



Office for Democratic Institutions and Human Rights

**Information Submitted to the
Office of the United Nations High Commissioner for
Human Rights
as a Stakeholder in the
Universal Periodic Review of Spain**



WARSAW, JULY 2014

The following information is submitted by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) about an OSCE participating State under consideration in the Universal Periodic Review process:

Participating State: Spain

UPR Session: 21st Session

Background

Spain is a participating State in the Organization for Security and Co-operation in Europe (OSCE) and has thus undertaken and has recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.¹ The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has been mandated by OSCE participating States, including Spain, to assist them in implementing their human dimension commitments. OSCE/ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Spain and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms.

Early Parliamentary Elections, 20 November 2011

In response to an official invitation from the Permanent Mission of Spain to the OSCE, based on the recommendations of a Needs Assessment Mission (NAM) carried out from 10 to 13 October 2011, and in accordance with its mandate, the OSCE/ODIHR deployed an election assessment mission (EAM) to observe the 20 November 2011 early parliamentary elections. The OSCE/ODIHR EAM was headed by Nikolai Vulchanov and included five other experts, all drawn from six OSCE participating States. The EAM was based in Madrid, but made visits to Zaragoza, Lleida, Seville and Bilbao.

According to the mission's final report “The conduct of these elections reflected Spain’s established democratic traditions. The elections were held in a professional and transparent manner. The electoral stakeholders appeared to have confidence at all stages of the process and voters had the opportunity to make an informed choice in a pluralistic electoral environment.” The full report, together with its recommendations, can be found at <http://www.osce.org/odihr/elections/Spain/88222>

¹ Compendium of OSCE Human Dimension Commitments, vol 1 and 2; Astana Commemorative Declaration, 2010.

Tolerance and non-discrimination issues, including incidents of and responses to hate crime

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and the OSCE/ODIHR supports states in their implementation of those commitments. In this context, the OSCE/ODIHR produces an annual report on hate crime – *Incidents and Responses* – to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. It also helps participating States to design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.

The report relies mainly on information and statistics provided by governments, since such data collection is primarily the responsibility of states, as is the responsibility to respond to hate crimes. As of 2012, 55 of the 57 OSCE participating States had appointed National Points of Contact on Combating Hate Crimes, to support ODIHR in its task of serving “as a collection point for information and statistics collected by participating States”. The bulk of information for the report was gathered through the completion of an online questionnaire by National Points of Contact. The questionnaire for 2012 contained questions about the following areas: data-collection methods; legislation; reported hate crime data; and policies and initiatives.

Information concerning Spain in the most recent edition of the annual hate crimes report² includes the following:

Spain regularly reports hate crime data to ODIHR. Spain's Criminal Code contains a general penalty enhancement and substantive offence provisions.

The Ministry of Interior, the Intelligence Department of the National Police, the Intelligence Agency, the Intelligence Department of the Civil Guard, the Catalonia Regional Police and the Basque Country Regional Police are responsible for hate crime data collection. Spain publishes annual reports on discrimination and hate crimes. In 2012,³ Spain reported 261 hate crimes recorded by police. No sentenced or prosecuted hate crimes cases were reported. The hate crimes registered in 2012 were reported to ODIHR as “racism, xenophobia and related intolerance” but include various underlying biases.

In 2012, Spanish authorities trained 2,690 members of the Guardia Civil and local police to identify and register racist and xenophobic incidents. Spain also adopted a training manual for police and security forces that provides detailed information on key concepts, international and national standards, police best practices, and recommendations for a protocol on police practice in cases of racist or xenophobic crimes.

² <http://tandis.odihr.pl/hcr2012/>

³ see Spain's data reported to ODIHR at <http://hatecrime.osce.org/spain>

In 2012, in Madrid, ODIHR conducted training on preventing and responding to hate crimes for 22 representatives of civil society organizations dealing with intolerance against Muslims in Spain.⁴

In 2012, Personal Representative of the Chair-in-Office on Combating anti-Semitism visited Spain. During this visit, he met with the government representatives and civil society organizations.

Roma and Sinti issues

The OSCE/ODIHR has a specific mandate to assist participating States in implementing the OSCE Action Plan for Improving the Situation of Roma and Sinti within the OSCE Area⁵. The most recent Status Report on the implementation of the Action Plan was issued by ODIHR in 2013⁶. The report included the following information about the situation of Roma and Sinti in Spain.

Forced evictions of Roma immigrants from unauthorized campsites have been reported from Spain. The report notes that forced evictions are a constant threat to Roma living in precarious circumstances. Evictions often lead to worse living conditions and perpetuate the vulnerability and marginalization of Roma communities, and can create tensions with the residents of areas to which Roma communities are being resettled. However, the report also notes that Spain has achieved visible progress in addressing housing problems of Roma and Sinti communities, mostly through “urban regeneration and development projects”, which are part of broader schemes of sustainable urban development.

In addition, the report notes that Roma in Spain continue to have precarious health conditions and that a significant part (15%) of the Roma population suffers from some sort of disability or chronic disease. The report also underlines that Roma migrants in Spain have been particularly affected by the economic crisis, leading to loss of employment. In the area of education, the report notes that in Spain fewer than one out of 10 Roma is reported to have completed upper-secondary education.

Country-specific ODIHR monitoring, assessment, co-operation and assistance activities

Spain has been included in the current cycle (2013-2014) of ODIHR assembly monitoring. Following assurances from the Spanish authorities that they were willing to fully cooperate with an ODIHR assembly monitoring mission, ODIHR had initially planned to observe a march against the institution of the monarchy, which took place in Madrid on 28 September 2013. Regrettably, the ODIHR team had to leave Spain shortly before the assembly, after a last minute notification from the Spanish authorities that the monitoring team was no longer welcome.

After having clarified the matter with the Spanish authorities, on 22 March 2014 ODIHR was finally able to observe an assembly in Madrid that protested austerity measures and high

⁴ <http://www.osce.org/odihr/100110?download=true>

⁵ <http://www.osce.org/odihr/17554>

⁶ <http://www.osce.org/odihr/107406>

unemployment. The main findings of this assembly monitoring mission will feed into a thematic report based on observations carried out in nine OSCE participating States in 2013-2014, which is planned to be published at the end of October 2014.

Other assessments and recommendations contained in ODIHR reports on thematic human issues

ODIHR has raised concerns and addressed those with the Spanish authorities in early 2014 in the context of the request to extradite Kazakh national Aleksandr Pavlov from Spain. Mr. Pavlov had been arrested in Spain based on an Interpol warrant issued by Kazakhstan, and subsequently the Spanish authorities undertook proceedings to extradite Mr. Pavlov. As Mr. Pavlov was facing criminal charges in Kazakhstan, any decision on his extradition needed to consider the risk of his being subjected to torture or other cruel, inhuman or degrading treatment upon extradition, and ODIHR was concerned that diplomatic assurances given by the Kazakh authorities to Spain would not be a sufficient safeguard should such risk be established in the case of Mr. Pavlov. ODIHR therefore urged the Spanish authorities to satisfy themselves that a decision to extradite Mr. Pavlov would not contravene the obligations under international human rights law, including the principle of *"non-refoulement"*.