

# European Union Agency for Fundamental Rights, selection of relevant and recent passages from published reports related to Spain

fra.europa.eu

---

17 July 2019, Vienna

References to Spain marked with **bold**

## Contents

Data Explorers and Tools.....	3
Mapping minimum age requirements with respect to the rights of the child in the EU.....	3
Forced return monitoring systems – State of play in 28 EU Member States.....	3
Survey on Minorities and Discrimination in EU (2016).....	3
Violence against women survey data explorer.....	3
EU LGBT Survey data explorer.....	3
Indicators on the right to political participation of people with disabilities.....	3
Mapping victims’ right and support in the EU.....	3
Mapping child protection systems in the EU.....	3
<b>Annual Reports.....</b>	<b>4</b>
<b>Fundamental Rights Report 2018.....</b>	<b>4</b>
1. Shifting perceptions: towards a rights-based approach to ageing.....	4
2. EU Charter of Fundamental Rights and its use by the Member States.....	4
3. Equality and non-discrimination.....	4
4. Racism, xenophobia and related intolerances.....	4
5. Roma integration.....	4
6. Asylum, visas, migration, borders and integration.....	5
7. Information society, privacy and data protection.....	5
8. Rights of the child.....	5
9. Access to justice including the rights of crime victims.....	6
10. Developments in the implementation of the Convention on the Rights of Persons with Disabilities.....	6
<b>Fundamental Rights Report 2017.....</b>	<b>6</b>
1. Between promise and delivery: 10 years of fundamental rights in the EU.....	6

2.	EU Charter of Fundamental Rights and its use by Member States.....	6
3.	Equality and non-discrimination .....	7
4.	Roma integration .....	7
5.	Asylum, visas, migration, borders and integration .....	8
6.	Information society, privacy and data protection .....	8
7.	Rights of the child.....	8
8.	Developments in the implementation of the Convention on the Rights of Persons with Disabilities .....	8
	<b>Fundamental Rights Report 2016 .....</b>	<b>9</b>
1.	Asylum and migration into the EU in 2015 .....	9
2.	EU Charter of Fundamental Rights and its use by Member States.....	9
3.	Equality and non-discrimination .....	10
4.	Racism, xenophobia and related intolerance.....	10
5.	Roma integration .....	11
6.	Information society, privacy and data protection .....	11
7.	Rights of the child.....	12
8.	Access to justice including rights of crime victims.....	12
9.	Developments in the implementation of the Convention on the Rights of Persons with Disabilities .....	13
	<b>Thematic Reports.....</b>	<b>13</b>
	Roma women in nine EU Member States (April 2019).....	13
	Beyond the peak: challenges remain, but migration numbers drop (March 2019) .....	14
	Experiences and perceptions of antisemitism – Second survey on discrimination and hate crime against Jews in the EU (December 2018) .....	14
	Working with Roma: Participation and empowerment of local communities (November 2018) .....	16
	Combating child poverty: an issue of fundamental rights (October 2018) .....	16
	Protecting migrant workers from exploitation in the EU: boosting workplace inspections (September 2018) .....	17
	Hate crime recording and data collection practice across the EU (June 2018).....	17
	Challenges facing civil society organisations working on human rights in the EU (January 2018) .....	20
	Second European Union Minorities and Discrimination Survey - Main results (December 2017) .....	21
	Together in the EU - Promoting the participation of migrants and their descendants (March 2017) .....	23
	Rights of suspected and accused persons across the EU: translation, interpretation and information (November 2016).....	24

## Data Explorers and Tools

Mapping minimum age requirements with respect to the rights of the child in the EU

<https://fra.europa.eu/en/publications-and-resources/data-and-maps/minag?mdq1=country&mdq2=431&plot=inCountry&cntryName=Spain>

Forced return monitoring systems – State of play in 28 EU Member States

<https://fra.europa.eu/en/publications-and-resources/data-and-maps/return?mdq1=country&mdq2=431&plot=inCountry&cntryName=Spain>

Survey on Minorities and Discrimination in EU (2016)

<https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-second-eu-minorities-discrimination-survey?mdq1=country&mdq2=431&plot=inCountry&cntryName=Spain>

Violence against women survey data explorer

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

EU LGBT Survey data explorer

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-lgbt-survey-2012>

Indicators on the right to political participation of people with disabilities

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/political-participation>

Mapping victims' right and support in the EU

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/victims-support-services>

Mapping child protection systems in the EU

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection>

# Annual Reports

## Fundamental Rights Report 2018

<http://fra.europa.eu/en/publication/2018/fundamental-rights-report-2018>

### 1. Shifting perceptions: towards a rights-based approach to ageing

“In contrast, in **Spain** and Greece, the proportion of older persons at risk of poverty is around nine percentage points lower than that of the total population. These variations reflect differences in the pension and social protection systems in the Member States and in the kind and extent of support provided by families and the state.” (p. 13)

### 2. EU Charter of Fundamental Rights and its use by the Member States

“The Supreme Court in **Spain** also provided full-fledged argumentation about why the Charter did not apply in a case concerning the use of the national flag and emblem on envelopes used by the political party Vox in the Spanish elections. The Spanish Electoral Board declined to distribute the envelopes to the electorate. The Supreme Court made it clear that the Charter was not applicable and therefore could not be invoked against the decision of the Electoral Board. The court referred in detail to relevant case law of the CJEU and concluded: “The Spanish courts, in the same way as European Union judges, can and must apply the Charter; however, in this case there is no connection with any European legislation, so it is enough to take into consideration the constitutional provisions.”” (p. 40)

“In **Spain**, the High Court of Catalonia prohibited the Catalan autonomous broadcaster from airing content that could enable the organisation or holding of a referendum on the self-determination of Catalonia. This prompted a Member of Parliament to ask if this decision violated Article 11 (freedom of expression and information) of the Charter.” (p. 43)

### 3. Equality and non-discrimination

No mention of Spain here.

### 4. Racism, xenophobia and related intolerances

“In **Spain**, the Ombudsman recommended the use of templates for police identity checks that provide information about the police officers and about the nationality and ethnic origin of the individuals stopped and searched.” (p. 87)

### 5. Roma integration

“In **Spain**, the Supreme Court upheld a decision to deny a Roma widow recognition of her late husband’s pension, holding that their traditional Roma marriage was not recognised by Spanish civil authorities.” (p. 101)

“Early childhood education enrolment was similar for Roma and non-Roma children only in Hungary, where early childhood education has been compulsory from the age of 3 since 2015, and in **Spain**.” (pp. 102-103)

“Furthermore, Hungary, Poland, Portugal, Slovenia and **Spain** implemented measures to provide learning support or financial support for young Roma in the form of scholarships, grants and apprenticeships.” (p. 103)

“The Ministry of Education in **Spain** committed itself to including Roma history and culture in the national curriculum.” (p. 103)

“Country differences are important: whereas the Czech Republic, Hungary, and Romania saw improvements in the rate of Roma at risk of poverty, this rate increased in Greece and in **Spain**.” (p. 104)

“Local-level actions to improve labour market inclusion continue. For example, the *Acceder* and *Aprender Trabajando* programmes continued in **Spain**.” (p. 104)

“Despite measures to promote non-discriminatory access to social housing, rates of perceived discrimination when looking for housing because of being Roma increased in many countries, including the Czech Republic, Portugal and **Spain**.” (p. 106)

“In **Spain**, a study of Roma housing showed that a considerable number of Spanish Roma still live in substandard housing.” (p. 107)

“The Foundation for the Roma Secretariat in **Spain** continued to assist Roma families in marginalised communities to access health and social services.” (p. 109)

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

“Most [persons entering EU territory irregularly] crossed the Mediterranean Sea to reach Italy (some 119,000 people) or **Spain** (nearly 22,900); or crossed the land or sea borders into Greece (some 45,600 people).” (p. 127)

“Operationally, the developments in Italy reflect the approach taken by **Spain**, where the Spanish authorities cooperate with states on the West African coast and Morocco.” (p. 128)

“In **Spain**, the authorities started to hold migrants in facilities other than formal immigration detention centres. This included the Archidona facility in Málaga – a newly created but not yet used prison – which the Ombudsman criticised for not respecting minimum standards, recommending improving healthcare, providing adequate means of communication to detainees, and addressing other identified shortcomings.” (p. 138)

“Finally, in Southern **Spain**, migrants who arrive by sea are systematically detained, according to the Spanish Commission of Aid to Refugees (CEAR).” (p. 139)

## 7. Information society, privacy and data protection

“According to Article 8 of the GDPR, where the child is below the age of 16 years, such processing shall be lawful on the basis of consent only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. However, Member States may set by law a lower age for those purposes, provided that this is not below 13 years. Several Member States, such as the Czech Republic, Denmark, Estonia, Ireland, Poland, **Spain**, Sweden and the United Kingdom, proposed in 2017 to reduce the minimum age requirement to 13 years.” (p. 158)

“The virus [of both the WannaCry and NotPetya cyberattacks] hit several EU companies quickly: **Spain**, France, Germany and Belgium were amongst the first Member States where the attack was reported.” (p. 161)

## 8. Rights of the child

“In **Spain**, the government approved a decree with measures to protect mortgage debtors in particularly vulnerable situations, such as households with children, single-parent households and large families. Measures include suspending eviction for up to four years. Problems with evictions in **Spain**, however, have prompted severe criticism from civil society and international human rights bodies. In 2017, the UN Committee on Economic, Social and Cultural Rights indicated that **Spain** had violated the right to housing in the case of a family with two young children, who were evicted from a rented room in a flat without being provided with alternative housing. In addition, the Supreme Court declared the eviction of a family with three children in Madrid inappropriate until protection measures for the children were established, and required the previous instance to revise the eviction decision.” (pp. 180-181)

### **“Private sector tackles energy poverty**

A private gas company in **Spain**, Gas Fenosa, developed an action plan in 2017. It contains 20 measures to address energy poverty, and has a budget of € 4.5 million. The measures include a free-of-charge phone number with 24-hour support for clients in vulnerable situations and the establishment of a so-called Energy School. The courses at the Energy School target social workers working with families and answer questions such as how to read the bill, reduce the total due amount, reduce energy use or request a deadline extension to pay the bill.

Gas Fenosa also offers a discount of between 25 % and 40 % to clients who fulfil certain need criteria: disability, families with more than three children, long-term unemployed people, etc. For certain categories of persons at risk of social exclusion, the energy supply cannot be interrupted even when bills are not paid.” (p. 181)

“However, in other Member States, mainly on the Mediterranean arrival route, such as Italy, Greece, **Spain**, as well as in France, the number of applications [for asylum] remained similar or increased compared to 2016.” (p. 182)

### 9. Access to justice including the rights of crime victims

“To support Member States in ensuring an effective legislative and policy response that safeguards the rights and needs of terrorism victims, the European Parliament commissioned and published a study on responses to the needs of victims of terrorism in Belgium, France, Germany, Hungary, **Spain** and the United Kingdom.” (p. 206)

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

No mention of Spain here.

## Fundamental Rights Report 2017

<https://fra.europa.eu/en/publication/2017/fundamental-rights-report-2017>

### 1. Between promise and delivery: 10 years of fundamental rights in the EU

“In **Spain**, eight initiated preliminary ruling procedures concerned the Charter (21 % of all requests sent by Spanish courts to the CJEU).” (p. 40)

“However, as in previous years, there are also examples of Charter references that go beyond the technical implementation of EU legislation. In 2016, these examples covered areas such as gender equality and identity and lesbian, gay, bisexual, transgender and intersex (LGBTI) issues (in **Spain**); disability (in Italy); consumer protection (in Germany); legal aid (in Austria and Slovakia); the regulation of the accountancy profession (in Malta); education (in Belgium); and the death penalty (in Cyprus).” (p. 49)

“In 2016, ACTIONES [Active Charter Training through Interaction of National Experiences] facilitated a series of transnational training workshops. The Judicial Academy (Croatia), the Superior School for Magistracy (Italy), the National Institute for Magistracy (Romania), the Judicial Training Centre (Slovenia) and the Judicial School (**Spain**) hosted such workshops, each with a specific focus (consumer protection, migration and asylum, non-discrimination, effective judicial protection). The workshops endorsed a bottom-up approach, whereby academics and practitioners exchange views directly, in light of their real needs and difficulties as highlighted by practice.” (p. 52)

### 2. EU Charter of Fundamental Rights and its use by Member States

“The EU Member States covered by the 2016 conclusions of the European Committee on Social Rights include Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, **Spain** and the United Kingdom.” (p. 63)

“Bulgaria is the only EU Member State that enacted legislation in 2016 to ban wearing in public spaces clothing that entirely or partly conceals the face. Belgium, France and **Spain** have similar bans in place.” (p. 65)

“In that country [Portugal], married or cohabitating heterosexual or lesbian couples, as well as all women – irrespective of their civil status or sexual orientation – are entitled to assisted reproduction since June 2016. In February, it also became possible for same-sex couples in Portugal to jointly adopt children. As of the end of 2016, this was also the case in Austria, Belgium, Denmark, France (for married couples), Ireland (for married couples), Luxembourg, Malta, the Netherlands, **Spain**, Sweden and the United Kingdom.” (p. 67)

### 3. Equality and non-discrimination

“On average, in the 10 EU Member States surveyed, 59 % of respondents believe that the presence of refugees in their country increases the likelihood of terrorist attacks. The Member States surveyed were France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, **Spain**, Sweden and the United Kingdom.” (p. 80)

“Ten civil society organisations and two equality bodies based in nine Member States participated in this [monitoring] exercise [of online content under the code of conduct] (Austria, Belgium, Denmark, France, Germany, Italy, the Netherlands, **Spain** and the United Kingdom).” (p. 82)

“CERD also raised concerns about practices of police discriminatory ethnic profiling in Italy and **Spain**.” (p. 88)

“In **Spain**, the Platform for the Police Management of Diversity adopted a Curricular Design on the police management of diversity and non-discrimination.” (p. 89)

“In others, dedicated action plans that had expired were not renewed by the end of 2016, with no indication of when they would be reactivated (Italy, Luxembourg, **Spain**).” (p. 89)

### 4. Roma integration

“In the framework of EU-MIDIS II, FRA surveyed Roma in nine EU Member States where probabilistic sampling using some form of random selection of respondents was possible: Bulgaria, the Czech Republic, Greece, Hungary, Poland, Portugal, Romania, Slovakia and **Spain**.” (p. 104)

“The 2016 Observations of the Committee on the Elimination of Racial Discrimination for **Spain** note that early school drop-outs and “ghetto schools, which account for a large number of migrants and Roma children” are a problem in many regions. The committee encourages the state to adopt “effective education policies that ensure the equitable distribution of students, in order to put an end to this phenomenon.”” (p. 105)

“Similar projects addressing early marriage were implemented in Belgium, Bulgaria, Greece, Slovenia and **Spain** through a multi-country ‘Early Marriage Prevention Network’ project.” (p. 106)

“In **Spain**, the long-established Acceder Programme (Programa Acceder), currently funded through the ESF under the Operational Programme for Social Inclusion and Social Economy, develops personalised ‘roadmaps’ to assist young Roma to access the labour market. The Learning by Doing Programme (Programa Aprender Trabajando) aims to increase employability and professional skills, as well as equal access to the labour market, for young Roma. In 2011, the Acceder Programme obtained authorisation from the Spanish Ministry of Employment, through the Spanish Public Employment Service (Servicio Público de Empleo

Estatal), to function as an employment agency throughout **Spain**. This allows the Fundación Secretariado Gitano (FSG) to bring employment support services closer to Roma in their efforts to access employment. To date, more than 87,000 people have benefited directly from the Acceder Programme, with Roma constituting 67 %, and women 53 %, of the beneficiaries, far surpassing its initial objectives. Over a period of 15 years, the FSG helped into work more than 62,000 people, of whom 70 % were Roma and 52 % were women. Furthermore, it was the first job for 27 % of them. On average, half of the participants found a job after completing the project.” (p. 110)

“The European Commission has reported that 12 Member States (Austria, Belgium, Bulgaria, the Czech Republic, France, Greece, Hungary, Italy, Poland, Romania, Slovakia and **Spain**) chose to fund measures under the investment priority of the ESF on socio-economic integration of marginalised communities, such as Roma, and they allocated € 1,5 billion to them.” (p. 114)

“These national platforms are supported by the Commission and were established in [14 EU Member States] and **Spain**, [...]” (p. 114)

“The European Court of Auditors’ report also calls for the inclusion of “indicators and target values which deal with anti-discrimination or, more specifically, anti- Gypsyism”. In 2016, FRA contributed to these efforts by coordinating and providing technical expertise to a working party on Roma integration indicators – comprised of [15 EU Member States], **Spain** and the United Kingdom – which developed a detailed reporting template to support reporting by Member States following the structure of the Council recommendation.” (pp. 114-115)

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

No mention of Spain here.

#### 6. Information society, privacy and data protection

No mention of Spain here.

#### 7. Rights of the child

“The highest proportions of children at risk of poverty or social exclusion range from 34.4 % in **Spain** up to 46.8 % in Romania, with Bulgaria, Greece and Hungary in between.” (p. 175)

“In seven countries, the proportions of children at risk of poverty or social exclusion increased by 2–12 percentage points over time: Austria, Cyprus, France, Greece, Italy, Malta and **Spain**.” (p. 176)

“In 2016, eight Member States received specific recommendations that directly referred to children: [...] **Spain** (on child care services) [...]” (p. 177)

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

“A clear majority of respondents across the EU considers rape by an intimate partner to be wrong. Nevertheless, under 30 % of respondents in Bulgaria, Italy, Lithuania, Portugal, and **Spain** deemed it ‘wrong and already against the law’, while about half of the respondents in these countries said that rape by an intimate partner is wrong but they believe that it is not illegal.” (p. 209)

“In **Spain**, parliament approved the establishment of a Subcommittee within the Equality Commission to form a ‘State Pact on Gender-Based Violence’. One of the main objectives is to get all political actors involved in combating gender-based violence to agree that they need to take the standards of the Istanbul Convention into account seriously.” (p. 210)

“Instead of introducing a barring order issued immediately by the police, a small group of Member States allow the police to arrest the potentially violent offender with a view to enabling the court or a public prosecutor to issue a protection order while the defendant is detained. A practice of this type exists in Bulgaria, France, Ireland, Lithuania, Poland and **Spain**.” (p. 212)

## Fundamental Rights Report 2016

<http://fra.europa.eu/en/publication/2016/fundamental-rights-report-2016>

### 1. Asylum and migration into the EU in 2015

“Last year, FRA reported an increase in cases of persons allegedly being pushed back at the EU’s external border, particularly in Bulgaria, Greece and **Spain**.” (p. 15)

“In **Spain**, an amendment to the Aliens Law entered into force on 1 April 2015, allowing third-country nationals to be rejected if they are detected trying to irregularly cross the border into the enclaves of Ceuta and Melilla. The law contains a safeguard specifying that rejection at the border is allowed only if it is in compliance with international human rights law and international protection standards; however, no protocol on how the Guardia Civil should act in these cases is in place yet. Applications for international protection are to be lodged at special offices set up at the border crossing points. In 2015, some 6,000 people, mainly Syrian nationals, requested asylum at such offices.” (p. 15)

“This initiative [that help match asylum seekers with host families] is also in place in [...], **Spain** and Sweden.” (p. 20)

### 2. EU Charter of Fundamental Rights and its use by Member States

“For example, Italy and **Spain** referred many cases to the CJEU in 2015 with about a fifth of these making use of the Charter.” (p. 41)

“Courts in Austria, Belgium, Italy, Slovakia and **Spain** rather regularly referred to the Charter in a significant proportion of their requests for preliminary rulings in the past five years.” (p. 41)

“A very different, but related, case arose before the Constitutional Court in **Spain**. In that case, the Charter was referred to by a dissenting judge who claimed that the court’s majority vote misinterpreted the reach of the right to conscientious objection – a right mentioned in the Charter but not in Spanish constitutional law. The case concerned a pharmacy co-owner’s refusal, based on conscientious objection, to sell condoms and the ‘day-after pill’. His defence relied on, among others, Article 16 of the Spanish Constitution, which guarantees ideological and religious freedom. The court affirmed the claimant’s right to conscientious objection, which it deemed part of the fundamental right of ideological freedom. The dissenting judge used the Charter to contest the presumption used in the court’s reasoning. In her dissenting opinion, the judge referred to the Charter’s right to freedom of thought, conscience and religion (Article 10) and the preparatory work of the Charter (Article 51(7)) to emphasise that only legislators may establish how the right to conscientious objection can be exercised in contexts where conflicts between different fundamental rights may arise.” (p. 47)

“Meanwhile, 11 final legislative texts from six Member States were identified as having references to the Charter in 2015; in 2014, 15 such statutes were identified in nine Member States. Of these 11 statutes, three are from Croatia and three are from **Spain**. [...] In Spain, similarly to the previous year, two of the three statutes mentioning the Charter were adopted at regional level. The laws concern very different areas. In Croatia and **Spain**, the legislative texts concerned persons with disabilities. Legislation on criminal justice also had references to the Charter (Ireland and **Spain**). [...] In other cases, such as a regional law in **Spain** and a national law in Croatia, the link to EU law is much less obvious.” (p. 50)

### 3. Equality and non-discrimination

“More specifically, European Commission country-specific] recommendations for Belgium, Bulgaria, Croatia, Ireland, Italy, Poland, Portugal, Romania, **Spain** and the United Kingdom point to a mismatch between the skills young people have and the needs of the labour market, which lessens their employability.” (pp. 61-62)

“AAI [Active Ageing Index] outcomes show that more than half of the Member States should increase the rate of employment of older men and women if they are to foster social inclusion: [...] and **Spain**.” (p. 62)

“**Spain** took measures to reduce social security contributions for companies that hire unemployed young people under thirty years of age.” (p. 63)

“Also on Equal Pay Day, a self-diagnosis gender pay gap tool was launched in **Spain**, enabling companies to identify wage inequalities between women and men, in accordance with measures foreseen in the Strategic Plan for Equal Opportunities 2014–2016 to combat the gender pay gap.” (p. 67)

“Similarly, in **Spain**, a plan for the promotion of women in rural areas covering the period 2015–2018 was approved in October 2015.” (p. 67)

“Cyprus, Malta, the Netherlands, Slovakia, **Spain** and the United Kingdom took action to counter discrimination based on disability.” (p. 68)

“A number of developments relating to persons with disabilities took place in **Spain** in 2015. A comprehensive plan to support people with disabilities in the armed forces was adopted, and legal protection and social support for persons with disabilities as victims of certain serious crimes was strengthened. An inclusive approach for people with disabilities was adopted in the national system of civil protection, and accessibility and participation of people with disabilities in education was increased. In addition, legal provisions were introduced that provide deaf and deaf-blind citizens in criminal proceedings with the tools they need, such as sign language interpreters or other support for oral communication.” (p. 68)

“The autonomous community of Extremadura in **Spain** adopted a law relating to the equal treatment of LGBT persons and public policies on anti-discrimination. Next to bringing Extremadura in line with the practice of other autonomous communities, one core aspect of this law is the creation of a monitoring centre against discrimination on the grounds of sexual orientation or gender identity.” (p. 69)

“In the framework of the “Understanding Discrimination, Recognizing Diversity” (CORE) project, **Spain** launched a report on Embracing diversity: proposals for an education free of homophobia and transphobia. The report offers a conceptual, legal and incidents-based analysis, selected educational resources, best practices as well as recommendations, indicators and strategies to prevent, identify and intervene in cases of homophobic and transphobic bullying in schools. The document also provides a protocol of five phases to comprehensively intervene in cases of homophobic and transphobic bullying in schools, involving all members of the education community.” (p. 69)

### 4. Racism, xenophobia and related intolerance

#### “Educating children about racism

In **Spain**, as part of a project on ‘Training for the prevention and detection of racism, xenophobia and related forms of intolerance at schools: Migrants and ethnic minorities at school’, the Spanish Observatory against Racism and Xenophobia published the *Handbook*

for preventing and detecting racism, xenophobia and other forms of intolerance in schools. The handbook targets professionals in the educational system.” (p. 79)

“In the course of these bilateral exchanges [to ensure the full and correct transposition and implementation of Framework Decision 2008/913/JH], progress was reported in a number of Member States. Specifically, Austria, Cyprus, Romania and **Spain** all made relevant amendments to their criminal laws in 2015.” (p. 81)

“Public authorities – such as the police in Scotland (UK) and the Ministry of the Interior in **Spain** – also launched such campaigns [information campaigns on hate crime in cooperation with national human rights bodies and civil society organisations].” (p. 81)

“In [7 EU Member States], **Spain** and Sweden, national public campaigns and/or information websites were launched on living together without prejudice, racism and xenophobia; on increasing the reporting of racist and discriminatory incidents; and on victim support.” (p. 81)

“In **Spain**, a protocol for law enforcement agencies to counter hate crimes and discrimination entered into force in January 2015.” (p. 82)

## 5. Roma integration

“The [Commission’s 2015] report [on the implementation of the EU Framework for NRISs] also noted progress in drawing up, revising and planning local-level action plans in Member States, such as [9 Member States], **Spain** and Sweden.” (p. 102)

“In several Member States, municipalities have put in place local action plans that target Roma specifically, but not exclusively, despite the absence of such a provision in the NRIS – for example, in [...] **Spain** and the United Kingdom.” (p. 105)

“In Cordoba, **Spain**, the [FRA LERI research] project supports a participatory process contributing to a strategic plan for Roma integration.” (pp. 105-106)

“In **Spain**, the majority of the regions have chosen in their European Social Fund Operational Programs the Thematic Objective 9.2., which allows them to allocate an important amount of resources in favour of Roma population inclusion at regional and local level.” (p. 106)

“On the other hand, in **Spain**, the Local Strategy on the Roma population of Barcelona, newly adopted in 2015, includes a monitoring mechanism that involves relevant stakeholders, including civil society organisations. It is composed of four bodies in charge of follow up and monitoring: a technical working group for planning, a technical working group for follow up, a municipal inter-sectoral group for coordination, and a political working group for follow up.” (p. 108)

### “Transferring local-level initiatives

The Roma Secretariat Foundation (*Fundación Secretariado Gitano*, FSG) (**Spain**) and *Consorzio Nova Onlus* (Italy) are implementing an ESF-funded project that aims to develop and adapt the model of the ‘Acceder programme’ to the Italian context. The Acceder programme, implemented by FSG since 2000, aims to help the Roma population integrate into the job market. It is present in 14 Spanish regions and involves 51 employment mechanisms.” (p. 108)

## 6. Information society, privacy and data protection

“In **Spain**, an amendment to the draft Security Bill was introduced to provide a legal basis for the use of PNR data.” (p. 128)

## 7. Rights of the child

“In some EU Member States, the proportion of children at risk of poverty or social exclusion has grown (Figure 6.2): for example, in Finland from 13 % to 15.6 % and in **Spain** from 32.6 % to 35.8 %.” (p. 137)

“In 2015, 10 EU Member States received recommendations in child-related policy areas ([8 Member States], **Spain** and the United Kingdom).” (p. 139)

“However, in the cases of Belgium, Greece, Italy, Malta, Portugal, Romania and **Spain**, the Commission launched the second stage of infringement procedures with reasoned opinions, asking them to notify the Commission of all measures taken to ensure full implementation, including bringing national legislation in line with EU law. Should the Member States fail to do so, the Commission may decide to refer them to the Court of Justice of the European Union (CJEU).” (p. 142)

“Throughout the year, Member States such as Austria, Bulgaria, Germany, Ireland, Portugal, **Spain**, and Croatia updated their legislation to include various provisions on sexual crimes against children that contain specific references to new technologies.” (p. 144)

“There were other positive developments at Member State-level. Several states adopted policy measures that increased resources for anti-cybercrime operations, including the Netherlands, Portugal, **Spain**, Sweden, and the United Kingdom.” (p. 145)

“However, only nine Member States [including **Spain**] have ratified this protocol [of the UN Convention on the Rights of the Child].” (p. 147)

“Several EU Member States made changes to their juvenile justice systems in 2015, largely with respect to detention. For example, in **Spain**, a law reforming the Criminal Procedure Law was adopted in October. The changes establish that authorities cannot hold children under 16 in solitary confinement. Furthermore, the code now sets out an obligation to immediately inform children’s parents or guardians about their detention, as well as to put the child at the disposal of the Public Prosecutor’s Office for Minors.” (p. 147)

“**Spain**’s Law 4/2015 on the Status of Crime Victims requires professionals to consider the opinions and interests of children and persons with disabilities when preparing the individual assessments established in the Victims’ Rights Directive.” (p. 151)

## 8. Access to justice including rights of crime victims

“**Spain** adopted legislation with a view to transposing both directives [Directive 2010/64/EU on the right to interpretation and translation and Directive 2012/13/EU on the right to information] in 2015.” (p. 164)

“Five EU Member States registered transposition of the Victims’ Rights Directive with the European Commission by 16 November 2015: the Czech Republic, Malta, Portugal, **Spain** and Sweden.” (p. 167)

“**Spain** made substantive amendments to its criminal code to bring its legislation in line with the Istanbul Convention. Gender is mainstreamed; a prohibited ground of discrimination is to be an aggravating circumstance; and harassment and forced marriage are now offences.” (p. 172)

“In **Spain**, the Government Office against Gender-based Violence published results from a wide population-based survey – covering 10,171 women aged 16 or above – on the prevalence of violence against women in the country. The survey followed the quality requirements recommended by the UN Statistics Committee as well as by FRA’s survey on

violence against women. The survey measured intimate partner violence, and, for the first time in **Spain**, collected data on the prevalence of non-partner physical and sexual violence. The survey shows that 12.5% of women have experienced physical or sexual violence from their current or former partners; 2.7% reported that they were currently experiencing physical or sexual intimate partner violence. 7.2% reported non-partner lifetime sexual violence, and 0.6% had experienced this type of violence in the 12 months prior to the interviews. These results are in line with FRA survey results.” (p. 174)

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

No mention of Spain here.

## Thematic Reports

### Roma women in nine EU Member States (April 2019)

<https://fra.europa.eu/en/publication/2019/eumidis-ii-roma-women>

“More detailed country comparison reveals that across all age groups more men than women have good to excellent reading and writing skills in Bulgaria, Greece, **Spain**, Croatia and, particularly, in Portugal.” (p. 14)

“The EU Framework for National Roma Integration Strategies requires that all Roma children complete at least primary school. Eurostat data for the general population show that in 2013 in the EU, on average practically every child (98 %) aged 7 years attended primary education. When it comes to Roma, the results of this survey show that the goal of the EU Framework for Roma integration has not been achieved. The gap to the general population is pronounced in the nine countries, except in Hungary and in **Spain**.” (p. 16)

“Given the decisive role of inclusive early childhood education in improving educational outcomes, it is not surprising that on average 16 % of Roma women and 12 % of Roma men surveyed never attended formal education. Gender differences are more visible among the older generation (45+) and are highest in Greece, Portugal, **Spain** and Croatia.” (p. 17)

“According to Eurostat, in the EU the mean age at first marriage for women ranges from around 27 (e.g. in Bulgaria, Poland and Romania) to 33 or more years of age (e.g. in **Spain** and Sweden).” (p. 22)

“In some countries, the share of women who married before the age of 18 is particularly high, for example in Greece (49 %), Portugal (45 %), Romania (39 %), Bulgaria and Croatia (both, 37 %) and **Spain** (36 %). As noted above, UN Treaty monitoring bodies, such as the CEDAW and CRC Committees, as well as the Council of Europe, consider marriages under the age of 18, as forced marriages and a violation of the human rights of women and children. In the case of Roma women and girls, such marriages affect their ability to continue education to find decent work and contributes in perpetuating the cycle of poverty and social marginalisation.

Overall, however, there is a tendency for the rates of early marriage (before 18) to decline over time, as can be seen in Figure 14. However, an important share of women aged 16-24 years marry before they are 18, in Portugal (45 %), Greece (42 %), Romania (26 %) and in **Spain** (22 %).” (p. 23)

“The survey asked Roma respondents if they had faced limitations in their daily activities because of long-term health problems. This would allow comparison with the indicator on ‘long-term activity limitations’ of the European Core Health Indicators. [...] Gender differences

in this regard are pronounced in six of the nine countries surveyed, which is a pattern that can also be observed in the general population. The biggest difference between women and men's experiences is in **Spain**, where 17 % of Roma men say that they have been limited in their daily activities, while almost one in three women (30 %) feel that health problems have limited their activities in some way." (pp. 24-25)

"Women's low employment rates could also be affected by traditional attitudes on gender roles. The survey asked respondents if they agree that 'men should take as much responsibility as women for the home and children'. [...] On the other hand, **Spain** is the only country where 7 percentage points more men than women agree to the statement." (p. 31)

"The survey also asked respondents if they agree that 'having a job is the best way for a woman to be an independent person'. Overall, more women (76 %) than men (70 %) agreed, or strongly agreed, to this statement. The proportion of men who agree, or strongly agree, to this is higher in **Spain**, Portugal and Bulgaria, and lower in Romania, Greece and Czechia. [...] In Bulgaria, Hungary, Slovakia and **Spain** a similar share of Roma women and men disagree, or strongly disagree, that a job is the best way for a women to be independent." (p. 32)

"More women than men said that they had experienced discrimination in Czechia, Spain and Portugal." (p. 35)

### [Beyond the peak: challenges remain, but migration numbers drop \(March 2019\)](https://fra.europa.eu/en/publication/2019/migration-2018-review) <https://fra.europa.eu/en/publication/2019/migration-2018-review>

"Routes taken by refugees and migrants heading to Europe changed in 2018. During the first half of the year, more people arrived in Greece than in Italy or Spain. In the second half, however, **Spain** replaced Italy and Greece as the main country of arrival on the EU's external border." (p. 5)

"The numbers of deaths and missing persons trying to reach **Spain** alone increased by 288 % – from 202 in 2017 to 784 persons in 2018." (p. 5)

"Migrants attempting to reach Bulgaria, Croatia, France, Greece, Hungary, Poland and **Spain** were reportedly pushed back across borders without being given the opportunity to apply for asylum." (p. 7)

"The Commissioner for Human Rights of the Council of Europe<sup>39</sup> observed that **Spain's** border guards summarily returned migrants, including children, who attempted to enter Melilla by climbing the border fence to Morocco without identifying the persons concerned or assessing their individual situation." (p. 9)

### [Experiences and perceptions of antisemitism – Second survey on discrimination and hate crime against Jews in the EU \(December 2018\)](https://fra.europa.eu/en/publication/2018/2nd-survey-discrimination-hate-crime-against-jews) <https://fra.europa.eu/en/publication/2018/2nd-survey-discrimination-hate-crime-against-jews>

"Most respondents in **Spain** and Italy consider unemployment and government corruption to be the most pressing issues (94 % and 98 %, and 95 % and 91 % of respondents, respectively, said that these are 'a very big' or 'a fairly big problem')." (pp. 15-16)

"The majority of the respondents in Belgium (84 %), **Spain** (85 %), and France (80 %) consider antisemitism in the media to be 'a very big' or 'a fairly big' problem in the country." (p. 22)

“Respondents in Germany, Belgium and **Spain** also regularly face the statement “Israelis behave ‘like Nazis’ towards the Palestinians” (63 %, 64 % and 68 %, respectively said ‘all the time’ or ‘frequently’).” (p. 24)

“Also, more respondents in **Spain** and Italy (38 % and 37 %, respectively) than in other countries note negative statements being made in academia [...]. Fewer respondents from the United Kingdom, Sweden, the Netherlands and Denmark (33 %, 39 %, 41% and 42 %, respectively) say that they have heard such statements in social situations than respondents from, for example, Germany, Poland or **Spain** (56 %–58 %)..” (p. 28)

“The highest shares of those who wear, carry or display such recognisable items [that could identify them as Jewish] at least sometimes were observed in Poland, **Spain**, the United Kingdom, Hungary and the Netherlands (61 %, 60 %, 58 %, 58 %, and 57 %, respectively).” (p. 37)

“Most respondents in Italy (69 %), **Spain**, Denmark, the United Kingdom (65 % in each of the three countries), the Netherlands (62 %), Austria and Sweden (58 % each) have not considered emigrating.” (p. 38)

“Notably, over 85 % of the respondents in Belgium and France, and at least 70 % of the respondents in **Spain**, Germany and Denmark indicate that the Arab-Israeli conflict has a notable impact on their feelings of safety as Jews (‘a great deal’ or ‘a fair amount’).” (p. 43)

“Half of the respondents in Belgium, France, Germany, and **Spain** (50 %–55 % depending on the country) said that people in their country ‘frequently’ or ‘all the time’ blame them for anything done by the Israeli government (Figure 17).” (p. 44)

“More than one third of respondents in Germany (41 %), Belgium (39 %) and the Netherlands (35 %), and close to one third of respondents in Poland, **Spain** (32 % each) and Sweden (30 %) experienced at least one type of antisemitic harassment in the 12 months before the survey. In the rest of the countries surveyed, this share comprises one fourth of respondents.” (p. 46)

“The category ‘someone with a left-wing political view’ is observed among the three most frequently mentioned perceptions in Denmark, **Spain**, France, Italy, Sweden and the United Kingdom (it ranges from 21 % in France to 38 % in Italy).” (p. 54)

“Comparing the results between the EU Member States in terms of the most serious antisemitic harassment incidents in the past five years shows the highest reporting rates in Austria, the Netherlands and the United Kingdom (21 %–28 %), and the lowest in **Spain**, Belgium and Denmark (13 %–17 %) (Figure 22).” (p. 55)

“In contrast, the lowest awareness levels [of legislation prohibiting discrimination] are observed in Hungary (64 %), **Spain** (70 %), and Poland (71 %), with relatively larger proportions saying that there is no such law or answering “don’t know”.” (p. 66)

“Respondents from Denmark (45 %), Italy (46 %), **Spain** (50 %) and Germany (56 %) are the least aware of such organisations [that support victims of discrimination].” (p. 66)

“In **Spain**, the United Kingdom and the Netherlands, less than half of the respondents are aware of such a law [against denying or trivialisation] (27 %, 37 % and 44 %, respectively).” (p. 67)

“In the countries included in the survey, most respondents are aware of the existence of laws against incitement to violence or hatred against Jews, with the exception of those in **Spain** (Figure 28).” (p. 68)

“The lowest proportions of those who have heard such suggestions concerning circumcision and/or traditional slaughter are observed in Hungary and **Spain**, where 83 % and 63 % of respondents, respectively, said that they are not aware of debates on banning circumcision, traditional slaughter or both (Table 8).” (p. 69)

“A large majority of respondents in Italy, France, Belgium, **Spain**, and the United Kingdom (91 % to 80 % depending on the country) [...] indicate that a prohibition of circumcision would be a very big or fairly big problem for them. About three quarters of respondents in Italy (79 %), France (76 %), Spain (73 %), and the United Kingdom (71 %) held the same position regarding prohibition on traditional slaughter.” (p. 70)

### Working with Roma: Participation and empowerment of local communities (November 2018)

<https://fra.europa.eu/en/publication/2018/empowering-roma>

“For example, in **Spain**, the research had a strong link to shaping local political agendas. In Córdoba, where the research supported a participatory development of a local Roma integration strategy, as well as in Madrid, where the preparation of a feminist Roma congress was supported, the research shows that getting Roma issues on the political agenda is a challenge. Moreover, it is important for projects to coincide with existing policies on social inclusion and integration.” (p. 47)

### Combating child poverty: an issue of fundamental rights (October 2018)

<https://fra.europa.eu/en/publication/2018/child-poverty>

“FRA’s data also show that between 16 % (**Spain**) and 48 % (Greece) of Roma children live in households where at least one person went to bed hungry at least once in the month before the data were collected.” (p. 7)

“More than 30 % of children were at risk of poverty or social exclusion in countries such as Greece (37.5 %), Hungary (33.6 %), Italy (33.2 %), **Spain** (32.9 %) and Lithuania (32.4 %).” (p. 15)

“Food deprivation is an important indicator related to severe material deprivation. The EU-MIDIS II data in Figure 6 show that between 16 % (**Spain**) and 48 % (Greece) of Roma children were living in households where at least one person went to bed hungry at least once in the month preceding data collection.” (p. 21)

“One CSR related to child poverty is addressed to **Spain** and underlines the need to improve family support and coverage gaps in income guarantee schemes [...]” (p. 42)

#### “Promoting education among Roma communities

‘Promociona’ is a programme established by the Fundación Secretariado Gitano to break the cycle of poverty among the Roma community in **Spain** and to achieve social inclusion through education. The project aims to ensure that young Roma complete compulsory studies and continue studying. The project, financed by the European Social Fund, targets people aged 12 to 16 years. Personalised insertion itineraries were developed to link training with employment. The increase in the overall number of people within the Roma community that hold a medium or higher certified level of education, as well as qualified jobs, is likely to have cumulative effects. The Promociona programme is currently being used in 47 cities of 13 Autonomous Communities of **Spain**.” (p. 44)

## Protecting migrant workers from exploitation in the EU: boosting workplace inspections (September 2018)

<https://fra.europa.eu/en/publication/2018/protecting-migrant-workers-exploitation-eu>

“Professionals in Bulgaria, Greece, the Netherlands, Slovakia and **Spain** stressed that deficiencies in comprehensive and effective monitoring of working conditions are ultimately reflected in the attitudes of exploitative employers, who – as one interviewee expressed it – believe that “nothing can happen to them”.” (p. 12)

## Hate crime recording and data collection practice across the EU (June 2018)

<https://fra.europa.eu/en/publication/2018/hate-crime-recording>

### “Facing all the Facts

CEJL’s ‘Facing all the Facts’ project brings together partners from CSOs and law enforcement from six Member States (Greece, Hungary, Ireland, Italy, **Spain**, United Kingdom) to co-create online training on identifying and recording hate crimes. The project designs modules on bias indicators for crimes targeting different communities for learners from civil society and nongovernmental monitoring organisations and law enforcement.” (p. 26)

### “Spain

#### Legal framework

Article 22.4 of the Spanish Criminal Code (CC)<sup>120</sup> sets out a general aggravating circumstance applicable to any crime committed for racist or antisemitic motives or another kind of discrimination concerning ideology, religion or beliefs of the victim, ethnicity, race or nation of belonging, sex, sexual orientation or identity, gender, illness or disability.

With regard to the offence of the disclosure of personal data, Article 197.5 of the CC provides for a specific aggravating circumstance when the data disclosed concern the ideology, religion, beliefs, health, racial origin or sex life of a person.

The CC also includes a number of substantive offences pertaining to hate crime: threats liable to inflict fear on an ethnic, cultural or religious group (Article 170.1 of the CC); crime against moral integrity (Article 173 of the CC); torture for reasons related to any discrimination ground (Article 174.1 of the CC); severe discrimination in employment (Article 314 of the CC); discriminatory denial of public services or of professional or business services to which someone is entitled (Articles 511 and 512 of the CC); public direct or indirect incitement to hatred, hostility, discrimination or violence for racist, antisemitic or other reasons regarding ideology, religion or beliefs, family situation, belonging of its members to an ethnicity, race or nation, national origin, gender, sexual orientation, illness or disability (Article 510.1a); production, distribution or sale of materials to that effect (Article 510.1b); public denial, gross trivialisation or apology of crimes of genocide, crimes against humanity and war crimes (Article 510.1c); humiliation, contempt or discredit of any of the groups mentioned, or part of it, or any person because of his/her belonging to a specific group, resulting in the violation of the dignity of persons (Article 510.2a of the CC); public apology or justification of crimes committed against any of the mentioned groups, a part of them or a person because of their belonging to this group (Article 510.2b of the CC); illegal association, which includes those promoting or directly or indirectly inciting to hate, hostility, discrimination or violence against persons, groups or associations due to the cited grounds (Article 515.4 of the CC); crimes against religious feelings (Articles 522-526 of the CC).

The Law 19/2007 against Violence, Racism, Xenophobia and Intolerance in Sports<sup>121</sup> includes some hate related administrative offences, such as insulting or showing banners,

symbols or other signs with insulting or intimidating messages against any person on grounds of his or her racial, ethnic, geographic or social origin, religion, belief, disability, sex or sexual orientation or harassing anyone on these grounds. The data about these administrative offences are included in the general hate crime data collection by the Ministry of Interior.

### **Recording hate crime**

Recording hate crimes in Spain follows the general crime recording procedure. When a crime or incident is reported to the police, the frontline police officer writes a report containing the relevant facts of the case and sends it to the judicial authority and the public prosecutor. If the police officer identifies the case as a potential hate crime because the aggravating circumstance applies or because it is one of the offences listed above, the case is sent to a specific public prosecutor responsible for hate crimes. The police officer then fills in the police database, which is an internal police application connected to the general crime statistics database. One of the fields that he/she can select and tick is the area "hate crime" and within this area there is a list of eight bias motivations (racism/xenophobia, ideology, sexual orientation or identity, gender, religious beliefs, antisemitism, disability, aporophobia<sup>122</sup>), of which one has to be selected. This police form also has a free text space. Here the police officer enters a short description of the facts concerning the crime or incident, the victim and the possible perpetrator, and the bias indicators pointing to the existence of a hate crime.

The Protocol for Police Forces on Hate Crimes, adopted by Instruction 16/2014 of the State Secretary for Security and revised in 2015, provides guidance on how to handle hate crime. It includes:

- the OSCE definition of "hate crime" which is taken as a working definition, given that the CC does not use this term;
- a list of hate crimes and hate-related administrative infringements under Spanish legislation;
- a section on bias indicators police officers have to pay attention to and if need be investigate and lay down in their reports, including a list of 15 bias indicators (see below);
- instructions concerning investigation and the interrogation of suspects and witnesses;
- instructions concerning the communication to the judicial authority and the specialised public prosecutor; and
- guidance on the attention, protection and information to be provided to victims, as well as the attention to the special needs they and their relatives might have, while making specific reference to the Victims' Rights Directive.

The 15 bias indicators contained in the Protocol are the following:

- The victim's perception
- The membership of the victim to a community or minority group by reason of racial or ethnic origin, religion or sexual orientation or identity
- Racist, xenophobic or homophobic expressions and comments uttered or signalled by offenders when committing the crime
- Hate or discrimination by mistake or by association: there can be a mistake in the victim identification by the perpetrator, or the victim is not part of a specific group but they can be an activist or sympathise with this group (i.e. heterosexual person working for a LGBT association)
- Tattoos, dressing or use of symbols of racist or extremist ideology by the offender
- The relationship of the suspect with extremist groups of football team supporters
- The apparently unjustified and gratuitous violence should be regarded as a determinant indicator
- Radical propaganda, banners, flags, etc. that the perpetrator may carry or that may be found through search warrants

- Criminal record of offender in similar crimes
  - The incident is committed close to facilities of NGOs, places of worship, graveyards etc.
  - The relationship of the suspect with groups against immigration, antisemitism, anti – Muslim, etc.
  - Long - lasting enmity between groups of offender and victim
  - Specific date: Wednesday for Muslim, Saturday for Jews, Pride parade for LGBT, etc.
- Memorial Date: Hitler anniversary, Poland invasion, etc.
- Offender behaviour: prejudices expressed during detention or interrogation; telephone activity records (e.g. video boasting of aggression); social media (radical) activity

This protocol is accessible to all police officers through the police intranet. It is also used for police training programmes at all levels.

### **Data collection and publication**

The data collection on hate crime follows the general procedure followed for producing crime statistics. The Secretary of State for Security within the Ministry of the Interior is in charge of managing the Criminality Statistics System (SEC) and to produce statistics at national level. On a monthly basis, the Secretary of State for Security collates the information coming from the police databases into the SEC.

Furthermore, since the categorisation of an incident or crime may change as a result of police investigation, at the end of every year the Secretary of State for Security receives information from the police databases, regarding the data that have been modified.

Thus, statistical data about hate crimes stem directly from police databases in which frontline police officers have entered the statistical information. On the basis of these statistics, since 2013, the Secretary of State for Security has been releasing an annual report on hate crime.<sup>125</sup>

This report provides an overview of the main figures regarding hate crimes broken down by the eight bias motivations on which the statistical system is based:

- 1) racism / xenophobia;
- 2) ideology;
- 3) sexual orientation or identity;
- 4) gender;
- 5) religious beliefs or motivations;
- 6) antisemitism;
- 7) disability;
- 8) aporophobia.

It compares these figures to the previous annual period, breaks them down by types of offences and by reported facts and clarified facts, shows the territorial distribution and the profiles of victims and perpetrators. It also includes a section on hate speech. The report is presented to the public and published on the website of the Ministry of Interior.

Selected statistical data about the number of reported and clarified incidents, victim profiles and the number of persons arrested and investigated in relation to hate crimes can also be downloaded at the statistical portal of the Ministry of the Interior. The report covering the year 2017 will be published in June 2018.

### **Cooperation with civil society organisations**

In 2015, the General Secretariat for Immigration and Emigration, the Ministry of Employment and Social Security, the General Council of the Judiciary, the Public Attorney's Office, the Ministry of the Interior, the Ministry of Justice, the Ministry of Health, Social Services and Equality and the Centre for Judicial Studies enhanced an inter-institutional agreement by

signing the “*Collaboration and Cooperation Agreement against Racism, Xenophobia and other forms of Intolerance.*” The Agreement establishes four working groups on: data and statistics on hate crime collection (led by the Ministry of Justice); analysis of judicial resolutions on hate crime (led by the General Council of the Judiciary); hate speech monitoring (led by the Ministry of Employment and Social Security, Oberaxe); and training on racism, xenophobia and other intolerance (led by the Ministry of Health. The objective of the working group on data and statistics on hate crime collection is to improve the hate crime data collection process and also the inter-institutional procedures and cooperation to register, exchange and monitor these data. The working group includes representatives from all signing institutions. An extended group of experts from relevant NGOs and civil society representatives participate as observers in the working groups.” (all on pp. 83-85)

## Challenges facing civil society organisations working on human rights in the EU (January 2018)

<http://fra.europa.eu/en/publication/2018/challenges-facing-civil-society-orgs-human-rights-eu>

“A recent OSCE report outlines a range of laws criminalising insults or defamation in the EU. [...] Belgium, Denmark, the Netherlands, **Spain** and Sweden have criminalised *lèse majesté*. [...] Austria, Croatia, Germany, Italy, Poland, Portugal, Slovenia and **Spain** have criminal laws prohibiting insults of the state. With the exception of Italy and **Spain**, imprisonment is a possible penalty in all cases. Criminal laws prohibiting the insult of state symbols exist in Bulgaria, Greece, Poland, Portugal and **Spain**. Austria, Belgium, Cyprus, Germany, Greece, Italy, Luxembourg, the Netherlands, Poland, Portugal and **Spain** criminalise defaming or disparaging various state institutions, such as governments, parliaments, courts, the armed forces and public bodies or authorities in general.” (p. 24)

“In **Spain**, the Basic Law for the Protection of Public Security imposes fines for conduct, such as ‘disrupting citizen safety’ near legislative buildings or for photographing or video recording security forces without authorisation, which limits the right of public assembly. The law also imposes fines of up to € 600 for failing to notify authorities about peaceful demonstrations in public areas, up to € 30,000 for protests resulting in ‘serious disturbances of public safety’ near parliament and regional government buildings, and up to € 600,000 for unauthorised protests near key infrastructural facilities.” (p. 25)

“Individual and corporate donors have taken a more active role in countries where the tax percentage rule allows for donations to CSOs ([8 Member States] and **Spain**).” (p. 31)

“In **Spain**, according to CSO reports, numerous reforms advocated by the government – such as the Organic Law on the Judiciary or the Law on Legal Aid – have allegedly been carried out without consultation of civil society, though international standards require such consultation.” (p. 41)

“The premises of human rights CSOs have also come under attack. In **Spain** in 2014, the premises of an anti-racism NGO were attacked by individuals who placed a large banner with hanging puppets on the front of the building, containing xenophobic phrases such as “Stop the invasion!”, criticising the human rights organisation for its “anti-Spanish” activities of “denouncing those who protect [Spanish] borders” and throwing firecrackers into the offices.” (p. 48)

“Another migrant rights defender in **Spain** was harassed on Twitter and by telephone after complaining of racism at the border with Morocco, with individuals threatening her and publishing details of her personal life.” (p. 48)

## Second European Union Minorities and Discrimination Survey - Main results (December 2017)

<http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results>

“[...] Roma – identified the reputation of their neighbourhood or their address as the main reason for their most recent experience of discrimination. This specific reason is particularly important for Roma who experienced discrimination when looking for work in Slovakia (21 %), Greece (20 %), and **Spain** (18 %).” (p. 15)

“In the countries where both target groups (TUR and NOAFR [Turkey and North Africa]) were surveyed, men indicate higher rates of discrimination based on ethnic origin or immigrant background than women – except in Denmark and **Spain**, where no gender differences are observed.” (p. 28)

“Respondents of North-African descent perceive similar levels of discrimination in almost all countries in which they were surveyed. [...] The lowest rates were noted in **Spain**; however, even there, every fifth respondent indicated having experienced discrimination (21 %).” (p. 30)

“Discrimination in access to housing was also relevant for 14 % of Roma who looked for housing in **Spain** in that period, [...]” (p. 35)

“Meanwhile, every fifth Roma respondent in Greece (20 %), Slovakia (21 %) and **Spain** (18 %) identified the reputation of the neighbourhood or the address at which they live as the main reason for the latest incident of discrimination when looking for work.” (p. 39)

“Roma respondents in **Spain** (29 %), Croatia (27 %) and Slovakia (28 %) especially said, in much higher proportions than Roma in other countries, that the address at which they live triggered discrimination against them when accessing healthcare services.” (p. 39)

“Meanwhile, respondents in Belgium, Greece, Hungary, Poland, Portugal, Slovenia and **Spain** tend to report [discrimination] less often than the average.” (p. 44)

“Almost none of the incidents experienced by respondents of the same target group were reported in **Spain**. Reporting rates were also lowest in **Spain** in EU-MIDIS I.” (p. 44)

“[...] just about one out of twenty victims of discrimination reported the most recent incident in Greece (7 %), Hungary (6 %) and **Spain** (5 %).” (p. 44)

“The impression that nothing would happen or change as a result of reporting a discrimination incident endured while looking for work is most prominent among Roma respondents (47 %) [...]. In **Spain**, only every fourth Roma respondent mentioned it (25 %).” (p. 49)

“Among respondents with North African background in **Spain**, recent immigrants in Slovenia, and respondents with South Asian background in Italy, almost none knew of such a support service or organisation [that offer support or advice to discrimination victims in their country of residence].” (p. 50)

“Meanwhile, independent of their origin, most respondents in Greece, Italy and **Spain** do not know of any organisations that offer support to victims of discrimination.” (p. 50)

“In other countries, the proportion of respondents who know the equality bodies is low – for example, in **Spain** (6 %), Malta (9 %), Slovenia (10 %), Luxembourg (12 %), and Italy (14 %).” (p. 52)

“Notably, 21 % of Roma in Portugal and 10 % of Roma in **Spain** who experienced hate-motivated harassment due to their ethnic or immigrant background indicated that the

perpetrator was a police officer or a border guard. These experiences contrast with the results for the other groups interviewed in these two countries. Among immigrants and descendants of immigrants from Sub-Saharan Africa (in Portugal) and North Africa (in **Spain**) very few had experienced hate-motivated harassment by police or border guards (2 % and 1 %, respectively – although these results should be interpreted with caution due to the small number of cases available for analysis).” (p. 61)

“The highest five-year prevalence of being physically assaulted by the police was found among immigrants and descendants of immigrants from South Asia in Greece (6 %), immigrants and descendants of immigrants from Sub-Saharan Africa in Austria (5 %), and Roma in **Spain** and Croatia (both 4 %).” (p. 65)

“Nearly half of Roma respondents had similar experiences [were stopped by the police in the five years before the survey] in Greece (48 %), **Spain** and Croatia (46 % and 45 %, respectively).” (p. 69)

“Finally, Roma respondents felt ethnically profiled in the five years before the survey at the highest shares in Greece, Portugal, **Spain** and Croatia. [...] Among stopped respondents with North African background, nearly half were stopped on the street in the Netherlands, Italy and **Spain** (44 %, 41 %, and 40 %, respectively).” (p. 74)

“On average, the lowest levels of trust in the police are observed among Roma respondents in **Spain**, Slovakia, the Czech Republic, Portugal, and Bulgaria – ranging from 3.7 to 4.6. (See Figure 42.)” (p. 75)

“The situation of respondents from North Africa also differs across Member States, with more stable residence statuses observed in the Netherlands (91 %) and low shares of secure residence in **Spain** and Italy (26 % and 38 %, respectively).” (p. 83)

“Only 29 % of immigrants from North Africa in **Spain** hold a residence permit valid for five years or longer after 10 years of residence or hold Spanish or another EU citizenship. This is an indication of the increased insecurity that long-term residents are experiencing particularly in **Spain**.” (p. 84)

“Low levels of education – with no upper secondary education received – are also observed among respondents with [...] with North African background in Italy (30 %) and **Spain** (43 %); [...]” (p. 89)

“Almost all Roma respondents in this age group [16-64] in Greece, Portugal, Bulgaria, **Spain** and Romania (98 % – 92 %) are no longer pursuing education and have completed at most lower secondary education.” (p. 91)

“The largest difference in employment rate from the general population was observed for Roma (by up to 40 percentage points in Croatia and **Spain**).” (p. 96)

“Immigrants and descendants of immigrants from North Africa indicate the same levels of trust as — or higher levels than — the general population in most countries covered, such as in Belgium, France and **Spain**.” (p. 100)

“Low levels of trust are found among Roma respondents. Comparisons with the general population are possible for only four countries: the Czech Republic, Hungary, Portugal and **Spain**.” (p. 100)

“By contrast, Roma in **Spain** are more open – with 92 % and 89 %, respectively, feeling comfortable with or neutral about lesbian, gay or bisexual, or transgender or transsexual, neighbours.” (p. 105)

“For example, in [...] **Spain**, the Netherlands, Austria, Germany, and Finland, between 30 % and 59 % of the total population indicate not having any such close friends [with a different ethnic background].” (p. 107)

## Together in the EU - Promoting the participation of migrants and their descendants (March 2017)

<http://fra.europa.eu/en/publication/2017/migrant-participation>

“Eleven of the 19 Member States with national action plans also had local- or regional-level integration strategies in place (Austria, [...] and **Spain**, [...].” (p. 24)

“FRA’s research found little evidence of specific references to gender in national action plans or strategies on migrant integration, although a number of positive initiatives and good practices were identified – for example, in Ireland, Luxembourg, the Netherlands, **Spain**, Sweden and the United Kingdom, focusing on immigrant and/or refugee women.” (p. 30)

“Furthermore, in October 2010, FRA’s survey of youth in three Member States (France, **Spain** and the United Kingdom) showed that most young people – regardless of religious background – do not support violence. On the other hand, the survey also showed that young people who have been victims of discrimination or violence are at greater risk of themselves engaging in violence. The report concluded that social marginalisation and discrimination have severe consequences for any society and both need to be addressed as a priority, as they are directly linked to violent behaviour by young people.” (p. 32)

“The present research found that, in 2015, trade union membership rates of immigrant workers were comparable with those of host-country nationals in Austria, Belgium, Estonia and the Netherlands, while larger gaps between migrants and host-country nationals were reported in Denmark, Ireland, **Spain** and the United Kingdom.” (p. 46)

“In several Member States, trade unions have well-established policies to reach out and support migrant workers – for example, in [...], **Spain**, [...].” (p. 47)

“Belgium, Bulgaria, Finland, France, Hungary, Luxembourg, Poland, Romania, Slovakia, Slovenia and **Spain** require language tests or proof of language proficiency (mostly at B1 level) only for acquiring citizenship.” (p. 51)

“Austria, the Czech Republic, Hungary and **Spain** require an assessment of country knowledge through an integration test only for citizenship applicants.” (p. 52)

“In addition, three countries (**Spain**, Portugal and the United Kingdom) provide voting rights to a limited group of third-country nationals, [...].” (p. 56)

“A third group of nine Member States ([...] and **Spain**) has national consultative bodies, but third-country nationals are not allowed to vote at national level, although most of these countries provide voting rights at local level ([...] and **Spain** with only limited rights).” (p. 56)

“In this context, the research found that 10 Member States ([...] **Spain**) have established various types of national immigrant consultative bodies to foster structured dialogue between immigrant groups and governments (Figure 12).” (p. 57)

“In addition, the research identified such consultative bodies operating at local or regional level in several Member States ([...], **Spain**, Sweden and the United Kingdom).” (p. 58)

## Rights of suspected and accused persons across the EU: translation, interpretation and information (November 2016)

<http://fra.europa.eu/en/publication/2016/rights-suspected-and-accused-persons-across-eu-translation-interpretation-and>

“The remaining five Member States (the Czech Republic, Hungary, Malta, Romania, and **Spain**) do not explicitly set this out in law; instead, reference is made to established practices that are in place to clarify who is responsible for determining the need for interpretation. Typically, police officers, prosecutors or judges are responsible.” (p. 32)

“As outlined above, Directive 2010/64/EU principally links the obligation to provide interpretation for communications with counsel with a direct connection between the communication and procedural actions. Some Member States have adopted similar wording, requiring a ‘direct connection’ with the proceedings. Examples include Estonia, Slovakia, and **Spain**.” (p. 42)

“Where it is up to the authorities, such as courts, to decide on a case-by-case basis whether certain documents can be considered essential and therefore be subject to translation, the defence can apply for the translation of a particular document under this mechanism. This is the case, for example, in Portugal and **Spain**.” (p. 43)

“Several other Member States, such as Ireland, **Spain** and the United Kingdom, also outsource the selection of interpreters and translators to private companies.” (p. 52)

“Some Member States additionally provide for audio or video recordings of court hearings and police interrogations ([...] and **Spain**). (p. 59)

“Some Member States’ laws explicitly link the obligation to inform someone of their rights with issuing a specific written decision or written notification. This is the case, for example, in [...] **Spain**, Slovakia, and Sweden.” (p. 64)

“Some national laws have more specific provisions, which require authorities to provide this information in or together with the official decision or notification about suspicion or accusation (unless the person is arrested before this) – such as [...] **Spain**, and Sweden.” (p. 68)

“The letters of rights used in 10 Member States ([...] and **Spain**) do not include all of these rights.” (pp. 72-73)

“In **Spain**, secrecy imposed upon investigative materials can only last for one month and has to end at least ten days before finalisation of the pre-trial investigations.<sup>581</sup> However, the Spanish Constitutional Court has in some cases – prior to adoption of the directive – upheld the legality of extending this period. For example, it has upheld extensions by 20 days and even by 6 months. The court found that extensions do not affect the right to a public hearing, which applies to trials pursuant to Art. 24(2) of the Spanish constitution. However, it found that these could violate the right to defence, guaranteed by Art. 24(1), and therefore examined, on a case-by-case basis, whether secrecy was justified and the defendant’s opportunity to challenge the evidence against him/her were affected. If not, the court deemed the extension a mere procedural infringement, without constitutional relevance. The ECtHR upheld this case law.” (p. 81)

“In **Spain**, a reform of the Code of Criminal Procedure implemented in 2015 ensures the lawyer’s right to access immediately those elements of the case materials that “may be essential to challenge the lawfulness of the detention or imprisonment”.” (p. 82)

