

Hate crimes/ Racism /
Xenophobia/ Southern border /
Refugees / Roma/ Detention
Centres / Extreme right



EXECUTIVE SUMMARY

SOS RACISMO 2017 REPORT: THE SITUATION OF RACISM AND XENOPHOBIA IN SPAIN



SECRETARÍA GENERAL
DE INMIGRACIÓN
Y EMIGRACIÓN
DIRECCIÓN GENERAL
DE MIGRACIONES



UNIÓN EUROPEA
FONDO EUROPEO
PARA LA
INTEGRACIÓN
Por una Europa plural



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1. INTRODUCTION

Since 1995 the federation of associations of SOS Racismo of the Spanish state has been analysing the situation of racism and xenophobia in Spain and in Europe showing the different typologies and spaces where racism exists through the elaboration of an annual report.

The first source for the elaboration of the annual report are the complains collected in the Information and Complaint Offices, ICO, distributed among the six of the eight territories where SOS Racism operates (Aragon, Catalonia, Galicia, Gipuzkoa, Madrid and Navarra) and that correspond to different types of discrimination for racial grounds: working discrimination, in the access towards public benefits, neighbourhood conflicts, etc. During 2016 a total of 309 complaints were collected, which highlight for their volume the ones of institutional racism and conflicts and racist aggressions.

The 309 complaints have names and surnames; in fact, these are people who have taken an important step. A part of these complaints have been subject to judicial procedures that in many cases will end in an unsatisfactory way for the complainant. If it is already difficult that a judicial body values racism in a criminal action, it is a more complicated issue to obtain the reparation of the victim in discriminatory actions within the private sphere and labour relations since they are required effective legal tools that we do not have today.

Despite the end of 2016 it still exists the possibility to register cases of discrimination from any place of the state through our web page, (<http://sosracismo.eu>). It is true that the territorial implantation and the own means that with which each territory counts determines the number of cases collected.

Without pretending therefore to offer a quantitative study of the number of discriminatory incidents produced, we believe that the 309 cases that we offer below represent a qualitative reflection of the discrimination in its different typologies that brings us closer to a reality that transcends the criminal scope of hate crimes and that for the reasons explained above (difference between discriminatory act and denounced fact, limitations of the entity, etc.) it is impossible to quantify precisely.

2. MAIN RESULTS

Types of discrimination registered in the ICO. As it is shown in the following bar chart, the majority of the complaints arriving in the ICO of SOS Racism in the spanish state have to do with institutional racism (82) followed by the conflicts and racist aggressions (51). The rest are at a distance: problems with public security (46), denial of access to public services and benefits (39), labor discrimination (40), denial of access to private services (6,48%), problems related to agents of private security (40) or cases related to the extreme right or hate speech (11%).

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From the different aspects that encompasses the institutional racism we have collected the ones related to foreign procedures, nationality, detention centers and complaints referred to actions by security bodies. This type of discrimination has remained at high levels. In 2014, they were the 23% of the total complaints; in 2015 they barely rise and in 2016 rise to a 26%, which places it as the first cause of discrimination.

Conflicts and racist aggressions are a type of discrimination that in 2015 were the difference with respect to the rest of the first type of discrimination registered, (28% of the cases) to be placed in 2016 at levels similar to the year 2014, (19% and 16% respectively).

The incidents related to police forces and private security personnel have been subject to a great number of complaints in the data collected. In 2014 they accounted for 22% of registered complaints, falling to 18% in 2015, and 15% in 2016.

The rest of the discriminatory types have remained at stable levels in the last three years. The denial of access to private benefits and services occupied a 11% of the total complaints in 2014, 8% in 2015 and 13% in 2016. The denial of public benefits and services descended from an 18% to a 12% between 2014 and 2015 and it is maintained so in 2016. The labour discrimination rose from a 4% in 2014 to an 11% in 2015 and it has remained in these percentages in 2016 with a 13%. Finally, point out that the incidents related to extreme right and hate speech refer to complaints of racist content on social networks and graffiti.

3. AGE, ORIGIN AND ADMINISTRATIVE SITUATION AND GENDER

Concerning age, only two people were under 18. In order to study the origin of the complainants it has been taken into account the representation of each continent in respect to the foreign population in general. In this regard, the people coming from Sub-Saharan Africa are the group most discriminated, something that was already noted in last year's report.

The administrative situation is another important element when analysing this data... The majority of the people were in a regular situation (177). From a total of 300 complainants, 57 were in an irregular situation and 66 were citizens of a member state of the EU, among which the majority were people of Spanish nationality.

The above comes to ratify the fact already confirmed in previous reports that regularity is an element that contributes that giving that important step like denouncing a discriminatory action. A greater stability greater awareness that certain discriminatory acts should not be accepted.

Unlike previous editions, in this report we have tried to study the gender variable in each of the types of discrimination. In general terms, the masculine gender supposes the double that the feminine one. While there are hardly any variations in the denial of private or public services and benefits, as well as in aggressions, in

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other areas such as institutional racism or the actions of security forces and bodies, the proportion of men is greater than that of women.

4. JUDICIAL TOUR OF THE CASES

Not all the cases collected in ICO have a judicial response, either because the type of complaint received does not seek redress but rather to record a fact that is considered contrary to the principle of equal treatment or because the judicial way is not the most appropriate for its resolution. In the classification that SOS Racismo makes of the cases that may be subject to some type of action we have judicialized and not judicialized.

Regarding the first, it is important to point out that here are complaints that have obtained some kind of agreement and that therefore either have not reached the courts or a claim has been filed the matter ends with an agreement between the parties. There are also themes that are derived to the civil or labor route. And finally matters that are not judicialized but they have been processed before the institution of the Ombudsman at the regional or state level or through administrative channels.

Having the puntualizations already done, the total number of cases that have required any type of action have been 114 distributed in the different channels that we have commented:

On the other side, there are 43 cases in which it is possible to be processed through a criminal complaint or through other actions before the discrimination. Nevertheless, the complainant expresses that is not necessary to continue in this way or does not reject but is faced with difficulties: fear of a counter-accusation, it will not be traceable if some type of procedure is initiated, etc.

In summary, the difficulties in the interposition of a complaint are derived from the complainant attitude, but there are also procedural or administrative difficulties that should be corrected if it is really wanted to promote the very low rates of complaints that are made for discriminatory actions.

5. HATE CRIMES IN SPAIN

For the first time since the first Report 4 years ago, it is observable the descend of 4.2% of police statement numbers related to hate crimes from 2015 to 2016 given by the Ministry of Interior. The 1st of July, 2015, entered in force the reform of the Penal Code and the new article 510 regarding hate crimes and discourses, which offered more possibilities in its application.

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In the Memory from 2016 the Public Prosecutor's Office of the State, the number of sentences related to hate crimes descend from 60 in 2015 to 35, even if it is observable more activity in the opening of procedures or reports of accusation.

In summary, in spite of the modifications of the Penal Code, the sentences regarding this type of crime are scarce. This justifies the petition made by SOS Racismo some years ago regarding to the need of facing discrimination from a perspective that transcends the criminal field and the coverage of other discriminatory accusations that take place in the private sphere or the administration itself.

Moreover, during 2016 it can be observable the tendency that is still present this year regarding Hate Speech. We are referring to the overlap of this kind of crime with the praise of terrorism. The mediatic repercussion of the judicial processes that fall back to these felonies committed mainly through social media generates a platform for opinion inclined towards the identification of Hate Speech and praise of terrorism.

The ultimate consequence is that the vulnerable groups that suffer xenophobic attacks through social media get less recognition.

6. LEGISLATIVE INITIATIVES REGARDING DISCRIMINATION AND HATE CRIMES

After more than 5 years without legislative initiatives in the field of discrimination, some legislative proposals have been gathered during 2016 in the autonomic and estatal sphere. In August, the Generalitat de Catalunya presented a draft law on equality of treatment and no discrimination. After a period used for public information, this law has been approved by the Govern at the beginning of this year's January. At the end of 2016, two proposals were presented almost at the same time in the autonomous region of Madrid. On the one hand, one from the Socialist Group with a "Legislative proposal for equality of treatment, no discrimination and comprehensive protection in front of the behaviours related to Hate Crimes". On the other hand, a "Draft Law about equality of treatment and the protection against hate speech, discrimination and intolerance" that was presented by the regional government of the Populist Party. Finally, both groups have withdrawn their proposals in order to reach an agreement regarding the creation of an unique text.

In the Congress of Deputies, the Mixed Group, the Populist Party and the Socialist Party have presented diverse Not Legislative Bills (Proposiciones No de Ley) in terms of discrimination and Hate Crimes.

From SOS Racismo, we have been insisting on the necessity of a comprehensive law that tackles discrimination and equality of treatment from different angles: relations within the private sphere, the Administration, work environment, etc. These areas require effective normative tools that are non existent nowadays. The political terms to come will show if it exists a real desire of approving a comprehensive law in the field of discrimination and equality of the political parties or if they will continue being "tangled" while banalizing Hate Speech in order to protect their political interests with initiatives focused on Hate Crimes that ignore other aspects of discrimination.

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Previously, it has been indicated that discrimination in this country is legislated based on the impact of Media. It would be detrimental for all that discrimination got attention because of the impact on headlines and this would provoke legislative activity in this field guided by political and mediatic impulses.

7. ANALYSIS AND PROPOSALS FOR ANTI-DISCRIMINATORY POLICIES

1st. We demand the different parliamentary groups that they reach the necessary consensus in order to approve a Comprehensive Law regarding equality of treatment and no-discrimination. The presented normative proposals are an opportunity to reach the necessary consensus by the end of this political term.

2nd. Discrimination has different faces and intensity. The Government should extend the focus of discrimination to the daily actions that led to more serious actions. Employment discrimination, discrimination in the housing sector, hotel and catering sector... are as important as other Hate Crimes and they need the legislative tools that we don't have.


3rd. The recent modification of the Penal Code requires a specific law that orders the different types of relative crimes to Hate Crimes. As it was stated before, we remind each victim's specificity when suffering discriminatory acts as they need their own laws.


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OFFICE CONTACT

Paseo Duque de Mandas 36 - 20012 Donostia/ San Sebastián
Telef: 943321811 Fax: 943 276982
info@sosracismo.eu – www.sosracismo.eu


SOS RACISMO ARAGÓN


 C/ Espoz y Mina 6, 3º – 50003 ZARAGOZA.

 (+34) 976 29 02 14

 info@sosracismoaragon.es


SOS RACISMO ASTURIÉS

 C/ La Gascona 12, 3º. 33001 Uviéu- Oviedo.

 (+34) 985 203 122

 sosracismu@sosracismu.org

SOS RACISMO BIZKAIA – BIZKAIKO SOS ARRAZAKERIA


 C/ Lapurdi 7 – 48003, Bilbao.

 (+34) 944 790 310

 info@sosracismo.org


SOS RACISME CATALUNYA


 Rambla de Santa Mónica, 10 – 08002 Barcelona.

 (+34) 93 301 05 97

 sosracisme@sosracisme.org


SOS RACISMO GALICIA


 Rúa Alcalde Lens, 34 1º C – 15010 A Coruña.

 (+34) 698 163 742

 info@sosracismogalicia.org


 Avda Martínez Garrido 27 – 36205 Vigo

 (+34) 631 416 463


 vigo@sosracismogalicia.org


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SOS RACISMO GIPUZKOA – SOS ARRAZAKERIA GIPUZKOA

 P. Zarategi 100 –, sótano – 20015 Donostia


 Paseo Duque de Mandas 36 – 20012 Donostia.


 (+34) 943 24 56 27


 (+34) 943 321 811

 info@mugak.org

 mugak@mugak.org

 Pablo Iglesias, 11-2º – 20100 Errenteria


 AMHER Latxunbe, 42 -20120 Hernani

 (+34) 658 749 756

 (+34) 943 33 60 71 / (+34) 667 710 92

 sosarsoaldea@gmail.com


 amhersosracismo@mugak.org


 Emeterio Arrese, 2 – 20400 Tolosa


SOS RACISMO MADRID


SOS RACISMO NAVARRA

 Lavapies, 13 local – 28012 Madrid

 C/ Zapatería 31 -1º – Iruña/Pamplona

 (+34) 91 559 29 06

 (+34) 948 211521

 info@sosracismomadrid.es

 sosarrazakeria.nafarroa@gmail.com