



Call of Contributions to the Draft General Recommendation nº 36. CERD. Preventing and Combating Racial Profiling

Submission by Fundación Secretariado Gitano

I. Introduction

Fundación Secretariado Gitano (hereinafter, FSG) is the largest Spanish NGO working with the Roma community. Legally established in 1982, the mission of the FSG is the integral promotion of the Roma community on the basis of respect and support for their cultural identity.

Its mission is to promote the access of Roma to rights, services, goods and social resources on an equal footing with the rest of the citizenry. To this end, the FSG develops all kinds of actions that contribute to achieve the full citizenship of Roma people, to improve their living conditions, to promote equal treatment and to prevent any form of discrimination, while promoting the recognition of the cultural identity of the Roma community.

FSG welcomes the new General Recommendation on racial profiling by the Committee on the Elimination of Racial Discrimination (hereinafter, the Committee), as it is a generalized discriminatory police activity that affects different ethnic minorities, being the Roma community a particularly targeted group by law enforcement officials in many countries. Ethnic and racial profiling constitutes a human rights violation, is ineffective, stigmatizes minority groups and leads to a lack of trust by the targeted groups in the authorities. However, in FSG we have had the opportunity to work closely and promote good practices with different police departments¹ in Spain and Europe and we know that this police practice can be addressed with the adoption of the measures which are contained in the proposed General Recommendation.

Therefore, the purpose of the present submission is to propose a few minor additions to the draft text of the General Recommendation, consisting in: (i) a mention to the Roma community as a specially targeted group; (ii) the need of practical (not only theoretical) police training; (iii) the reference to existing good practices with regards to the dialogue with communities; and (iv) the establishment of independent oversight bodies in the police departments.

II. Contributions

1) **Mention to the Roma community as a particularly targeted group**

We believe that the General Recommendation should highlight the fact that the Roma community is a frequent target of police stops based on ethnicity, relying on the different reportsⁱⁱ issued by universities and international and regional human rights bodies that show that the Roma community is amongst one of the most targeted groups by law enforcement officials in many European countries.

Therefore, we propose the following addition in paragraph 18: **“Racial profiling affects different minority groups worldwide, being the Roma community one of the most disproportionately targeted group in many countries”**.

2) **Training.**

We believe that the Recommendation could put more emphasis on the practical side of the training. Very often the training is very theoretical, but with a lack of concrete examples about how to perform the stop and search, on the reasonable suspicion, etc.ⁱⁱⁱ

Therefore, we propose the following addition to point 28, at the end of the paragraph: **“This training should also be practical, not only theoretical. That is, training should include concrete examples of how to perform stop, stop and searches and identity checks based on reasonable suspicion.”**

3) **Dialogue with communities**

We consider that the Committee should recommend the creation of stable channels of communication for police and community representatives and civil society organizations, such as the Spanish Platform for Police Management of Diversity^{iv}.

Therefore, we propose the following addition to point 30, at the end of the paragraph: **“Moreover, dialogue with communities should be strengthened with the creation of stable channels of communication between police departments and community and civil society representatives”**.

4) **Oversight mechanisms**

Police officers should respect the law and human rights, but unfortunately this is not always the case. In order to guarantee police accountability and to provide a due answer to discriminatory practices by police it is important to establish independent mechanism or agencies to monitor the work of the police, investigate cases of misconduct and issue general recommendations^v.

Therefore, we propose the following addition to point 34, at the end of the paragraph:

“States should establish an independent bodies to oversight police action and law enforcement officials with powers to investigate police misconduct, including racial profiling cases, and to issue general recommendations and guidelines.”

Notes and references

ⁱ FSG was one of the founders of the Spanish Platform for Police Management of Diversity. It was created in 2010 in order to bring a meeting point between the diverse members of the society and the police force. The objective is to encourage and promote changes within those services by improving the action procedures. In this way the platform insures an equal treatment from the police to the most vulnerable minorities. Moreover, FSG has an extensive experience in training police officers, around 200 officers every year, to prevent ethnic profiling and combat antigypsyism. FSG was the coordinator of the European Project NET-KARD, a network of 4 countries that drafted and published a *Guide for the police to prevent discrimination against Roma* (in 5 languages) with the help of some police officers. More information available here: https://www.gitanos.org/que-hacemos/areas/equal_treatment/netkard_project.html

ⁱⁱ In particular, the General Recommendation could mention the following reports and studies:

- Human Rights Institute of the University of Valencia, *Ethnic profiling in Spain. A report on experiences and attitudes on policing* (available here: https://www.uv.es/garciaj/pub/2013_perfil_etnico.pdf). The report analyzes the results of a survey conducted in Spain. The percentage of Roma people reported being stopped was 60%, versus 6% in the case of non-Roma white people.
- FRA survey *EU MIDIS II, Data in focus report, Roma*, 2009: “respect to the percentage of Roma respondents in each of the seven Member States who indicated they were stopped by law enforcement in the last 12 months. The results show great variation between the Member States, with 56% of respondents in Greece indicating they were stopped in the last 12 months compared with 14% in Bulgaria. **On average, in the seven Member States surveyed, one half of the Roma stopped by the police in the previous 12 months considered that they had been stopped on the basis of their ethnicity**” (available here: https://fra.europa.eu/sites/default/files/fra_uploads/413-EU-MIDIS_ROMA_EN.pdf)
- FRA document 2019: *Antigypsyism as a barrier to Roma Inclusion*: “EU Member States should develop ... specific actions that law enforcement in cooperation with equality bodies could take to foster an environment where Roma, like everyone else, feel confident about reporting incidents of hate crime and discriminatory treatment, including **discriminatory ethnic profiling**” (available here: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-anti-gypsyism-barrier-roma-inclusion_en.pdf)
- OSCE also pointed out this issue: “In many participating States, Roma and Sinti have been subject to ethnic/racial profiling”. *Police and Roma and Sinti: Good Practices in Building Trust and Understanding* (available here: <https://www.osce.org/odihr/67843?download=true>).
- The Commissioner of Human Rights of the Council of Europe published in 2019 a comment on ethnic profiling, emphasizing that “Ethnic profiling of Roma exists throughout Europe”. (See the recommendation, available here: <https://www.coe.int/en/web/commissioner/-/ethnic-profiling-a-persisting-practice-in-europe?inheritRedirect=true&redirect=%2Fen%2Fweb%2Fcommissioner>)
- The CERD *General Recommendation XXVII on Discrimination Against Roma* includes references to the “prevention of the use of illegal force the police against Roma, in particular in connection with arrest and detention”.
<https://www.refworld.org/pd/45139d4f4.pdf>

ⁱⁱⁱ With regards to the importance of practical training to prevent ethnic profiling, see:

- *Fair and Effective Police Stops Lessons in Reform from Five Spanish Police Agencies* (available here: <https://www.gitanos.org/upload/60/58/fair-effective-police-stops-20160208.pdf>)
- *I Can Stop and Search Whoever I Want" Police Stops of Ethnic Minorities in Bulgaria, Hungary and Spain* (available here: <https://www.refworld.org/docid/4cc55ae52.html>).
- *Ethnic Profiling in the European Union: Pervasive, Ineffective, and Discriminatory* (available here: <https://www.justiceinitiative.org/publications/ethnic-profiling-european-union-pervasive-ineffective-and-discriminatory>).
- *Net-Kard Project. Practical Guide for Police Services, to prevent discrimination against Roma communities* (available here: https://www.gitanos.org/upload/87/34/netkard_policias_ingles.pdf)

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- *Net-Kard Guide in 6 languages:* (available here: https://www.gitanos.org/que-hacemos/areas/igualdad_y_no_discriminacion/netkard.html).

^{iv} A good example of this cooperation is the Platform for the Police Management of Diversity (Spain) where an association of local police chiefs and another of LGBT police work in a network with 8 NGOs from different areas (Roma, disability, racism, migrants, homeless people, LGBT people, etc.). More information is available here:

<http://www.gestionpolicia Diversidad.org/PDF/Leaflet%20Platform%20Police%20and%20Diversity.pdf>

^v For more information on real examples of oversight mechanisms, see:

- Council of Europe, Police Oversight Mechanisms in the Council of Europe Member States (available here: <https://rm.coe.int/police-oversight-mechanisms-in-the-council-of-europe-member-states/168073dd36>)
- Darrel W. Stephens, Ellen Scrivner, and Josie F. Cambareri, Civilian Oversight of the Police in Major Cities (available here: <https://ric-zai-inc.com/Publications/cops-w0861-pub.pdf>)
- Website of the Office of the Canada Police Complaint Commissioner <https://opcc.bc.ca/canadian-police-oversight-agencies/>