus organizaciones representativas en el semestre de presidencia española de la Unión Europea (UE), previsto para los meses de julio a diciembre del año 2023*), Madrid, Spanish Committee of Representatives of Persons with Disabilities.

<sup>144</sup> Spain, Council of Ministers (*Consejo de Ministros*), "[El Gobierno aprueba la Estrategia Española de Discapacidad 2022-2030](#)", press release, 3 May 2022.

13 from discussion groups on key topics such as education, health, employment or independent living, where 190 people participated, more than 60% of them people with disabilities. For the first time, a focus group was organized with people with great support needs such as people without language, with very intense disabilities for their needs and desires to be collected.

**On 28 June 2022**, the Ministry of Social Rights and Agenda 2030 and the regions (autonomous communities) approved the **Agreement to improve the quality of residences and the Dependency Care System**<sup>145</sup>. The **most important changes were**: The elimination of macro-residences: proposes more homely spaces; cohabitation groups of 15 people; an increase in the staff ratio to 0.50 and 80 percent indefinite in 2029; more single rooms (75 percent); the end of use of restraints: physical, mechanical or pharmacological (term of three years); the advocacy for home care for each person to have a personal plan of care that captures their preferences for how they want to live; the new construction of a maximum of 120 places in urban areas and 75 in rural areas; and 65 percent of single rooms.

**In August 2022**, the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) commented that the Ministry of Social Rights and Agenda 2030 only imposed **4 sanctions for non-compliance with the rights of people with disabilities in the period 2015-2022**<sup>146</sup>. The companies sanctioned were ING Bank, Endesa Energía and BBVA (in the amount of 30,000 euros) and Vueling (in the amount of 90,000 euros). In terms of numbers, the Ministry of Social Rights received 22 complaints in 2021 and 6 in 2022, but only 1 was admitted each year. And the one admitted in 2022, was shelved.

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<sup>145</sup> Spain, Ministry of Social Rights and Agenda 2030 (*Ministerio de Derechos Sociales y Agenda 2030*), [Resolution of July 28, 2022, of the Secretary of State for Social Rights, which publishes the Agreement of the Territorial Council of Social Services and the System for Autonomy and Attention to Dependency, on common criteria for accreditation and quality of the centers and services of the System for Autonomy and Care for Dependency](#) (*Ministerio de Derechos Sociales y Agenda 2030*

Resolución de 28 de julio de 2022, de la Secretaría de Estado de Derechos Sociales, por la que se publica el Acuerdo del Consejo Territorial de Servicios Sociales y del Sistema para la Autonomía y Atención a la Dependencia, sobre criterios comunes de acreditación y calidad de los centros y servicios del Sistema para la Autonomía y Atención a la Dependencia), 28 July 2022.

<sup>146</sup> Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*), "[Derechos Sociales Solo ha impuesto 4 Sanciones por Incumplimiento de los Derechos de Las Personas Con Discapacidad En El Periodo 2015-2022](#)", press release, 10 August 2022.

**In October 2022**, the Government approved a **Royal Decree for the establishment and the recognition, declaration and assessment of the degree of disability, which updates the criteria for its evaluation and determination of the degree** (*Proyecto de Real Decreto por el que se establece el reconocimiento, declaración y valoración del grado de discapacidad, que actualiza los criterios para su evaluación y la determinación del grado*)<sup>147</sup>. Previously in Spain, the assessment of the degree of disability was based on the 1971/1999 Royal Decree, therefore the disability-specialized organizations asked for a new model, adapted to international standards<sup>148</sup>. The disability card is intended to be issued and be valid throughout the national territory with a common format and it will contain the identification data of the person; their degree of disability; the period of validity; the need for a third person or mobility difficulties, where appropriate, and confidentiality measures. The typological classification actually in place is as follows: Physical disability (which includes the categories osteoarticular, chronic, neuromuscular, expressive, and mixed diseases); mental disability (covering intellectual disability and mental illness); sensory disability (which includes hearing impairment, visual impairment, and deafblindness). And the variable related to the degree of disability is distributed into three groups, depending on the severity of the affectation: From 33% to 64%; from 65% to 74%; and more than 75%.

## **1.14 8.2 CRPD monitoring at national level**

In March 2022, the National Ombudsman (Defensor del Pueblo) published its 2021 Annual Report (Informe Anual 2021)<sup>149</sup>. Regarding discrimination on the basis of disability, it made reference to the accessibility to audiovisual media services where there were complaints denouncing the poor accessibility of audiovisual media for the group of people with hearing disabilities. In particular, the complainants considered insufficient for the measures subtitling and use of sign language.

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<sup>147</sup> Spain, Ministry of Social Rights and 2030 Agenda (*Ministerio de Derechos Sociales y Agenda 2030*), [Royal Decree for the establishment and the recognition, declaration and assessment of the degree of disability](#) (*Real decreto 888/2022 por el que se establece el reconocimiento, declaración y valoración del grado de discapacidad*), 18 October 2022.

<sup>148</sup> Spain, Ministry of Labour and Social Rights (*Ministerio de Trabajo y Derechos Sociales*), [Royal Decree 1971/1999, of December 23, on the procedure for the recognition, declaration and qualification of the degree of disability modified by Royal Decree 1364/2012 of 27 September](#). (*Real Decreto 1971/1999, de 23 de diciembre, de procedimiento para el reconocimiento, declaración y calificación del grado de discapacidad*), 23 December 1999.

<sup>149</sup> Spain, National Ombudsman (*Defensor del Pueblo*) (2022), [Annual Report 2021](#) (*Informe Anual 2021*), Madrid, National Ombudsman.

On 29 March 2022, it was published by the National Observatory of Disability (Observatorio Estatal de la Discapacidad) the Olivenza Report 2020-2021 on the situation of disability in Spain<sup>150</sup> (Informe Olivenza 2020-2021 sobre la situación de la discapacidad en España). It is based on documentary, legislative and statistical sources of information. It introduced the main legislative changes related to disability at the international, state and regional levels during 2020 and 2021. A quantitative analysis of the population with disabilities was also carried out from different databases and statistical sources, both European and national. The information is provided on people with disabilities and their relationship with employment, obtained from the report prepared annually by ODISMET on the labor market of people with disabilities in Spain. It also addressed the issue of the disability budget, based on the National State budget and the regional ones. It concluded by carrying out a specific analysis of the population with disabilities in the Extremadura region, both from a demographic perspective and from their social inclusion.

**On 18 April 2021, the Spanish Committee of Representatives of Persons with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) published its [\*\*Annual National CERMI report on human rights and disability in Spain for 2021\*\*](#) (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2021*)<sup>151</sup>. It made reference to older people with disabilities as one of the most vulnerable social groups in terms of protection of their rights, since they suffer inter-sectional discrimination derived from age and disability and are one of the most punished by Covid-19. Several **conclusions were highlighted**, such as a reference to the ruling of the Constitutional Court that protected a person with a disability, evicted from his home, because the Justice did not take into account his cognitive difficulties, which placed him in a position of vulnerability. It also refers to the 2021 European Court of Justice's judgment, which declared that the public procurement's Spanish national regulations were in accordance with Community legislation, as national legislation can go beyond what is laid down in the common European legislation and add specific requirements or requirements, provided that they comply with the principles of proportionality and adequacy, duly justified. The public procurement's Spanish national regulations establishes that a reservation of a percentage between a 7% to 10% should be considered in favor exclusively of the Special Centers of

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<sup>150</sup> Spain, National Observatory of Disability (*Observatorio Estatal de la Discapacidad*) (2022), [Olivenza Report 2020-2021 on the situation of disability in Spain](#) (*Informe Olivenza 2020-2021 sobre la situación de la discapacidad en España*), Madrid, Ministerio de Derechos Sociales y Agenda.

<sup>151</sup> *Comité Español de Representantes de Personas con Discapacidad CERMI* (2022), [Annual CERMI report on human rights and disability in Spain for 2021](#) (*Informe anual CERMI sobre derechos humanos y discapacidad en España correspondiente a 2021*), Madrid, CERMI.



Employment and Social Initiative (*Centros Especiales de Empleo e iniciativa social*), which the main objective is to carry out a productive activity of goods or services, participating regularly in market operations, and whose purpose is to ensure gainful employment for persons with disabilities.

**On 19 April 2022**, the National Statistics Institute (Instituto Nacional de Estadística, INE, in its Spanish acronym) published a **Survey on Disability, Personal Autonomy and Situations of Dependence** (Encuesta de Discapacidad, Autonomía personal y Situaciones de Dependencia, EDAD, in its Spanish acronym)<sup>152</sup>. **The main results** concluded that a total of 4.38 million people that amount a 94.9 out of every thousand inhabitants claimed to suffer some type of disability; Mobility problems were the most frequent with a total of 4.38 million people living in households claimed to have a disability or limitation in 2020. By sex, 1.81 million were men and 2.57 million women. Disability affected 94.9 people per thousand inhabitants and to a greater extent to women (109.2) and to a less extent to men (80.1). By age, 75.4% of the group with disabilities residing in households were 55 years of age or older. **In terms of methodology**, the survey was a macro-survey aimed at all people aged 2 and over who reside in family homes throughout the national territory. Its objective was to meet the demand for information by Public Administrations and numerous users such as civil society, providing a statistical basis for the planning of policies for people with disabilities that allow the promotion of personal autonomy and the prevention of situations of dependence. **Previously**, there were conducted four macro-surveys: the Disability, Disability and Disability Survey (Encuesta sobre discapacidades, deficiencias y minusvalías in 1986, the Disability, Impairment and Health Status Survey (Encuesta sobre discapacidades, deficiencias y estado de salud) in 1999 and the Disability, Personal Autonomy and Dependency Situations Survey (Encuesta de discapacidad, autonomía personal y situaciones de dependencia) in 2008 and 2020.

**In July 2022, the CERMI Women Foundation** (*Fundación CERMI Mujeres*) published a **Guide for providing adequate assistance in situations of armed conflict healthcare access and health care for women and girls with disabilities** (*Guía para proporcionar una asistencia adecuada en situaciones de conflictos armados*)<sup>153</sup>. It explained how to act to welcome women and girls with disabilities in a situation of international protection. It contains advice for public officials and social agents

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<sup>152</sup> Spain, National Statistics Institute (*Instituto Nacional de Estadística*), [Encuesta de Discapacidad, Autonomía personal y Situaciones de Dependencia \(EDAD\). Principales resultados. Año 2020](#), press release, 19 April 2022.

<sup>153</sup> CERMI Women Foundation (*Fundación CERMI Mujeres*) (2022), [Guide for providing adequate assistance in situations of armed conflict healthcare access and health care for women and girls with disabilities](#) (*Guía para proporcionar una asistencia adecuada en situaciones de conflictos armados*), Madrid, Fundación CERMI Mujeres.



on the assistance of displaced women and girls with disabilities, refugees and/or asylum seekers. It counted on the life testimonies of some Ukrainian women with disabilities or forced to flee their territories due to the effects of the armed conflict, as well as from the experience of their representative organizations and other civil society organizations from border countries involved in the humanitarian aid.

**In July 2022, the ONCE Social Group** reported consolidation of its position as **the fourth employer in Spain with 71,200 workers, and 58% of them were people with disabilities**. In 2021, it managed to incorporate 1,221 people while in 2021 it reached the number of 30,483 women, which was 42.8% out of the total.

**On 27 July 2022,** the Ministry of Labour and Social Economy (*Ministerio de Trabajo y Economía Social*), published the **Labour Market Report for People with Disabilities 2022** (*Informe del Mercado de Trabajo de las Personas con Discapacidad 2022*)<sup>154</sup>. It **concluded** that there was a total of 1.933.400 persons with disabilities of working age amounted a 6,32% out of the 30.601.400 total population of working age in Spain. It highlighted that most disabled persons were unemployed (65.66%), an aspect that increased significantly with age and with the degree of disability recognized. In comparison with men, women achieve higher rates of employment and activity as well as unemployment, although the differences between men and women are smaller than in the case of people without disabilities. There was very low participation in the labour market where the disabled person rate goes up to 77.7%, more than double than the general activity rate that is 34.3%. Out of that total labour market rate of participation, a 1,52% corresponded to persons with disabilities, and out of that 1, 52%, 175.370 were women with disabilities versus a total of 19.403.183 persons in Spain participating in the labour market. In terms of participation in the labour market by age, out of a total of 295.828 persons with disabilities participating in the labour market, 8.117 were under 25 years old, 105.726 were between 25 and 44 years old and 181.985 were over 45 years old. The overall unemployment rate was of 10,14% amounting 3.105.905 persons without disabilities and out of that a 4,67% amounting a total of 144.931 were persons with disabilities and out of the total 77.082 were women with disabilities. In terms of age and unemployment, 9.136 persons with disabilities were under 25 years old, and 46.769 persons with disabilities were between 25 and 44 years old and 89.026 persons with disabilities were over 45 years old. Other issues highlighted that the most representative disability

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<sup>154</sup> Spain, Ministry of Labour and Social Economy (*Ministerio de Trabajo y Economía Social*), [Labour Market Report for People with Disabilities 2022](#) (*Informe del Mercado de Trabajo de las Personas con Discapacidad 2022*)

was physical, that the level of education most often achieved was that of secondary school and that the degree of disability mostly recognized was concentrated between 33% and 44%.

**On 6 September 2022**, the **State General Public Prosecutor** (*Fiscalía General del Estado*) published the [\*Prosecutor's Office Report in the Opening Act of the Judicial Year\*](#) (*Memoria de la Fiscalía en la apertura del Año Judicial*)<sup>155</sup>. The 2019 Macro survey reveals with respect to women with disabilities in need of support measures that the prevalence of intimate partner violence throughout life among women with accredited disabilities is higher than among women without accredited disabilities. Thus, 20.7% of women with accredited disabilities suffered physical or sexual violence from a partner compared to 13.8% of women without an accredited disability. 40.4% of women with accredited disabilities declared to suffer some type of intimate partner violence compared to 31.9% of women without disabilities. Many women report that disability was a consequence of the violence suffered; 17.5% of women with disabilities who suffered any type of violence from their partners say that their disability was a consequence of the violence exerted by them. This percentage rises to 23.4% among women with disabilities who suffered physical or sexual violence. These were two realities that were defined as relevant in order to give an adequate response in criminal proceedings and when articulating the proper response in family proceedings. It concluded that it must be guaranteed the availability of interpreters, facilitators, and the use of tools such as easy reading, alternative, and augmentative communication systems, and pictograms to overcome the physical and psychological barriers that may affect these women, facilitate their access to the court procedure, and make effective their right to understand and be understood.

**On 16 September 2022**, the **National Observatory of Disability** (*Observatorio Estatal de la Discapacidad*, OED, in its Spanish acronym ) published a research titled ***People with disabilities in Rural Areas*** (*Personas con discapacidad en el Medio Rural*)<sup>156</sup>. Its objective was to detect those aspects that represent a barrier to social inclusion of persons with disabilities residing in rural areas. In Spain, almost a quarter of the population with disabilities (one million people with disabilities) live in rural areas. The distribution by gender and age indicated that most of population were women. The report **detected different risk factors to social inclusion for the population with disabilities in rural areas such as**: a limited supply

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155 Spain, State General Public Prosecutor (*Fiscalía General del Estado*), "[La Fiscalía General del Estado presenta la Memoria de la Fiscalía en la apertura del Año Judicial](#)", press release, 6 September 2022; <https://www.fiscal.es/documentaci%C3%B3n>

156 National Observatory of Disability (*Observatorio Estatal de la Discapacidad*) (2022), "[People with disabilities in Rural Areas](#)" (*Personas con discapacidad en el Medio Rural*), Madrid, National Observatory of Disability.

of resources; a considerably higher risk of poverty; less job stability; greater barriers in education and training the scarcity of public transport; the lack of accessibility and the scarce access and use of the internet and ICTs. It was concluded that women with disabilities in rural areas faced extraordinary difficulties for social inclusion, derived from greater invisibility and gender stereotypes.

**On 18 September 2022, the Spanish Committee of Representatives of Persons with Disabilities** (*Comité Español de Representantes de Personas con Discapacidad*, CERMI, in its Spanish acronym) published a report on the issues related to disability addressed **by the Law 17/2022 Science Law on Science, Technology and Innovation**<sup>157</sup>. The report highlighted that the development of universally accessible resources will be encouraged to ensure access on equal terms. It analyzed the extension of the duration of the doctoral contract for people with disabilities and the extension of the duration of the access contract for doctoral researchers with disabilities. where the contract is concluded with a person with a disability, it may reach a maximum duration of eight years, including extensions. the characteristics of the research activity and the degree of limitations in the activity shall be taken into account (article 32).

**In September 2022, the National Observatory of Disability** (*Observatorio Estatal de la Discapacidad*, OED, in its Spanish acronym ) published a research titled "**Suicide in people with disabilities in Spain**"<sup>158</sup>. It **concluded that** suicide is due to multicausal risk factors, that could be related to social, community, socio-community environment, or individual areas and which have a higher incidence among people with disabilities, especially in cases of disability due to mental disorder, kidney failure, brain injury and physical disability. Other situations of discrimination and barriers to participation could occur, harassment especially in the case of adolescents, women and girls, in addition to situations of dependence, or unwanted loneliness.

In September 2022, it was published an evaluation report titled Evaluation report of the System for the Promotion of Personal Autonomy and Care for Persons in a Situation of Dependency (*Informe de evaluación del Sistema de promoción de la Autonomía*

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<sup>157</sup> Spain, Head of State (*Jefatura del Estado*), [Law 17/2022, of 5 September, amending Law 14/2011, of 1 June, on Science, Technology and Innovation](#) (*Ley 17/2022, de 5 de septiembre, por la que se modifica la Ley 14/2011, de 1 de junio, de la Ciencia, la Tecnología y la Innovación*), 6 septiembre 2022.

<sup>158</sup> Spain, National Observatory of Disability (*Observatorio Estatal de la Discapacidad*) (2022), [Suicide in people with disabilities in Spain](#) (*El suicidio en las personas con discapacidad en España*), Madrid, Observatorio Estatal de la Discapacidad.

*personal y Atención a las personas en situación de Dependencia*, SAAD, in its Spanish acronym)<sup>159</sup>. It analysed the state of the art on Long-Term Care at the national level and the European Union, both the structural and cross-cutting dimensions of SAAD were highlighted. The access to the Long-Term Care was part of the most recent and innovative development of social policies in the EU. the need for an improve and strengthen the SAAD Governance system. Its governance system, which in the European Long-Term Care model is based on the decentralisation at the regional and local level and on ad hoc forms of the Open Method of Coordination (OMC); To advance an effective ongoing reform process, it might be useful to take as a reference the Open Method of Coordination (OMC) used by the EU in relation to the competences of the Member States; theAccess to SAAD in its different phases and processes can clearly be improved; The reduction in waiting times committed in the 2021 Shock Plan (Plan de Choque de 2021) must be intensified; The economic added value of SAAD is a consolidated fact, both in terms of the offer of services and in the macroeconomic impact.

**On November 2022**, CERMI published the report titled ***CERMI report on disability and accessibility content incorporated in the 2022 Progress Report of the 2030 Sustainable Development Strategy***<sup>160</sup> in response to the Spanish Government 2022 Progress Report of the 2030 Sustainable Development Strategy approved on 25 October 2022. CERMI commented on the developments related to disability or accessibility included in the government report. The Council of Ministers highlighted the evolution of hate crimes. Despite the global decrease in hate incidents from 2017 to 2020), there was an increase of 69.3% in relation to people with disabilities.

**On 8 November 2022**, the ONCE and the Law and Disability Foundations and the Autonomous University of Madrid, in collaboration with the Spanish Committee of Representatives of Persons with Disabilities (*Comité Español de Representantes de Personas con Discapacidad*) presented an study on ***the situation of teaching and temporary research staff with disabilities in the Spanish university system*** (*la situación del personal docente e investigador (PDI) con discapacidad en*

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<sup>159</sup> Rodríguez, G., Marbán, V. (2022), [Evaluation report of the System for the Promotion of Personal Autonomy and Care for Persons in a Situation of Dependency](#) (*Informe de evaluación del Sistema de promoción de la Autonomía personal y Atención a las personas en situación de Dependencia (SAAD)*), Madrid, Ministerio de Derechos Sociales y Agenda 2030.

<sup>160</sup> CERMI (2022), [CERMI report on disability and accessibility content incorporated in the 2022 Progress Report of the 2030 Sustainable Development Strategy](#) (*Informe del CERMI sobre los contenidos en materia de discapacidad y accesibilidad que incorpora el Informe de Progreso de 2022 de la Estrategia de Desarrollo Sostenible 2030*), Madrid, CERMI.

*el sistema universitario español*)<sup>161</sup>. **It concluded that** although Spain has extensive legislation aimed at promoting inclusion in the labor market without discrimination against people with disabilities, the university system keeps its doors closed to people with disabilities as teaching and research professionals. The situation was described as "critical" mainly due to all the barriers to access. It highlighted the repeated and unpunished failure by public universities to apply the minimum quota of 7 % of people with disabilities that have to be employed in the public sector as stated by the Article 59 of the law 5/2015 approving the revised text of the Law on the Basic Statute of Public Employees law<sup>162</sup>. The requirements are that those persons with disabilities should pass the selection processes and prove their disability and compatibility with the performance of the tasks. The minimum quota of seven percent will be made so that, at least, two percent of the places offered are to be covered by people who prove intellectual disability and the rest of the places offered are for people who prove any other type of disability. It made also a reference to the lack of knowledge they register about their characteristics and needs.

**In November 2022**, the ONCE Social Group released the first educational and accessible video game named "**ONCITY**"<sup>163</sup>. It addresses people of all ages, conditions, and profiles, and invites the players to put themselves in the shoes of people with different disabilities and achieve, together with the characters of the video game, cities, or fully inclusive environments. It will be available free of charge. It is composed of 12 minigames, more than 30 quiz questions, and fun surprise content such as recommendations of movies, series, or family plans, all commented on in easy text and voice. The objective was to sensitize the participating students, inviting them to empathize with people who have some type of disability (visual, auditory, physical, or intellectual), through an inclusive experience where each game played and each route made by ONCITY will be a learning and a new sensation.

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<sup>161</sup> Márquez Vázquez, C. (2022), "[The situation of teaching and temporary research staff with disabilities in the Spanish university system](#)" (*La situación del personal docente e investigador (PDI) con discapacidad en el sistema universitario español*), Madrid, ONCE and the Law and Disability Foundations and the Autonomous University of Madrid, Spanish Committee of Representatives of Persons with Disabilities.

<sup>162</sup> Spain, Ministry of Finance and Public Administration (*Ministerio de Hacienda y Administraciones Públicas*), [Royal Legislative Decree 5/2015, of 30 October, approving the revised text of the Law on the Basic Statute of Public Employees](#) (*Real Decreto Legislativo 5/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto Básico del Empleado Público*), 30 October 2015.

<sup>163</sup> ONCE Social Group (*Grupo Social ONCE*), "[El Grupo Social ONCE estrena el primer videojuego educativo accesible](#)", press release, 3 November 2022.

## Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socio-economic status, health status and physical appearance, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body.
<b>Title (original language)</b>	Diferentes es iguales
<b>Title (EN)</b>	Different are Equal
<b>Organisation (original language)</b>	Ministerio de Igualdad
<b>Organisation (EN)</b>	Ministry of Equality
<b>Government / Civil society</b>	Government
<b>Funding body</b>	Ministry of Equality
<b>Reference (incl. URL, where available)</b>	<a href="https://www.youtube.com/watch?v=rnTsW63VJ_k">https://www.youtube.com/watch?v=rnTsW63VJ_k</a> <a href="https://www.igualdad.gob.es/comunicacion/campanas/Documents/Cartel_DiferentesEsIguales_Ingles.pdf">https://www.igualdad.gob.es/comunicacion/campanas/Documents/Cartel_DiferentesEsIguales_Ingles.pdf</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	23 May 2022
<b>Type of initiative</b>	Awareness raising campaign

<b>Main target group</b>	Society at large
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>In 2022, the Ministry of Equality launched the first awareness-raising campaign in the history of the Government of Spain specifically addressing sexual diversity.</p> <p>The campaign called for respect for diversity and showed different sexual orientations and gender identities from a positive perspective.</p> <p>Its main objective was to end the stereotypes and prejudices that persisted about lesbian, gay, bisexual, trans, non-binary, or intersex people.</p> <p>It also referred to diversity within sexual and gender diversity, highlighting the existence of a wide range of identities, and also evidencing the ethnic-racial, bodily or age differences present within the LGTBI collective as in the general society itself.</p> <p>The campaign starred real people who have been represented as they are, with no professional models.</p> <p>It comprises a video, a radio spot and graphic materials for digital and outdoor media. Taking as inspiration the game "Who's Who", and through the slogan "Different is the same", a society is shown where the chips that are not interested are eliminated. Both the video and the graphic materials show nine people of different sexual orientations and different gender identities, including non-binary ones.</p>
<b>Highlight any element of the actions that are transferable (max. 500 chars)</b>	<p>It addresses an issue of common interest for all Member States related to the need to tackle discrimination against LGBTIQ people or discrimination based on socio-economic status, health status, and physical appearance.</p> <p>Its main objective was to end the stereotypes and prejudices that persist about lesbian, gay, bisexual, trans, non-binary or intersex people. To this end, diversity within sexual and gender diversity is also shown, not only giving prominence to a wide range of identities, but also evidencing the ethnic-racial, bodily or age differences that occur in the LGTBI collective with the same frequency as in society itself.</p>

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b></p>	<p>It was a tool funded and developed by a public administration body and available anytime.</p>
<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>It was a national campaign supported by the official databases where all data referred to the demands and cases will be collected and analyzed.</p> <p>It was an initiative with a solid social impact: withdrawing violent or sexual content that spreads on the Internet without the permission of the people who appear on them.</p>
<p><b>Give reasons why you consider the practice transferable to other settings and/or Member States?</b></p>	<p>It addressed issues of common interest for all Member States when dealing with the EU anti-discrimination law and human rights frameworks that address sexual diversity. It also links with the concept and approach supported by the EU institutions towards cases of discrimination based on sexual orientation. It was also in line with the legislation and measures adopted to extend legal and social protection for LGBTI people.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>Not available</p>



<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about participation and engagement of Equality bodies and CSOs in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.
<b>Title (original language)</b>	Semana AntiRacista
<b>Title (EN)</b>	Anti-Racism Week
<b>Organisation (original language)</b>	Dirección General para la Igualdad de Trato y Diversidad Étnico Racial
<b>Organisation (EN)</b>	General Directorate for Equal Treatment and Racial Ethnic Diversity
<b>Government / Civil society</b>	Government
<b>Funding body</b>	Ministry of Equality
<b>Reference (incl. URL, where available)</b>	<a href="https://www.igualdad.gob.es/ministerio/dgigualdadtrato/Paginas/semana-antirracista-2022.aspx">https://www.igualdad.gob.es/ministerio/dgigualdadtrato/Paginas/semana-antirracista-2022.aspx</a> ; <a href="https://www.igualdad.gob.es/ministerio/dgigualdadtrato/semana-antirracista-2021/Paginas/index.aspx#:~:text=El%20Ministerio%20de%20Igualdad%2C%20a,la%20Asamblea%20General%20de%20las">https://www.igualdad.gob.es/ministerio/dgigualdadtrato/semana-antirracista-2021/Paginas/index.aspx#:~:text=El%20Ministerio%20de%20Igualdad%2C%20a,la%20Asamblea%20General%20de%20las</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2021 – 20022- on a year basis.
<b>Type of initiative</b>	Public body

<b>Main target group</b>	Spanish society at large
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>The Ministry of Equality organized and promoted the celebration of the II Antiracist Week, in the occasion of the celebration of the International Day for the Elimination of Racial Discrimination on 21 March.</p> <p>It took place from the 22 to the 25<sup>th</sup> March 2022 and it was possible to access all the recorded activities through <a href="#">the YouTube channel</a>.</p> <p>The <a href="#">I Anti-Racist Week program</a> as well as the <a href="#">II Anti-Racist Week program</a> contained conferences and activities that addressed the attention to the victims of racist acts, and how to improve the confidence of the victims of racial discrimination in the institutions to denounce the racist acts they suffer, as well as the sexual violence suffered by women, the adequacy of including ethnicity in statistics and studies, racial discrimination in housing and settlements. On 24 March 2022, it was presented a report titled as <a href="#">Approximation to the African population and Afro-descendants in Spain: Identity and access to rights</a> (<i>Aproximación a la población africana y afrodescendiente en España: Identidad y acceso a derechos</i>). Finally, this awareness raising activity was closed with the celebration of an act consisting on minutes of silence on remembrance of the victims of trans-Atlantic slavery.</p>
<b>Highlight any element of the actions that are transferable (max. 500 chars)</b>	The relevance of promoting official and national wide awareness raising campaigns on issues of particular relevance such as the racism. In Spain, other regional governments also promoted anti-racist activities within the same day as well as other civil society organizations.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one-off activities')</b>	<p>It was organized during 2 consecutive years and intends to be hold every year. In addition to it, it's a public body recognized within the structural organization the Central National government.</p> <p>Its counts on the funding support of the Central national Government through the Ministry of Equality.</p>

<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>It is a National and Central official program and public administration specialized division supported by the official databases where all data will be collected and analyzed. Likewise, information about the activities program should always be public and accessible.</p> <p>It is an initiative with a solid social impact: strengthening the response to racist acts that are deeply rooted in all structures and levels of the society and jeopardizes the promotion, protection and exercise of human rights for all. Spain as well as at EU level is recognized as a challenges and there is a commitment to address them.</p>
<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>It does address an issue of common interest for all Member States related to the implementation of the EU Action Plan against racism 2020-2025.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available.</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>Not available.</p>

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice in relation to the two topics addressed in the chapter: regarding the implementation of national action plans and regarding the legal or policy developments addressing Roma/Travellers equality and inclusion.
<b>Title (original language)</b>	Ley Orgánica 6/2022, de 12 de julio, complementaria de la Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación, de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal
<b>Title (EN)</b>	<a href="https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-11588">Organic Law 6/2022, of July 12, complementary to Law 15/2022, of July 12, integral for equal treatment and non-discrimination, amending Organic Law 10/1995, of November 23, of the Criminal Code</a>
<b>Organisation (original language)</b>	Gobierno del Estado Español. Jefatura de Estado.
<b>Organisation (EN)</b>	Spanish Government. Head of State
<b>Government / Civil society</b>	Government
<b>Funding body</b>	National State General Budget
<b>Reference (incl. URL, where available)</b>	<a href="https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-11588">https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-11588</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	12 July 2022
<b>Type of initiative</b>	Legal and policy development
<b>Main target group</b>	Spanish society at large
<b>Indicate level of implementation:</b>	National

<b>Local/Regional/National</b>	
<b>Brief description (max. 1000 chars)</b>	<p>On 12 July 2022, the Criminal code was amended by Law 6/2022 for equal treatment and non-discrimination, amending Organic Law 10/1995 of the Criminal Code<sup>164</sup>. It introduced anti-Roma (<i>antigitanismo</i>) as a specific hate crime towards the Roma population.</p> <p>It meant the introduction of new and more serious penalties ranging from 1 to 4 years in prison for those who directly or indirectly encourage, promote or incite hatred, hostility, discrimination or violence against a group, a part of it or against a specific person by reason of their membership, for racist, anti-Semitic, anti-roma reasons.</p> <p>It entailed the amendment of article 22.4 of the Criminal Code in relation to the circumstances that aggravate the criminal responsibility for committing a crime with discriminatory motivations.</p> <p>It also meant the amendment of article 510.1 and article 510.2 of the Criminal Code, which regulated hate speech by introducing the term "anti-Roma" within sections 1 ((a), (b) and (c)) and 2 ((a) and (b)).</p>
<b>Highlight any element of the actions that are transferable (max. 500 chars)</b>	<p>It addresses a particular form of racism. The Anti-Roma referred to individual statements and actions, and also in institutional policies and practices when it is negatively stereotyped, distorted, and subaltern, prejudices are poured, stigmatized, marginalized, excluded, discriminates, denigrates cultures and lifestyles, violence and hate speech that is exercised against Roma and other social groups.</p> <p>It facilitates the recognition of that anti-Roma discrimination is a multifaceted phenomenon that enjoys a broad social and political presence. And that operates as a critical obstacle to Roma's inclusion in society at large and acts to prevent Roma from enjoying equal rights, opportunities, and socio-economic participation.</p>
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	<p>It is a national law.</p>

<sup>164</sup> Spain, Head of State (*Jefatura de Estado*), [Organic Law 6/2022, of July 12, complementary to Law 15/2022, of July 12, integral for equal treatment and non-discrimination, amending Organic Law 10/1995, of November 23, of the Criminal Code](#) (*Ley Orgánica 6/2022, de 12 de julio, complementaria de la Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación, de modificación de la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*), 12 July 2022.

<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>The application of the law at all levels will imply new judgments at courts and new measures to be implemented by other public administration bodies in terms of protection of the victims or services to be provided. All those actions will have to be officially recorded and data will be publicly accessible on a regular basis.</p>
<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>Member States may take into account that on 9 December 2021, the European Commission published a communication titled "A more inclusive and protective Europe: extending the list of EU crimes to hate speech and hate crime" where the Council was invited to adopt a decision identifying hate speech and hate crime to which Roma people are subjected as another area of crime meeting the criteria set out in Article 83(1) TFEU.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not available.</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>Not applicable.</p>

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> <b>Please, provide one example of a promising practice related to the topics addressed in the chapter, i.e., in relation to data protection, and/or artificial intelligence systems.</b>
<b>Title (original language)</b>	Plan Nacional de Competencias Digitales
<b>Title (EN)</b>	National Digital Skills Plan
<b>Organisation (original language)</b>	Ministerio de Educación y Formación Profesional
<b>Organisation (EN)</b>	Ministry of Education and Vocational Training
<b>Government / Civil society</b>	Government
<b>Funding body</b>	The Ministry of Education and Vocational Training Ministry of Economic Affairs and co-financed by the European Regional Development Fund (ERDF).
<b>Reference (incl. URL, where available)</b>	<a href="https://portal.mineco.gob.es/RecursosArticulo/mineco/ministerio/ficheros/210127_plan_nacional_de_competencias_digitales.pdf">https://portal.mineco.gob.es/RecursosArticulo/mineco/ministerio/ficheros/210127_plan_nacional_de_competencias_digitales.pdf</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2020 – ongoing
<b>Type of initiative</b>	National government program on education and digital competences within the framework of the EU funded Recovery, Transformation and Resilience Plan.
<b>Main target group</b>	Children within the primary and secondary school system
<b>Indicate level of implementation: Local/Regional/National</b>	National

<p><b>Brief description (max. 1000 chars)</b></p>	<p>National Digital Skills Plan is the component 19 within the the Recovery, Transformation and Resilience (<i>Plan Plan de Recuperación, Transformación y Resiliencia</i>). It allocated more than 28% of the total allocation to the digital sector with an amount around 19,600 million euros. It covers the development of digital competences for Education in schools, Vocational Training programs and universities.</p> <p>Certain projects will serve to develop it such as the case of the Educa en Digital project and the Connected Schools program (<i>Programa de Escuelas conectadas</i>) .</p> <p>The <a href="#">Connected Schools program</a> nowadays in place was running since 2015 and that seek to contribute to providing educational centers with reliable and quality connectivity. It aimed to provide schools with ultra-fast broadband Internet access and to extend and consolidate the use of Information and Communication Technologies in the Spanish Education System. The program benefits more than 4 million students and more than 14,900 Spanish non-university educational centers. Further information in the webpage where the latest developments and locations where the project already finalized and or is pending Escuelas conectadas – INTEF</p> <p>The <a href="#">Educa en Digital program</a> run from June 2020 until February 2022. It aimed at the development of a set of actions to support the transformation of the education system through the provision of devices, digital educational resources, adaptation of teachers' digital skills, and actions that lead to the application of artificial intelligence to individualized education. Every unit is called a homeschooling position (<i>puestos educativos en el hogar</i>). It seek to respond to the needs identified after the Covid 19 health crisis where a triple digital divide across the education system was detected. The divide is related to the access and competent use by the students; the digital competence of teachers and in relation to the setting up of the virtual environments of educational centers. It included 4 lines of action: the provision of devices and connectivity; the provision of digital educational resources: applications and content; the training and digital competence of teachers; and the application of AI to an individualized educative program. The action provided more than 13,800 schools throughout Spain with about 440,000 devices with connectivity so that they can be used by their students in teaching-learning processes in digital educational environments. The project reached 43.7113 homeschooling positions and 13.832 school centers.</p>
<p><b>Highlight any element of the actions that is transferable (max. 500 chars)</b></p>	<p>The initiative is based upon a number of key objectives of common interest in all Member States and across many different types of institutions and activities.</p> <p>Those objectives were: 1) Provision of digital media for schools and creation and implementation of a Digital Center Plan; 2) Curricular insertion of digital skills and programming; 3) Digital Vocational Training Plans and</p>



	<p>Uni Digital Plan for the modernization of the Spanish university system, promoting a greater number of degrees and renewing existing programs.</p>
<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b></p>	<p>It is a program funded and developed by a public administration body.</p> <p>The digitalization of education is necessary regardless of the fact that there may be health emergencies similar to the one experienced in recent months.</p> <p>It was not an isolate program but a National Plan as it followed the steps already taken in this area,</p>
<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>It is a National Education government program supported by the official databases where all data will be collected and analyzed. Likewise, information about the activities program should always be public and accessible.</p> <p>It is an initiative with a strong social impact: strengthening children and adolescents' response to new technologies supporting them in their digital education, and guarantying training and access to materials and devices.</p>
<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>Member States need to develop these types of actions that serve to guarantee the correct protection of citizens in the digital field, contributing to creating a reliable environment that offers the same rights and responsibilities in place in other areas.</p> <p>One of the priorities of the European Union is to become a global model of the digital economy by helping the digitalization of developing economies by developing digital standards and driving this standardization at the international level. The European Union seeks to shape policies that will strengthen Europe's response to new technologies and help create new opportunities for business. It will also support digital education, offer training to workers and digitize public services.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not applicable</p>

<b>Explain, if applicable, how the practice provides for review and assessment.</b>	Not applicable
<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide a promising practice for the related topics addressed in the chapter (i.e., the impact of poverty and exclusion on children and children and justice).</b>
<b>Title (original language)</b>	Juzgado de Instrucción número 3 de las Palmas de Gran Canaria
<b>Title (EN)</b>	Investigative Court number 3 of Las Palmas de Gran Canaria
<b>Organisation (original language)</b>	Consejo General del Poder Judicial, CGPJ, in its Spanish acronym.
<b>Organisation (EN)</b>	General Council of the Judiciary
<b>Government / Civil society</b>	Government
<b>Funding body</b>	National State Budgets
<b>Reference (incl. URL, where available)</b>	<a href="https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Canarias/Organos-judiciales/ch.Directorio-de-organos-judiciales.formato3/?pag01=5&amp;vgnextlocale=es&amp;startAt=40&amp;provincia=35;">https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Canarias/Organos-judiciales/ch.Directorio-de-organos-judiciales.formato3/?pag01=5&amp;vgnextlocale=es&amp;startAt=40&amp;provincia=35;</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2021 - ongoing
<b>Type of initiative</b>	Specialized Violence against Children and Adolescents Judicial Court
<b>Main target group</b>	Children and adolescents victims and/or accused while they are within the judicial system.

<p><b>Indicate level of implementation: Local/Regional/National</b></p>	<p>Regional</p>
<p><b>Brief description (max. 1000 chars)</b></p>	<p>It was a pilot project that launched in 2021. It meant that Las Palmas de Gran Canaria was the first capital of Spain to have a Court specialized in Violence against Children and Adolescents (<i>Juzgado de Violencia contra la Infancia y la Adolescencia</i>).</p> <p>It offered particular physical facilities and acting protocols designed for the well-being of the children and adolescents.</p> <p>For example, there was set up a particular facility within the Maternal and Child Hospital to implement a mechanism for receiving complaints and taking statements and an office to be used by the forensic doctor, reviewing the Protocol of joint action and achieving greater specialization in forensic pediatrics and a new documentation and registration team in the hospital environment.</p> <p>It exclusively dealt with matters relating to childhood and adolescence, as approved by the body of the General Council of the Judiciary for the crime of injury, crimes against freedom, or against moral integrity, and against sexual freedom and indemnity.</p>
<p><b>Highlight any element of the actions that is transferable (max. 500 chars)</b></p>	<p>The Charter of Fundamental Rights of the European Union (2000/C 364/01) in its Article 24 related to the rights of the child states that “2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration” and the rights and protection of children while staying within the justice system will be also included. Equally, a Child-friendly justice is the thematic area 4 of the EU strategy on the Rights of the Child, which supports the EU’s actions to support justice systems that uphold the rights and needs of children.</p> <p>In 2022, it was published an <a href="#">Action guide of the pilot court of violence against children and adolescents of the judicial district of Las Palmas de Gran Canaria</a> (<i>Guía de actuación del juzgado piloto de violencia contra la infancia y la adolescencia del Partido Judicial de Las Palmas de Gran Canaria</i>). This Guide was promoted by the Government of the Canary Islands, the Ministry of the Presidency, Justice and Equality, and the Vice Minister of Justice and the General Directorate of Relations with the Administration of Justice. It was developed within the framework of a number of actions that aimed of establishing a model of good practices with children in the field of the administration of justice in the judicial district of Las Palmas de Gran Canaria.</p>

	<p>The General Council of the Judiciary (CGPJ) awarded with the X Quality of Justice Awards to the Court of Instruction number 3 of Las Palmas de Gran Canaria for its project to generate spaces of tranquility, trust and security for children and adolescents victims of violence. It was also awarded with the prize for the most accessible Justice in the modality of judicial body for this project, which was a pioneer to guarantee more effectively the right to effective guardianship in favor of children and adolescents<sup>165</sup>.</p>
<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b></p>	<p>It aimed to be extended to other Spanish regions. For example, the Valencia regional government has already shown its willingness to replicate the pilot project of the Court of Violence against Children.</p> <p>The 2021 <a href="#">Organic Law 8/2021 on comprehensive protection of children and adolescents against violence</a> (<i>Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia</i>) requested the Spanish national Government to regulate the establishment of these type of specialization of judicial bodies within one year after its publication (as stated by the twentieth final provision of the law 8/2021). Therefore, the Ministry of Justice was working on the specialization of the courts in violence against children, together with the Public Prosecutor's Office and specialized counseling experts' technical teams.</p>
<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>The application of the law at all levels will imply new judgments at courts and new measures to be implemented by other public administration bodies in terms of protection of the victims or services to be provided. All those actions will have to be officially recorded and data will be publicly accessible on a regular basis.</p>
<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>It addresses an issue of common interest for all Member States related to the need to tackle discrimination against LGBTIQ people or discrimination on the grounds of socioeconomic status, health status and physical appearance.</p> <p>Its main objective was to end the stereotypes and prejudices that still persist about lesbian, gay, bisexual, trans, non-binary or intersex people. To this end, diversity within sexual and gender diversity is also shown, not only giving prominence to a wide range of identities, but also evidencing the ethnic-racial, bodily or age differences that occur in the LGTBI collective with the same frequency as in society itself.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the</b></p>	<p>Not applicable</p>

<sup>165</sup> EFE Agency (*Agencia EFE*), "[El Juzgado de Violencia contra la Infancia y la Adolescencia de la capital grancanaria](#)", press release, 17 November 2022.

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

<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women.</b>
<b>Title (original language)</b>	Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual
<b>Title (EN)</b>	Spain, Head of State ( <i>Jefatura del Estado</i> ), <a href="https://www.boe.es/eli/es/lo/2022/09/06/10/con">Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom</a> ( <i>Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual</i> ), 6 SEptember 2022.
<b>Organisation (original language)</b>	Ministerio de Igualdad.
<b>Organisation (EN)</b>	Ministry of Equality
<b>Government / Civil society</b>	Government
<b>Funding body</b>	General State Budget
<b>Reference (incl. URL, where available)</b>	<a href="https://www.boe.es/eli/es/lo/2022/09/06/10/con">https://www.boe.es/eli/es/lo/2022/09/06/10/con</a>

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	6 September 2022 – ongoing
<b>Type of initiative</b>	Legislative development
<b>Main target group</b>	Women and children. Both Spanish citizens and foreigners.
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>It aimed to promote the prevention of sexual violence and guarantee the rights of all victims. It applied to women and children who were victims of sexual violence, regardless of their nationality and administrative status; or abroad if they hold a Spanish nationality.</p> <p>In the case of foreign victims of sexual violence in an irregular situation when reporting this type of situation the administrative disciplinary proceedings will not be open, or the ones opened will be suspended, as well as their expulsion or return. In addition, they may apply for a residence and work permit based on exceptional circumstances from the moment a protection order was issued in their favor or, failing that, a report from the Public Prosecutor's Office indicating the existence of indications of gender-based or sexual violence. Those authorizations shall not be resolved until the conclusion of the criminal proceedings.</p> <p>The distinction between sexual assault and abuse is eliminated, considering sexual assault is all those behaviors that violate sexual freedom without the consent of the other person. Consent shall be deemed to exist only when it has been freely expressed by acts which, taking into account the circumstances of the case, clearly express the will of the person. (Art. 178 of the C.P.). Passivity or silence does not mean consent. It is also expressly introduced as a form of a commission of sexual assault the so-called chemical submission or through the use of substances and psychotropic drugs that annul the will of the victim. Likewise, and gender-specific aggravating circumstance was introduced in these crimes.</p> <p>Likewise, among the behaviors with an impact on sexual life, female genital mutilation, forced marriage, harassment with a sexual connotation, and trafficking in human beings for the purpose of sexual exploitation</p>

	are considered sexual violence. Another novelty is the aggravation of the penalty for sexual assault on children under 16 years of age, which may reach up to 15 years in prison. In the case of sexual assault on persons over 16 years of age, the penalties shall range from 2 to 8 years and 7 to 15 years in the case of rape when the circumstances of article 180 of the Criminal Code. It included street harassment, defined as harassment that is directed at another person with expressions, behaviors, or propositions of a sexual nature that create an objectively humiliating, hostile, or intimidating situation for the victim. And it also deepened labor protection.
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The protection and rights guaranteed in terms of preventing and combating child sexual abuse. And the scope and concept of a number of behaviors with an impact on sexual life, such as female genital mutilation, forced marriage, harassment with sexual connotations, and trafficking in human beings for the purpose of sexual exploitation, which could be considered as sexual violence.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	It is a basic national law
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	The application of the law at all levels will imply new judgments at courts and new measures to be implemented by other public administration bodies in terms of protection of the victims or services to be provided. All those actions will have to be officially recorded and data will be publicly accessible on a regular basis.
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	Member States need to develop these types of actions that serve to guarantee the correct protection of women. The most serious forms of violence against women should be criminalized across the EU, such as rape, female genital mutilation, and gender-based cyber violence, including cyberstalking and non-consensual sharing of intimate images.  One of the priorities of the European Union is to condemn all forms of violence against women and girls. And it did reaffirm its commitment to proposing new rules to put an end to gender-based violence against women, including work harassment on grounds of sex.
<b>Explain, if applicable, how the</b>	Not applicable.

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

<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one example of a promising practice of national monitoring bodies (e.g., a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation, etc.) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding.
<b>Title (original language)</b>	Proyecto de real decreto por el que se establece el reconocimiento, declaración y valoración del grado de discapacidad, que actualiza los criterios para su evaluación y la determinación del grado.
<b>Title (EN)</b>	Draft law for the establishment and the recognition, declaration, and assessment of the degree of disability, which updates the criteria for its evaluation and determination of the degree
<b>Organisation (original language)</b>	Gobierno del Estado Español. Jefatura de Estado.
<b>Organisation (EN)</b>	Spanish Government. Head of State



<b>Government / Civil society</b>	Government
<b>Funding body</b>	National State General Budget
<b>Reference (incl. URL, where available)</b>	<a href="https://www.mdsocialesa2030.gob.es/servicio-a-la-ciudadania/proyectos-normativos/documentos/RD_RECONOCIMIENTO_DISCAPACIDAD2.pdf">https://www.mdsocialesa2030.gob.es/servicio-a-la-ciudadania/proyectos-normativos/documentos/RD_RECONOCIMIENTO_DISCAPACIDAD2.pdf</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	March 2022
<b>Type of initiative</b>	Legal and policy development
<b>Main target group</b>	Spanish society at large
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>This new regulation aimed to regulate the procedure for the recognition, declaration and qualification of the degree of disability, the establishment of the applicable scales, as well as the determination of the competent bodies, all with the purpose that the evaluation of the degree of disability that affects the person is uniform throughout all regions across the National Spanish State. Therefore, it guarantee the equal conditions for citizens' access to the rights provided for in the legislation.</p> <p>It seeks to pursue certain objectives and benefits, such as: To carry out an approach to the qualification of disability from a social approach and with an approach to the discourse of human rights; to provide a scientific basis for the understanding and study of health and the social and economic components that have an impact on the person; to have a computer application for the evaluation of disability, at different levels, facilitating the procedure and management of the evaluation process and its follow-up.</p>

	<p>Until the Draft proposal would be in place in Spain, the assessment of the degree of disability was based on the 1971/1999 Royal Decree, therefore the disability-specialized organizations asked for a new model, adapted to international standards<sup>166</sup>.</p> <p>The disability card intended to be issued and be valid throughout the national territory with a common format) and it will contain the identification data of the person; their degree of disability; the period of validity; the need for a third person or mobility difficulties, where appropriate, and confidentiality measures.</p> <p>The typological classification actually in place is as follows: Physical disability (which includes the categories osteoarticular, chronic, neuromuscular, expressive and mixed diseases); mental disability (covering intellectual disability and mental illness); sensory disability (which includes hearing impairment, visual impairment and deaf blindness). And the variable related to the degree of disability is distributed into three groups, depending on the severity of the affectation: From 33% to 64%; from 65% to 74%; and more than 75%.</p>
<p><b>Highlight any element of the actions that is transferable (max. 500 chars)</b></p>	<p>The proposal complied with the purpose of public and general interest to provide a procedure and more complete scales and a more precise definition of disability, which contemplates all the factors related to deficiencies (environmental, social, psychological, support ...) and that also allows a recognition of the international standards and harmonization in the assessments carried out.</p>
<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b></p>	<p>It is a basic national law</p>
<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>The application of the law at all levels will imply new judgments at courts and new measures to be implemented by other public administration bodies in terms of protection of the victims or services to be provided. All those actions will have to be officially recorded and data will be publicly accessible on a regular basis.</p>

<sup>166</sup> Spain, Ministry of Labour and Social Rights (*Ministerio de Trabajo y Derechos Sociales*), [Royal Decree 1971/1999, of December 23, on the procedure for the recognition, declaration and qualification of the degree of disability \(BOE January 26, 2000\), modified by Royal Decree 1364/2012, of September 27](#). (*Real Decreto 1971/1999, de 23 de diciembre, de procedimiento para el reconocimiento, declaración y calificación del grado de discapacidad*), 23 December 1999.

<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>The procedure and the new scales that are regulated are suitable to achieve a much more complete and accurate assessment of the situation of disability and guarantee equal treatment of citizens.</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>Not applicable</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>Not applicable</p>

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> <b>Please provide one high court decision addressing discrimination against LGBTIQ people or on the grounds of socio-economic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.</b>
<b>Decision date</b>	4 July 2022.
<b>Reference details</b>	Spain, <a href="#">Constitutional Court, 11083 Plenary. Sentence 67/2022, 2 June of 2022. Amparo appeal nº 6375-2019</a> ( <i>Tribunal Constitucional, 11083 Pleno. Sentencia 67/2022, de 2 de junio de 2022. Recurso de amparo 6375-2019</i> ), 4 July 2022.
<b>Key facts of the case (max. 500 chars)</b>	<p>The claimant was a transgender person graduated in aerospace engineering who was fired from his work because some days he was wearing a skirt and others in pants. The human resources person in charge asked him to go home to change his clothes and the claimant did not come back to the office during the rest of the day. The company based the dismissal on not having passed the probationary period established in his job contract.</p> <p>There were previous court decisions issued by the social chambers of the Supreme Court (<i>Tribunal Supremo</i>) and the High Court of Justice of Madrid (<i>Tribunal Superior de Justicia de Madrid</i>), which confirmed the judgment of a social court in Madrid dismissing his claim for the protection of fundamental rights and a request for damages.</p>
<b>Main reasoning/argumentation (max. 500 chars)</b>	Alleged violation of the prohibition of discrimination on the basis of sexual identity and the right to one's own image: absence of discriminatory evidence in the business decision to terminate the employment relationship on probation; there are no limits on the gender expression of the company's workers.
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	The Constitutional Court stated for the first time in a judgment that any type of discrimination suffered by a trans person because of their gender identity is contrary to the rights enshrined in the Spanish Constitution.

	<p>It made reference to Article 14 of the Spanish Constitution, where it was concluded that there is no closed list of cases of discrimination. Therefore, the gender identity should be considered as a circumstance that has to do with the free development of the personality, and linked to respect for human dignity (in reference to Article 10.1 of the Spanish Constitution).</p> <p>The Constitutional Court made reference to the European Court of Human Rights' interpretation of the anti-discrimination clause as an open clause that allows the inclusion of gender identity among the protected characteristics. It considered that the ECtHR clearly stated that the prohibition of discrimination under Article 14 of the Convention and it covers issues related to sexual orientation and gender identity.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>It set a case law precedent. Despite the appeal was rejected the decision recognized that the company had the right to dismiss the claimant.</p> <p>The Constitutional Court issued for the first time a judgement where it concluded any discrimination against trans people have to be considered as illegal. The judgment stated that any type of discrimination suffered by a person because of his or her identity as a gender will have to be considered as contrary to the rights enshrined in the Spanish Constitution.</p> <p>Thus, the Constitutional Court rejects that in this case there has been a violation of both Article 14 the Spanish Constitution, in its aspect of the prohibition of discrimination of persons on the basis of their gender identity, and the right to self-image of Article 18.1 of the Spanish Constitution, in its aspect of the right to gender expression in conditions of equality and without the possibility of suffering discrimination on the grounds contained in Article 14 of the Spanish Constitution.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>"The reference to the grounds or grounds of discrimination contained in Article 14 of the Spanish Constitution does not imply the establishment of a closed list of cases of discrimination" (<i>La referencia a los motivos o razones de discriminación que contiene el artículo 14 CE «no implica el establecimiento de una lista cerrada de supuestos de discriminación.»</i>)</p> <p>"Gender identity is a circumstance that has to do with the free development of the personality, intimately linked to respect for human dignity (Art. 10.1 of the Spanish Constitution)" (<i>La identidad de género es una circunstancia que tiene que ver con el libre desarrollo de la personalidad, íntimamente vinculada al respeto de la dignidad humana" (Art. 10.1 de la Constitución española).</i>)</p>

	"When it does not conform to classical hetero-normative parameters, that is, where the person's gender identity and sex are not absolutely coincidental, it can make the person liable to a historically entrenched position of social disadvantage" ( <i>Cuando no se ajusta a parámetros hetero-normativos clásicos, es decir, allí donde identidad de género y sexo de la persona no son absolutamente coincidentes, puede hacer al individuo acreedor de una posición de desventaja social históricamente arraigada</i> ).
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<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide the most relevant <b>high court decision concerning the application of either the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally.</b>
<b>Decision date</b>	4 May 2022
<b>Reference details</b>	Spain, <a href="#">Supreme Court, Second Chamber, Criminal Court, Sentence 437/2022 of 4 May 2022, Appeal No.: 2658/2020</a> ( <i>Tribunal Supremo, Sala Segunda, de lo Penal, Sentencia 437/2022 de 4 May. 2022, N° de Recurso: 2658/2020</i> ), 4 May 2022.
<b>Key facts of the case (max. 500 chars)</b>	<p>In June 2016, the defendants who at different times belonged and belong to a violent radical group that carried out attacks on groups described as "Spanishists" (<i>españolistas</i>) were informed by an unknown person, that in the city of Barcelona was installed a removable red tent with Spanish flags and other merchandising products typical of the Spanish national soccer team.</p> <p>The tent was set up by members and supporters of a platform formed mainly by young sports enthusiasts who intended to support the Spanish national team and to carry out an informative campaign on the installation of giant screens so that citizens could watch the sports matches.</p> <p>In the tent were Leocadia and Lidia as volunteers, and next to them a common friend, Gervasio, who were dressed in t-shirt and symbology of the Spanish national soccer team. The defendants suddenly burst into the place shouting "Spanish whores, get out of here, we will kill you, fucking Spanish shit, Spanish bitches, go to your country, sons of whores" (<i>putas españolas, fuera de aquí, os vamos a matar, putos españoles de mierda, perras españolas, iros a vuestro país, hijos de putas</i>)</p>

	<p>and began to destroy the tent, kicking the chairs, tables and all the material that was there.</p> <p>Moreover, the defendants began to kick and push Leocadia, Lidia and Gervasio, causing Leocadia to fall to the ground where they continued assaulting and insulting her until they quickly left the place. They were injured and these facts were recorded by witnesses who were there being spread by internet on social networks.</p> <p>Finally, one of the accused appeared driving a vehicle and addressed Leocadia rebuking her with expressions such as "what is this? this should not be here, get out the Spanish flag, fucking Spain!, fucking whore!" (<i>¿qué es esto?, esto no debería estar aquí, fuera la bandera española, puta España!, puta de mierda!</i>), "you are sons of bitches, you don't have to be here, you fucking Spaniards, you are a Spanish pig, daughter of a bitch" (<i>sois unos hijos de puta, aquí no tenéis que estar putos españoles, tú eres una cerda española, hija de puta</i>), "we will go after you!, we will kill you" (<i>iremos a por vosotras, os mataremos</i>).</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>1_ Infringement of law by misapplication of Article 109 of the Criminal Code (Civil liability and its extension) in relation to Article 104 (Regime of economic valuation of the sequels) of Law 35/2015 on Civil Liability and Insurance in the Circulation of Motor Vehicles (<i>Ley 35/2015 sobre responsabilidad civil y seguro en la circulación de vehículos a motor</i>)<sup>167</sup>.</p> <p>Compensation is the price for the pain produced, taking into account its real or potential entity, relevance and social repulse, the personal circumstances of the offended parties and the amounts requested by the accusations. Therefore, the court exercises legitimate discretion in deciding the amount of compensation. In this case, the Court highlights the seriousness of the facts; there was a will to humiliate, they uttered phrases of exclusionary content warning them that they did not want them to be there causing damages and injuries as well as an emotional impact and fear to be assessed by a medical expert.</p> <p>2_ Infringement of the law under Article 849.1 (appeal in cassation) of the Criminal Procedure Law (<i>Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento</i></p>

<sup>167</sup> Spain, [Law 35/2015 on Civil Liability and Insurance in the Circulation of Motor Vehicles](#) (Ley 35/2015 sobre responsabilidad civil y seguro en la circulación de vehículos a motor), 23 September 2015.

	<p><i>Criminal</i>)<sup>168</sup> for violation of Article 21.5 of the Criminal Code (mitigating circumstances of criminal responsibility) in relation to Article 66 of the Criminal Code (application of the penalty), questioning the fact that the Barcelona Provincial Court suppressed the mitigating circumstance of reparation of damages that was applied by the Criminal Court.</p> <p>The two grounds for the application of such a mitigating factor are not given: it is necessary - and fair - to offer some reward to the one who is willing to give satisfaction to the victim of the crime, repairing the civil consequences of his action. An act of the person responsible for the crime to repair the damage caused voluntarily, can have the value of a significant data of a regeneration and consequent decrease of his dangerousness in the future.</p> <p>3_Infringement of the law by missapplication of Article 173.1 of the Criminal Code (degrading treatment, serious impairment of moral integrity) in competition with Article 510.2 of the Criminal Code (hate crime).</p> <p>There are two grounds for discrimination in the present case: nation, in this case represented by the Spanish nation, and ideology, by not accepting the ideas of the victims in defense of their postulates.</p> <p>The essence of what is to be protected with this crime located in Article 510 of the Criminal Code is in article 14 of the Spanish Constitution, according to which "Spaniards are equal before the law, without any discrimination for reasons of birth, race, sex, religion, opinion or any other personal or social condition or circumstance". This article protects the whole of society, not only disadvantaged groups, as it cannot be otherwise.</p> <p>It is the equality and dignity of all, not of some, which is protected against hate speech, since the conduct cannot cease to be typical when a "non-vulnerable" person is hated, but who is in one of the groups identified in the criminal type.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The following key issues have been clarified by the case:</p> <p>1_ The moral damage must be measured taking into account the circumstances of the specific damage, the irreversible damage caused, the way in which the damage affects the victim and the</p>

<sup>168</sup> Spain, [Royal Decree of September 14, 1882, approving the Law of Criminal Procedure](#) (Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal), 17 September 1882.



	<p>degree of suffering endured by the victim; the bases on which it is based must be specified (this can be reviewed in cassation), always taking into account the proven facts.</p> <p>2_ In order to apply the mitigating factor of reparation of the damage, the reparation must be sufficiently significant and relevant, since it is not appropriate to grant mitigating effect to fictitious actions, which only seek to reduce the penalty without contributing to the reparation of the damage.</p> <p>3_The essence of what is to be protected with this crime located in Article 510 of Criminal Code is in Article 14 of the Spanish Constitution, according to which "Spaniards are equal before the law, without any discrimination for reasons of birth, race, sex, religion, opinion or any other personal or social condition or circumstance". This article protects the whole of society, not just disadvantaged groups.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>Sentencing of five persons for three crimes against moral integrity of Article 173.1 of the Criminal Code (degrading treatment, serious impairment of moral integrity) in concurrence of norms with three crimes committed on the occasion of the exercise of fundamental rights and public freedoms recognized in the Spanish Constitution in its modality of injury to the dignity of persons of Article 510. 2. a) of the Penal Code (hate crime) with the concurrence of the attenuating circumstance of reparation of the damage of Article 21.5 of the Criminal Code to the penalty for each of the three crimes of 6 months imprisonment and disqualification from the exercise of the right to passive suffrage during the time of the sentence and a fine of 6 months with a daily fee of 6 euros.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>"No irregularity is committed by the criminal judge for fixing a duly motivated amount in the sum of 6,000 euros for the facts proven in the sentence. This is because the traffic scale is not binding for facts of an intentional nature" (<i>Ninguna irregularidad se comete por el juez penal por fijar una cantidad debidamente motivada en la suma de 6.000 euros por los hechos que constan probados en la sentencia. Y ello, porque el baremo de tráfico no es vinculante para hechos de carácter doloso</i>).</p> <p>"The accurate criminalization of the facts in Article 510.2 a) of the Criminal Code in the hate crime for the concept of belonging to a nation and the Spanish and ideology on nationality and the belief of this objective fact". (<i>La correcta tipicidad de los hechos en el art. 510.2 a) CP en el delito de odio por el concepto de pertenencia a nación y lo español y la ideología sobre la nacionalidad y la creencia de ese dato objetivo</i>).</p>

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> <b>Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.</b>
<b>Decision date</b>	31 May 2022
<b>Reference details</b>	Spain, Criminal Court nº2, Burgos, Judgement Nº136/2022 ( <i>Juzgado de lo Penal nº2, Burgos, Sentencia nº136/2022</i> ) (not public Access. Shared by the Foundation), 31 May 2022.
<b>Key facts of the case (max. 500 chars)</b>	<p>The Roma Secretariat Foundation (<i>Fundación Secretariado Gitano</i>) acted as private accusation filed a complaint before the Burgos Prosecutor's Office specialized in hate crimes and discrimination. The claimants' family were harassed for months when they were insulted with expressions, such as: "shitty gypsies" (<i>gitanos de mierda</i>) or "sons of bitches" (<i>hijos de puta</i>). The accused also sent a letter to the Roma family where they were called "savages" (<i>salvajes</i>).</p> <p>The accused family generated a hostile climate of the whole neighbourhood against the Roma family. They published a poster on the portal where the accused family called on the neighbours to go to their claimant's house to check the noises. One of the accused published messages on social networks in which she complained about the arrival of "problematic large families of Roma ethnicity" (<i>familia gitana problemática</i>).</p> <p>The situation of harassment and insults suffered by the family by the neighbours from the moment they entered to live in the house. The situation provoked a strong anxiety and fear, affecting their safety and tranquillity. This situation worsened over time and occurred more regularly and the claimant family finally change their address.</p>

<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>-Article 787 of the Criminal Procedure Law (<i>Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal</i>)<sup>169</sup> establishes that, at the oral trial, before starting the practice of the evidence, the defense, with the agreement of the defendant present, may ask the judge to proceed to sentence in accordance with the indictment that contains a more serious penalty, or with the one presented in said act that may not contain a more serious penalty than the one in the indictment, nor refer to a different fact. Considering there are no exceptions in the present case (accepted qualification is not correct, the penalty does not correspond to the qualification or the judge has expressed doubts), the Judge may proceed to sentence.</p> <p>-- Chapter III of Title III of Criminal Code provides for alternative forms of execution of custodial sentences. In this case, at the oral hearing, the suspension of the three-month prison sentence imposed on each of the defendants was granted, on the understanding that all the legal requirements were met. The sentence imposed on each defendant is 3 months imprisonment, therefore, not exceeding 2 years imprisonment, they have no criminal record, and with respect to civil liability, there is no imposition in this sense. Finally, there are no circumstances that suggest the need to serve the sentence in a penitentiary centre in accordance with the general and special prevention purposes of the sentence.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>Coercion and hatred against the Roma community.</p> <p>A crime of coercion of Article 172.1 of the Criminal Code, together with an aggravating circumstance of Article 22.4 of the Criminal Code, as one of the circumstances modifying criminal responsibility, for having an anti-Roma reasoning.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The three accused women were punished with 3 months' imprisonment for a crime of harassment, with the aggravating circumstance of discrimination relating to ethnicity and the analogous mitigating circumstance of mental affectation.</p> <p>The suspension of the three-month prison sentence imposed on each of the accused was agreed as the 3 accused had no criminal record at the time of the commission of the act and then on the understanding that all the legal requirements for it are met.</p>

<sup>169</sup> Spain, [Royal Decree of September 14, 1882, approving the Law of Criminal Procedure](#) (Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal), 17 September 1882.

	The Roma family claimant waived any compensation for moral damage that may correspond to them.
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	“D and his daughters C and E with address in Santiago Apóstol street number ** of Burgos, from March to September 2020 they were carrying out acts of harassment and uttering humiliating and vexatious insults against their neighbours residing in the number ** of the same street, Luis A and B, as well as against their children under 16, 14, 7 and 6 years of age due to their status of belonging to the Roma ethnic group” ( <i>D y sus hijas C y E con domicilio en calle Santiago Apóstol número ** de Burgos, desde marzo a septiembre de 2020 vinieron realizando actos de acoso, y profiriendo insultos humillantes y vejatorios contra sus vecinos residentes en el número ** de la misma calle, Luis A y B, así como contra sus hijos menores de 16, 14, 7 y 6 años de edad debido a su condición de pertenencia a la etnia gitana</i> ).

<b>Thematic area</b>	<b>ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION</b> Please provide the most relevant high court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS).
<b>Decision date</b>	No caselaw has been identified for this thematic area

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter (i.e. data protection, and/or artificial intelligence systems).
<b>Decision date</b>	25 January 2022
<b>Reference details</b>	Spain, <a href="#">Supreme Court judgment nº 60/2022, Social Chamber, Section 1, Appeal 4468/2018, 25 January</a> ( <i>Sentencia SOCIAL Nº 60/2022, Tribunal Supremo, Sala de lo Social, Sección 1, Rec 4468/2018 de 25 de Enero de 2022</i> ), 25 January 2022.
<b>Key facts of the case (max. 500 chars)</b>	The claimant was working for the defendant company, SECURITAS SEGURIDAD ESPAÑA S.A. The worker, from the beginning of his employment relationship, provided services in the IFEMA work

	<p>center in the main access door for the access of vehicles. On april 2017, the claimant was notified of his disciplinary dismissal.</p> <p>The company supported its claim based on the images of the cameras installed in parking lots and vehicle entrances to the enclosure and that focus their accesses were viewed, being able to verify that a total of fifteen security guards, including that the claimant registered as executed vehicle controls that did not appear in the images. It was argued that there was a closed video vigilance system throughout the IFEMA parking lot. All the workers of the center were aware, as there being informative badges distributed throughout the enclosure and specifically in the access areas, including the area where the claimant was working.</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The right to the protection of workers' personal data (as a fundamental right by the Constitutional Court from article 18.4 of the Constitution) and the business power of management and control (article 20.3 of the Workers' Statute).</p> <p>The doctrine on the admission of the evidence of video surveillance of workers was under discussion. Previously, the declaration of inadmissibility led to dismiss previous cases where the evidence of the video surveillance was entered. That inadmissibility of the video surveillance evidence was based on the fact that it was unlawful, since the worker was not sufficiently informed about the capture of his image, its treatment as personal data and the possible disciplinary purpose of such treatment, it implied a violation of his fundamental right to data protection.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>It was an appeal for unification of doctrine. The Social Chamber of the Supreme Court confirmed its jurisprudence: Video recordings are valid as evidence for dismissal.</p> <p>Between 2016 and 2019 these three courts were consolidating a homogeneous line that has been reaffirmed to date with two new judgments of the Supreme Court in 2022, which marry and annul two resolutions issued in supplication.</p> <p>Both appeals for unification of doctrine arised the challenge of the inadmissibility of the video surveillance evidence provided by the company to justify the dismissal of the worker.</p> <p>The facts prosecuted took place under the validity of the previous Organic Law on Data Protection, and before being applicable the 2018 European Data Protection Regulation.</p>

<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<p>The Supreme Court did not analyzed the classification of the dismissal, but it focused on clarifying the debate raised in the appeal for supplication regarding the admissibility of the video surveillance evidence.</p> <p>The judgement annuled the appeals of the Superior Court of Justice of Madrid and ordered its admission and the consequent replacement of the proceedings at the time when they were inadmissible.</p>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p><i>"the proof of reproduction of what was recorded by the video surveillance cameras was a justified, appropriate, necessary and proportionate measure to the aim pursued, and therefore satisfied the requirements of proportionality"</i> (la prueba de reproducción de lo grabado por las cámaras de videovigilancia era una medida justificada, idónea, necesaria y proporcionada al fin perseguido, por lo que satisfacía las exigencias de proporcionalidad)</p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide the most relevant high court decision for the related topics addressed in the chapter.</b>
<b>Decision date</b>	22 February 2022
<b>Reference details</b>	Spain, <a href="#">Supreme Court. Madrid Criminal Chamber Section: 1 N° of cassation Appeal: 158/2020 N° of Resolution: 153/2022</a> (Tribunal Supremo. Sala de lo Penal Madrid Sección: 1 N° de Recurso de casación: 158/2020 N° de Resolución: 153/2022), 22 February 2022.
<b>Key facts of the case (max. 500 chars)</b>	<p>In 2017, the Tarragona n.4 Investigation Court opened a preliminary proceedings based on a continued crime of sexual abuse of children under 13 years of age against the claimant. The proceedings were transferred to the Provincial Court of Tarragona.</p> <p>On 29 October 2019, the Provincial Court of Tarragona, Second Section issued a judgment condemning the claimant. He was condemned as the perpetrator criminally responsible for a continuous crime of sexual abuse of a child under 13 years of age, punishable by articles 183.1.3.4.d) and 74 of the Criminal Code, with the mitigating circumstance of article 21.5 of the Criminal Code. The penalties were: eight years of imprisonment; special disqualification for the</p>

	<p>right of passive suffrage during the time of the sentence; prohibition of communicating by any means or approaching the child abused at a distance of less than 200 metres, or to her home, or her educational centre or her future place of work, for a period of ten years. He should communicate change of place of residence to the Court; the obligation to participate in a sex education programme; to compensate the child victim, through her mother with 30,000 euros; and to have to satisfy the costs of the court process.</p> <p>In 2020, the claimant entered an appeal before this Supreme Court.</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The claimant argued that there was an violation of the articles 5.4 of the <a href="#">Organic law rullig the Judicial Power</a> and article 852 of the <a href="#">Criminal Procedure Law</a> (<i>Ley de Enjuiciamiento Criminal</i>, LECRIM, in its Spanish acronym) when the claimant understood that there was a breach of his right to a due process, which in his opinion justified the declaration of the nullity of the oral trial and the judgement be revoked.</p> <p>It was argued that it may cause defencelessness for any of the parties that the evidentiary action was developed exclusively from the pre-constituted testimonial evidence.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Supreme Court examined the validity of the pre-constituted evidence (<i>prueba preconstituida</i>) in the case of a statement of children during the proceedings in which they are witnesses and victims of acts against their indemnity or sexual freedom.</p> <p>Article 449.ter of the <a href="#">Criminal Procedure Law</a> (<i>Ley de Enjuiciamiento Criminal</i>, LECRIM, in its Spanish acronym) establishes the obligation of the previous constitution of the evidence related to any testimony issued by an impúber children, provided, with the guarantee that its practice is contradictory, avoids visual confrontation with the investigated and is developed with the technical support expressed above.</p> <p>This evidentiary pre-provision must be exceptional, only if one of the parties expressly request it and that the judicial body considers the declaration necessary through a reasoned decision. In this case, the repetition of the face-to-face statement was discouraged, without any defensive circumstances justifying its presence. And the defendant's representation did not oppose the use of the pre-constituted evidence (<i>prueba preconstituida</i>), and was present at the practice of the evidence at the place of investigation.</p>

<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The conviction of the appellant for a continuing offence of sexual abuse of a child under the age of 13 was confirmed.</p> <p>The Supreme Court did not appreciate the defenselessness due to the fact that, although the statement of the victim in the pre-trial/investigative phase was collected in the presence of the defence counsel and two expert psychologists, it was made without visual confrontation between the witness and the defence, without it being foreseeable that the testimony would not be carried out in the act of the oral trial.</p> <p>The appeal lodged by the applicant against the judgment delivered on 29 October 2019 by the Second Section of the Tarragona Provincial Court was dismissed and the appellant had to pay the costs incurred in the processing of his appeal.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>“In the case of children who are victims of a crime, a legitimate cause may exceptionally be considered concurrent that prevents their statement in the oral trial, and consequently that gives validity as pre-constituted evidence of charge to the statements given in the summary phase in due process” (<i>En los supuestos de menores víctimas de un delito puede estimarse excepcionalmente concurrente una causa legítima que impida su declaración en el juicio oral, y en consecuencia que otorgue validez como prueba de cargo preconstituida a las declaraciones prestadas en fase sumarial con las debidas garantías</i>).</p> <p>“The cases that allow to dispense with such a statement in the trial concur when there are well-founded and explicit reasons to assess a possible risk to the mental integrity of the children in case of appearing (accredited through a psychological report, ordinarily), assessing the sentencing Court the concurrent circumstances, particularly the age of the children” (<i>Los supuestos que permiten prescindir de dicha declaración en el juicio concurren cuando existan razones fundadas y explícitas para apreciar un posible riesgo para la integridad psíquica de los menores en caso de comparecer (acreditadas a través de un informe psicológico, ordinariamente), valorando el Tribunal sentenciador las circunstancias concurrentes, singularmente la edad de los menores</i>).</p>



<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide the most relevant high court decision related topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women).</b>
<b>Decision date</b>	23 March 2022
<b>Reference details</b>	Spain, Constitutional Court ( <i>Tribunal Constitucional</i> ), <a href="#">Full. Judgement 45/2022, of 23 March 2022. Resource of amparo 1621-2020. Promoted by don Oriol Junqueras Vies and by don Raül Romeva Rueda regarding the sentence of the Criminal Chamber of the Supreme Court that condemned them for two crimes of sedition and embezzlement of public funds. Alleged violation of the rights to criminal legality, to effective judicial protection, to a process with all the guarantees, to the ordinary judge predetermined by law, to defense and presumption of innocence; Rights of assembly and access to public office, ideological freedoms and freedom of expression: Judgment handed down in a special case in which procedural guarantees were observed and in which a penalty was imposed that cannot be considered disproportionate or that discourages the exercise of other fundamental rights. Individual opinions</a> (Pleno. Sentencia 45/2022, de 23 de marzo de 2022. Recurso de amparo 1621-2020. Promovido por don Oriol Junqueras Vies y por don Raül Romeva Rueda respecto de la sentencia de la Sala de lo Penal del Tribunal Supremo que les condenó por sendos delitos de sedición y malversación de caudales públicos. Supuesta vulneración de los derechos a la legalidad penal, a la tutela judicial efectiva, a un proceso con todas las garantías, al juez ordinario predeterminado por la ley, de defensa y de presunción de inocencia; derechos de reunión y de acceso a los cargos públicos, libertades ideológica y de expresión: sentencia dictada en causa especial en cuya tramitación se observaron las garantías procesales y en la que se impuso una pena que no puede considerarse desproporcionada o que desaliente el ejercicio de otros derechos fundamentales. Votos particulares), 23 March 2022.
<b>Key facts of the case (max. 500 chars)</b>	On 8 September 2017, the official gazette of the regional government of Catalonia published the Law of the Catalan Parliament 20/2017, of 8 of September, on the legal and foundational transition of the Republic. The statute altered the legal rules on the nationality of Catalan residents, redrew the territorial boundaries of the new State, and decreed that the Catalan State was the successor in title to all the assets and rights of the Spanish State in Catalonia.

	<p>The citizens of Catalonia were called upon to cast their votes on 1 October 2017. The referendum question appearing on ballot papers was: Do you wish that Catalonia should become an independent state in the form of a republic? The statute governing the referendum determined that the outcome would be binding.</p> <p>On 10 October 2017, the President of the Generalitat [the regional executive] appeared before the Parliament [the regional legislature] in a plenary session. During that session, the President gave an account of the outcome of the vote and state that he would abide by the mandate of the people of Catalonia to make the region an independent State in the form of a republic. After that speech, the members of the parliamentary groups Junts pel Sí and CUP-CC signed what they described as a declaration of independence.</p> <p>Previously in 2016 there were several Constitutional Court ruling declaring several acts of the Catalonia Committee to be unconstitutional and warned the members of the Bureau of their duty not to admit initiatives of this kind. However, despite the warning, said Committee's conclusions were debated in the Catalan Parliament and afterwards those Constitutional Court Ruling declared those resolutions as invalid.</p> <p>The various criminal prosecutions brought by the State Prosecutor's Office against the members of the Government of the Generalitat were conducted before the Chamber for Civil and Criminal Matters of the High Court of Justice of Catalonia as Preliminary Proceedings [Diligencias Previas] 3/2017 for the alleged failure to attend to the pronouncements of the Constitutional Court, outlined above, especially as regards the warning issued to the members of the Government to refrain from performing any actions that would facilitate the preparation or holding of the referendum scheduled for the following 1 October.</p> <p>The referendum expenditure relating to institutional publicity, organisation of the electoral administration, preparation of the registry of Catalans residing abroad, electoral material, payment of international observers and computer applications, indicate a conscious and voluntary diversion of public funds. They entailed expenditure unrelated to any lawful public purpose and were ordered without any budget coverage.</p> <p>It was transferred to the Central Court of Instruction No. 3 of the National High Court (<i>Juzgado Central de Instrucción núm. 3 de la Audiencia Nacional</i>), initiated No. 82-2017 preliminary</p>
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	<p>proceedings (<i>diligencias previas</i>) issued on 27 September 2017, in the course of which various investigative measures were carried out and personal precautionary measures were adopted with respect to the aforementioned defendants. <b>On 30 October 2017, the General Registry of the Supreme Court received a charge sheet submitted by the Spain's chief public prosecutor for offences of rebellion, sedition and misappropriation of public funds against the appellants.</b></p> <p><b>In October 2019, the Supreme Court <a href="#">issued a judgment on the procès (EN)</a></b>, and condemned Mr. Oriol Junqueras to 13 years' imprisonment and 13 years' absolute ineligibility for public office, and Mr. Raül Romeva, Mr. Jordi Turull and Ms. Dolors Bassa to 12 years' imprisonment and 12 years' absolute ineligibility for public office. In all four cases, the defendants were convicted of an offence of sedition, and an offence of misuse of public funds – aggravated by reason of its amount – for the purpose of committing the principal offence of sedition.</p> <p>In response to it, Mr. Oriol Junqueras Vies and Mr. Raül Romeva Rueda Amparo promoted an amparo appeal against a judgement issued by the Criminal Chamber of the Supreme Court in 2019.</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The appellant alleged the following infringements of fundamental rights such as violation of the rights to criminal legality, to effective judicial protection, to a due process, to the ordinary judge predetermined by law, to defense and to the presumption of innocence, rights of assembly and access to public office, ideological freedoms and freedom of expression.</p> <p>The State's attorney described the facts attributed to the appellant as constituting a crime of sedition of articles 544 and 545.1 of the Criminal Code and a crime of embezzlement of public funds of articles 432.1 and 3 of the Criminal Code; and requested the imposition of sentences of eleven years and six months in prison and the same time of absolute disqualification, sentence in costs and civil liability in the terms requested by the Public Prosecutor's Office.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>No rebellion while violence indisputably occurred, this was not enough for the offence of rebellion to be made out.</p> <p>Sedición crime. Article 472 of the Criminal Code, such as to repeal, suspend or alter the Constitution or a part of it, or to declare the independence of a portion of the national territory, is not in itself a criminal offence.</p>

	<p>The unity of Spain is over-protected- the protection of territorial integrity is common to European constitutions, the Court stressed that the protection of Spain’s territorial unity was not some extravagance that makes our constitutional system unique.</p> <p>No European Constitution recognises a right to decide. There is no international treaty that has codified a “right to decide”. Any movement for unilateral secession in a society that adhered to the European Convention on Human Rights of 1951 and the Charter of Fundamental Rights of the European Union of 2010 is, by definition, an antidemocratic movement, because it is antidemocratic to wreck the foundations of the constitutional model to build a republic based on a specific identity, where ideological and political diversity are not assured.</p> <p>Impartial judges - the nine justices of this Court faced at least seven applications that they recuse themselves from the proceedings.</p> <p>Civil disobedience was described as the inalienable heritage of any mature political culture, enhancing the moral quality of society and expressing an ethics of dissent. Disobedience is thus presented as an enlivening mechanism that is crucial to prevent a slide towards a stagnant democracy that wallows in conformity and mediocrity.</p> <p>Ideological freedom and the right of assembly - the Court certainly agreed that ideological freedom allows and, what is more, protected advocacy for the right of self-determination.</p> <p>Public Prosecutor’s application for an order that one half of the prison term must elapse before a convict is to classified as eligible for the benefits of pre-release prison rules. The Court believed that this power could not be construed as a legal mechanism to forestall decisions of the prison authorities that are thought inconsistent with the severity of the offence.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Constitutional Court Plenary Room endorsed by six votes against three the previous Supreme Court’s judgement that unanimously condemned Mr. Junqueras to 13 years in prison and disqualification for a crime of sedition in medial contest (<i>concurso medial</i>) with a crime of embezzlement of public funds and to Mr. Romeva to 12 years in prison and disqualification for the same crimes.</p>

	<p>There was no unanimity in the ruling of the Constitutional Court, since among the nine votes cast there have been three individual votes of the magistrates Mrs. María Luisa Balaguer, Mr. Juan Antonio Xiol – vice president of the Constitutional Court – and Mr. Ramón Sáez.</p> <p>Once the court dismissed those appeals, the convicts could appeal before the European Court of Human Rights (ECtHR).</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>"...our sentence following the criterion of the Supreme Court, that the crime can be committed by someone who puts the necessary conditions for the uprising, even if he does not participate actively in it (art. 545 CP). .. The perpetrator of the crime of sedition may be the person who is not the executor of it. But provided that a decisive contribution is accredited. In the case, the contribution to the joint project should have been that the plaintiffs promoted the mass mobilization of citizens by being aware of and assuming, or wanting to be triggered, the hostile uprising aimed at preventing compliance with the law and court orders. For this is the typical situation of sedition according to the understanding of the crime that the sentence has made so that it serves as a classificatory concept in which to subsume the proven fact" (<i>nuestra sentencia siguiendo el criterio del Tribunal Supremo, que el delito puede cometerse por quien pone las condiciones necesarias para el alzamiento, aunque no participe activamente en él (art. 545 CP)... puede ser autor del delito de sedición quien no es ejecutor del mismo. Pero siempre que se acredite una contribución determinante. En el caso, la aportación al proyecto conjunto debió consistir en que los demandantes promovieron la movilización masiva de ciudadanos siendo conscientes y asumiendo, o queriendo que se desencadenara, la sublevación hostil dirigida a impedir el cumplimiento de la ley y de las órdenes judiciales. Pues esta es la situación típica de sedición conforme al entendimiento del delito que ha hecho la sentencia para que sirva de concepto clasificatorio en el que subsumir el hecho probado</i>)</p> <p>"The sentence limited to establish the agreement of the appellants (and the rest of the convicts) to ensure the referendum, a common strategy whose existence can be accepted, but does not address a specific treatment of the intentional contribution that each defendant made to the uprising and not only to the holding of the referéndum" (<i>la sentencia se limita a sentar el concierto de los recurrentes (y del resto de condenados) para asegurar el referéndum, estrategia común cuya existencia puede aceptarse, pero no aborda un tratamiento específico sobre la contribución intencionada que cada acusado realizó al alzamiento y no solo a la celebración del referéndum</i>).</p>

<b>Thematic area</b>	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b> <b>Please provide the most relevant High Court decision, which quoted the CRPD or prominently referred to the CRPD in the reasoning.</b>
<b>Decision date</b>	24 May 2022
<b>Reference details</b>	Spain, <a href="#">Supreme Court STS 2027/2022. Social Chamber Headquarters: Madrid Section: 1 Appeal No: 2427/2019 Resolution No.: 469/2022 Procedure: Appeal for the unification of</a> ( <i>Tribunal Supremo STS 2027/2022. Sala de lo Social Sede: Madrid Sección: 1 Nº de Recurso: 2427/2019 Nº de Resolución: 469/2022 Procedimiento: Recurso de casación para la unificación de doctrina</i> ), 24 May 2022.
<b>Key facts of the case (max. 500 chars)</b>	The plaintiff got registered with the Social Security in 1977. In 1982, he suffered a traffic accident that caused him various injuries that made him need a wheelchair to get around. Since 1987 he had a recognized disability of 90%. However, from 1998 to 2015 he worked as a sales agent for ONCE (Blind foundation) and he was granted an early retirement pension for disability. In 2017 he applied for a permanent disability before the National Institute of Social Security, which was denied for not accrediting an "anatomical or functional reductions that would decrease or annul his work capacity" ( <i>reducciones anatómicas o funcionales que disminuirían o anularían su capacidad laboral</i> ). The worker took the case to the Logroño Social Court number 3 but it dismissed his claims. In 2018, the La Rioja Supreme Court of Justice recognized his claim declaring him with the highest degree of disability ( <i>gran invalidez</i> ). Then, the National Institute of Social Security and the General Treasury of Social Security appealed in cassation asking for the unification of doctrine and the National Supreme Court just confirmed the previous resolution.
<b>Main reasoning/argumentation (max. 500 chars)</b>	The question was if the beneficiary must maintain the degree of absolute permanent disability and not severe disability. He was previously recognized the absolute permanent disability in 2018.  The position of the Social Security public administration was that if it is appropriate to recognize the plaintiff in a situation of severe disability, the judgment reasons that, despite the fact that the appellant joined the ONCE staff in 1998, when he had already suffered the traffic accident that caused him a quadriplegia, his affiliation to the general Social Security scheme was made in mid-December 1977, so that, since it is not proven that at that time had any functional limitation, we are not faced with a case of injuries prior to access to the labor market, for whose assessment, for the purposes of qualifying permanent disability, it is necessary that an aggravation has occurred, but we are in the presence of a residual picture that occurred after the actor began his active working life with the consequent registration in Social Security.

	<p>The Supreme Court concluded that there was a need for rectification of the doctrine of the Chamber by virtue of the resolution of STC 172/2021 and 191/2021, of October 7, 2021 and December 17, 2021 respectively. It is possible to recognize a permanent disability to the worker who acceded to the situation of early retirement due to disability, and who did not reached 65 years of age. A difference in treatment not provided for in the rule, without objective and reasonable justification, resulting solely from the fact that he has taken early retirement precisely because of his disability, is discriminatory and must be removed.</p> <p>The Supreme Court judgement concluded that if the person has not reached the retirement age (65 or 67 years old) this situation is possible. The Social Chamber of the Supreme Court rectified the doctrine applied since 2018 based as well on different resolutions of the Constitutional National Court issued in 2021, in application of the principle of equality and non-discrimination as previous judgements issued in 2018 provoked a non funded discrimination against the disabled claimant.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Supreme Court rectified its doctrine in relation to the access to the permanent disability from early retirement due to disability. Previously, this national Supreme Court was maintaining that this argument/reasoning was not possible because there was a kind of "double positive discrimination", but now they argued that those were "different valuation plans" (<i>planos valorativos diferentes</i>).</p> <p>This judgement concluded that the Supreme Court understands that if the law does not make any distinction in this area, the establishment of a difference in treatment for cases of early retirement due to disability could imply discrimination, which is prohibited by the general principle recognized in article 14.2 of the Spanish Constitution", relating to equality and non-discrimination.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>"Marry and annul the judgment of the Social Chamber of the Superior Court of Justice of the Basque Country of April 2, 2019, roll 466/2019, and entering to resolve the appeal of supplication formulated by the INSS and the TGSS, proceeds its rejection and the correlative confirmation and declaration of firmness of the sentence issued by the Social Court nº 3 of those of Vitoria issued on December 27, 2019 2018, in cars nº 571/2018" (<i>Casar y anular la sentencia de la Sala de lo Social del Tribunal Superior de Justicia del País Vasco de 2 de abril de 2019, rollo 466/2019, y entrando a resolver el recurso de suplicación formulado por el INSS y la TGSS, procede su desestimación y la correlative confirmación y declaración de firmeza de la sentencia dictada por el Juzgado de lo Social nº 3 de los de Vitoria dictada el 27 de diciembre de 2018, en autos nº 571/2018</i>), 2 April 2019.</p>

**Key quotation in original language and translated into English with reference details (max. 500 chars)**

"the legislator, ..., has not established any other requirement than that of a certain age (65 or 67 years) to access the benefit, so that it does not prevent its access from a situation of early retirement, nor distinguishes between the causes or budgets of that type of retirement to access permanent disability" (*el legislador, ..., no ha establecido otro requisito que el de una determinada edad (65 o 67 años) para acceder a la prestación, de forma que no impide su acceso desde una situación de jubilación anticipada, ni distingue entre las causas o presupuestos de ese tipo de jubilación para acceder a la incapacidad permanente*).