

Legal Instruments and the Romani Ethnic Minority: From International Framework to the Spanish Institutional Field.

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Abstract

Although in Spain the attitude towards ethnic minorities has been changing, different sociological studies continue to produce data that allow us to say that Spanish society continues to be carried away by behaviors designated as racist. In fact, the object of study of this work has been focused on analyzing the legal framework applicable to the Gypsy Ethnic Minority that has been developing, both at the international, European, and national levels, which help to legitimize the processes of social intervention with this collective. Despite all the progress in this field, reality continues to show us that there is still much to be done, given the continuous violations to which some ethnic minorities are subjected, derived from the lack of political will of some governments that, even having signed and ratified the main international treaties and agreements, they forget to put into practice.

Keywords: Legal Instruments, Romani Ethnic Minority, International Framework, European Framework, Spanish Framework, Equality Principle; Social Policy.

1.1. Introduction.

Although our Constitution includes Title I “On Fundamental Rights and Duties”: Person’s Rights (article 10, p.1), structured as a basis of political order and social peace, as well as the Second Chapter, “Rights and Freedoms”: Equality before the Law (art. 14), reality tends to show us that for people or groups (such as the subject of our study, the Roma), these rights are not inviolable, as they do not materialise in many areas of their lives.

Although the attitude towards ethnic and racial minorities has been changing little by little in Spain, different sociological studies and official surveys (CIS-OBERAXE, 2017) continue to reveal data that allows us to say that Spanish society still holds onto prejudices. It is difficult to overcome these prejudices, as experience has shown us that neither policies of exclusion nor assimilation carried out in Spain have led to positive results with the Romani people (FSG, 2012, 2017). On the contrary, more than generating inclusion, they have created stigma, and with it have aggravated the levels of rejection and racism that they tend to generally suffer in their most immediate social context. This situation has led to the Romani community being included in the groups considered as vulnerable to the processes of social exclusion. Social exclusion in the Romani community, as Damonti and Arza (2014) pointed out, is not only a gap that continues to exist. Instead, far from receding, it continues to worsen.

While in recent decades the Romani people have been acquiring more weight in political debates, both at the international and national levels, this has hardly been notable in practical actions, as very few policies have been implemented in favour of this group. Although Spain has followed a very pragmatic line in terms of Romani issues, centred on the social inclusion model (attainment of their social rights), this has hardly been on the agenda of our politicians' debates. Nevertheless, in recent years, all governments have tried to promote policies and actions in the interests of the Romani population, even if the results of this political action have hardly been noticeable. We find a different situation when we analyse the matter of legislation. Since the Constitution was approved in Spain, legislation has been adapted to international regulations, which have been sanctioning on this matter over the years, whether by the United Nations, the Council of Europe or the European Union. In fact, the objective of this work is focused on describing and analysing the main legislative contributions that have been approved in the last seven decades on Ethnic Minorities (specifically *Zincaló* or *Caló*), both at the national and international level, which help to legitimise the social intervention processes carried out with this group. What is the starting point?

2. Legal and Institutional Framework Applicable To the Romani Ethnic Minority

2.1. Universal Framework: United Nations.

Although the Romani issue has not been specifically addressed by the universal framework of the United Nations until very recently, we cannot disregard the efforts that this organisation has made with respect to protecting minorities (Sayago, 2019). These include general legal documents, for example the *Universal Declaration of Human Rights* of 10th December 1948, mainly article 2.1, the *International Convention on the Elimination of All Forms of Racial Discrimination* (adopted and opened for signature and ratification by the General Assembly in its Resolution 2106 A [XX], of 21 December 1965, and entry into force on 4 January 1969, in accordance with article 19¹), and more specifically the *International Covenant on Economic, Social and Cultural Rights* (adopted by the UN General Assembly on 16 October 1966, with entry into force on 3 January 1976) and the *International Covenant on Civil and Political Rights* (adopted by the UN General Assembly on 16 December 1966, with entry into force on 23 March 1976). It should be noted that this final document includes Member States' commitment to respecting and guaranteeing all the rights contemplated therein to all individuals without distinction, as well as to equality before the Courts of Justice (Article 14.1 -a.f.) and before the Law (Article 26). The law prohibits all advocacy for national, racial or religious hatred that constitutes an incitement to discrimination, hostility and violence (art. 20.2). Nevertheless, it is article 27 that makes express reference to ethnic minorities. In particular, it establishes that “*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language*”.

Given the terminological vagueness of the concept of “minority”, in 1971 the United Nations tasked a Special Rapporteur with carrying out a study (the Capotorti Report, published in 1977) to provide it with a certain clarity and taxonomy. In the end, this was not achieved due to the disagreement expressed by both the Commission on Human Rights and the United Nations Sub-Commission on Prevention of Discrimination of Minorities (Sayago, 2019).

Other legal documents of interest to this group, which have also been issued and adopted by this organisation are:

- The United Nations Convention on statelessness, of 28 September 1954, which considers the Roma as one of the nomadic minority groups.
- The Constitution of UNESCO (approved 16 November 1945), which in its Preamble establishes dignity and equality between all people and races as democratic principles, highlighting and recognising the positive contribution of cultural diversity. The Declaration on Race and Racial Prejudice, approved at the UN General Conference on Education, Science and Culture held in Paris (20th session).

¹Article 1.1. states very clearly what should be understood by racial discrimination. In particular, it establishes that “racial discrimination” will denote any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

- Resolution of 31 August 1977, adopted by the Sub-Commission for the Fight against all Discriminatory Measures and the Protection of Minorities (doc. E/CN.4/Sub.2/399, p.47)². This organisation would go on to timidly promote this mission, and would be made up of independent experts (Ruiz Vieitez, 1998).
- *Declaration on the Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism Apartheid and Incitement to War*, of 28 February 1978. Not only did this declaration enshrine the formal equality of all identities, it also directly establishes that it is the State's responsibility to carry out this application (art. 6.1.), as well as taking as many measures as necessary, including legislation (art. 6.2), so that the principle of equality in terms of dignity and rights of all human beings and all peoples is effective. Should the previous measure prove insufficient, it should also be supplemented by an administrative apparatus responsible for systematically investigating all cases of racial discrimination through a full range of legal remedies, educational programmes and wide-ranging investigations (art. 6.3). Likewise, special measures should be taken wherever necessary, paying particular attention to racial or ethnic groups that are socially or economically disadvantaged (art. 9.2). Therefore, any discriminatory practice carried out by the State will be considered a violation of International Law.
- The Sub-Commission recommends that the Human Rights Commission adopts Resolution 1991/21 on the Protection of Minorities (28 August 1991).
- Resolution 1992/37 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on the measures that may facilitate a peaceful and constructive solution to the problems affecting minorities.
- Declaration of the United Nations General Assembly on the rights of members of ethnic, religious or linguistic national minorities, approved by the United Nations Human Rights Commission (21 February 1992).
- Resolution 1992/65 on "Protection of Roma" adopted by the Human Rights Commission (4 March 1992). In this resolution, the Sub-Commission for the Fight against all Discriminatory Measures and the Protection of Minorities receives the task of granting special attention in their work to the specific conditions in which the Roma live, and of proving information in this regard. Likewise, Member States are invited to take all necessary measures to eliminate all forms of discrimination towards the Roma.
- Resolution 47/135 adopted by the General Assembly, 18 December 1992, on the rights of people belonging to national, ethnic, religious or linguistic minorities.
- Resolution 1993/20 of 2 March 1993, on measures to combat racism and xenophobia. Resolution 1994/64 of the Commission on Human Rights, of 9 March, entitled "Measures adopted to combat contemporary forms of racism, racial discrimination, xenophobia and other similar types of intolerance" (United Nations. General Assembly).
- Resolution 827 (1993) of the United Nations Security Council, by which the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law was created.

It is also important to mention the different *United Nations Bodies* related to this matter. In particular:

- Economic and Social Council (1945); Human Rights Council (2006) replacing the Commission on Human Rights (CHR); Sub-Commission on the Promotion and Protection of Human Rights (1999) originally known as the Sub-Commission on the Prevention of Discrimination and Protection (subsidiary body of the Human Rights Commission, created in 1947) and the Work Group on Ethnic Minorities. Its functions would include requesting reports from different governments on contemporary forms of racism, racial discrimination, xenophobia and other similar types of intolerance, as well as on the measures taken to combat them, especially those concerning ethnic, religious and linguistic minorities.
- The Committee on the Elimination of Racial Discrimination was the first body created by the United Nations to monitor and review the measures adopted by the States to comply with their obligations by virtue of a specific Human Rights agreement. It is a body of independent experts that oversees the application of the

² It could be said that it is the first time that the Romani issue was taken into consideration in a text from the United Nations, when in the framework of the Commission on Human Rights, the Economic and Social Council, the Sub-Commission for the Fight against all Discriminatory Measures and the Protection of Minorities urges or calls on the States with a Romani minority in their population to grant and respect, if they still have not done so, the full rights enjoyed by the rest of their citizens.

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by its Member States.

▪ Committee on Economic, Social and Cultural Rights, which issues periodic reports on governments' application of the International Covenant on Economic, Social and Cultural Rights. In fact, the legal document that most expressly refers to the protection of ethnic minorities is the International Covenant on Civil and Political Rights, particularly article 27 (Ruiz Vieytez, 1998).

2.2. European Framework.

From the European context, we can see that the Romani issue has also been treated insufficiently, as there have been few governments and European institutions which, although obliged (by being members) to protect the rights of ethnic minorities, have rather had to explicitly nominate them within the legislative and institutional measures to combat discrimination and social exclusion. However, steps have been taken in this direction and some measures are currently proving favourable, both in the fight against ethnic discrimination as well as in processes of eradicating situations of vulnerability and/or the processes of social exclusion in which they are immersed.

Just like for other groups, processes of social inclusion for the Romani population tend to be associated with the implementation of regulations, as this tends to become an element that guarantees compliance with all fundamental rights, including those related to non-discrimination in all forms. Spain, as a member of the European Union, has been obliged to comply with all the agreements and treaties that have been adopted and ratified within it. In fact, the Council of Europe has been adopting a considerable number of texts that can be applied to the Romani community, as they refer expressly to discrimination, intolerance and minorities. Amongst others, the following may be of interest for the Roma community:

- European Convention for the Protection of Human Rights (Rome Convention), of 4 November 1950³.
- European Social Charter (ESC), of 18 October 1961. It is established as the most important symbolic instrument in European Law on Social Rights (Sayago, 2019). It guarantees enjoyment of fundamental labour rights, amongst others, without discrimination for reasons of race or ethnic group. It was ratified by Spain on 6 May 1988. The Additional Protocol of 1988 (24 January 2000) was also ratified. Likewise, on 23 September 2010, Spain ratified the new Optional Protocol to the International Covenant on Economic, Social and Cultural Rights from the UN, adopted by the General Assembly (Jiménez, 2020).
- Declaration of the Heads of State and Government of the Member States adopted in Vienna on 9 October 1993, and the Action Plan to combat racism, anti-Semitism and intolerance, with special mention of the Romani community⁴.
- Creation of the Steering Committee for Human Rights (CDDH), which is responsible for studying the conditions under which the Council of Europe can act in the interest of national minorities, from a legal and political perspective.
- Creation of Framework Agreement H (94)10 for the protection of national ethnic minorities, of 10 November 1994.
- Within the Council of Europe, Spain ratified Framework number 157, of 1 February 1995, for the protection of national minorities, in which a series of rights is recognised⁵. In addition to these basic rights, signatory states are committed to promoting knowledge of the culture, history, language and religion of their

³ It can be considered the first legally binding multilateral instrument concerning the protection of minorities in general, as it expressly prohibits discrimination against national minorities.

⁴ The European campaign of Youth Against Racism, Xenophobia, Anti-Semitism and Intolerance arose from this Action Plan, creating a Committee for each country. The Spanish Committee was created by order of 24 May 1994.

⁵ The following rights are recognised, amongst others: the right to equality before the law; the right to maintain and develop their culture, as well as preserving the essential elements of their identity, religion, language, tradition and cultural heritage; the right to respect, understanding and tolerance between persons living in the same territory; the right to freedom of peaceful assembly, association and freedom of expression, thought, conscience and religion; the right to manifest their religion and beliefs, as well as to establish religious institutions, organisations and associations; the right to use their minority language freely and without hindrance, both in private and in public, spoken or in writing; the right to use their first names and surname(s) in the minority language, as well as the right to official recognition of these names and the right to establish and direct their own private educational and training establishments.

minorities, and to promoting equal opportunities, especially with regard to access to education and the labour market.

- The Council of Europe has already approved a series of Resolutions and Recommendations on the Romani issue, more specifically on the Romani contribution to a Tolerant Europe: Resolution 249 (1993), Resolution 16 (1995) and Resolution 44 (1997).
- The Copenhagen Criteria, agreed upon by the European Council in the Danish capital in 1993, which indicated the rules that defined when a State could form part of the European Union (EU). This is considered a landmark for minorities, as the criteria included respect for ethnic minorities (including Roma) within the European agenda. The consequences of this, as pointed out by the *Fundación Secretariado Gitano* (Gypsy Secretariat Foundation), are twofold: on the one hand, *protection of minorities* is taken into account as another factor when deciding whether a new State should join the European Union; and on the other hand, the inclusion of the issue of protecting ethnic minorities in biannual reports to the European Commission.

As for the *Committee of Ministers of the Council of Europe*, apart from creating the Ad Hoc Committee for the Protection of National Minorities (CAHMIN) in 1993, it has also carried out and promulgated several Resolutions and Recommendations concerning the issues of prohibiting or monitoring racial discrimination, as well as advocating for implementing the rights of persons belonging to minorities. They include, amongst others:

- Resolution (75) 13. On 22 May 1975, the Committee of Ministers adopted this resolution, which contains recommendations on the social situation of nomadic populations in Europe.
- Written response to question 271 (Doc. 5211 of 14 May 1984) of the Parliamentary Assembly on recognising the Romani population as an ethnic minority.
- Recommendation No. R (83) 1 on nomadic, stateless and people of undetermined nationality, which not only requests that rights for minorities are better guaranteed in the European Convention on Human Rights, but that the possibility of designating a mediator for the problems faced by travellers is studied within the Framework of the Council of Europe. Similarly, it calls on the Council for Cultural Cooperation (CDCC) to study the problems relating to education and training for nomadic people in depth; as well as a specific training programme aimed at teaching in the Romani language and preparing information dossiers for teachers on this subject as part of its work on intercultural education.
- In Meeting No. 91 of 5 November 1992, the Committee decided to open the European Charter on Regional and Minority Languages to signature by Member States. Article 7.5 refers to “*non-territorial languages*”.

Meanwhile, the Parliamentary Assembly has also made a declaration on this matter. Given the prodigality of its manifestations, we will only mention those we consider most significant here, which include:

- Recommendation 563 (1969), of 30 September, relating to the situation of Romani people and other nomads in Europe, which revolves around discrimination, housing, children’s education, advisory bodies, social security and medical care. Furthermore, it is considered that programmes that aim to improve the situation of Romani people should be developed in partnership with their representatives, and the Committee of Ministers is recommended to urge Member States to take the necessary measures to end discrimination against Romani or other nomadic people in law and administrative practice. It also intends to encourage the creation of national bodies in which officials, members of the Romani community and non-governmental organisations that work in favour of the Romani people and other nomads are represented, in order to consult these bodies before preparing measures that affect the situation of these minorities.
- Recommendation 1201 (1993) includes a proposed Additional Protocol to the ECHRFF on the rights of minorities. In it, the Assembly recommends that the Committee of Ministers accelerates the work schedule that could allow a protocol to be adopted on the rights of minorities (Díaz, 1999).
- Recommendation 1203 (2/2/93) relating to Romani people in Europe, recalling their precarious situation in the field of fundamental human rights, as well as rights to education and employment, particularly in Central and Eastern Europe. Considering minorities without territory as contributors to Europe’s cultural diversity, knowledge of history, culture and way of life is therefore promoted, in order to facilitate their integration into the majority population.
- Resolution on discrimination against Romani people (OJEC, C, no. 249, of 25 September 1995).

- Recommendation 1275 (1995) regarding the fight against racism, xenophobia, anti-Semitism and intolerance. It calls for close collaboration between the Assembly, Congress and Local and Regional Powers in Europe on matters relating to the Romani community.

For any of the above resolutions, the European Parliament calls on the Community Institutions and national governments to take initiatives of all kinds, which contribute to the integration of ethnic minority groups, particularly the Romani minority, into European societies, so that they can overcome the obstacles that impede them from fully exercising their rights.

As for the *Bodies of the Council of Europe*, there is a whole series of committees, directorates, councils and conferences linked to the Council of Europe that have adopted, proposed and promulgated different actions in favour of ethnic minorities, such as:

1. Department of Economic and Social Affairs. Population and Migration Division. This establishes the figure of Coordinator of activities on Romani people.
2. The Policy Steering Committee (CDPS) based on Recommendation 563 of the Assembly (30/09/1969), regarding Romani and other nomadic peoples in Europe, adopted Resolution (75) 53 on the same matter.
3. Permanent Congress of Local and Regional Authorities of Europe (CPLRE). The following legal documents and work proposals are of particular relevance:
 - Resolution 125 (1981) on the role and responsibility of local and regional groups when addressing the social and cultural problems of populations with nomadic origins. It calls on the governments of the Member States to recognise the Roma and other nomadic groups such as the Sámi as an ethnic minority, therefore granting them the same status and advantages as other minorities, especially in terms of respect for and safeguarding of their culture and language (art. 14.II).
 - The Conference also proposed the development of a legal instrument to ensure that nomadic people living in a member country are able to obtain identity documents in order to travel to all member countries.
 - Resolution 249 (1993) of the CPLRE on Roma in Europe. It invites local and regional authorities to take the necessary measures to facilitate the normalised integration of the Roma into their local community.
4. Ad Hoc Committee for the Protection of National Minorities (CAHMIN).
5. Council for Cultural Co-Operation (CDCC). In 1983 and 1984, in response to Resolution 125/1981, it produced an informative publication on *Roma and Travellers*⁶. It has also developed a training programme aimed at teaching the Romani language, in order to prepare informational documents for teachers and lecturers as part of intercultural education. Furthermore, since 1983, within the framework of a system of grants for educators, it has organised practical teacher training and seminars for reflection on schooling for Romani and traveller children⁷.
6. Steering Committee for Human Rights (CDDH). The Committee of Ministers commissioned the CDDH to formulate specific legal regulations relating to the protection of national minorities, in accordance with the principles of the European Convention for the Protection of Human Rights.
7. Conference of European Justice Ministers. Held in Athens 25-27 May 1982 to tackle the matter of the “Legal Status of Nomads”.
8. *Migration Steering Committee* (CDMG). A group of specialists on Romani issues and the policies affecting them was set up within the Committee of Ministers in 1995. Spain is represented.
9. Permanent Congress for the Co-Operation and Co-Ordination of Romani Associations in Europe.

Within the framework of the European Union, to which Spain fully adheres, different documents and/or legal measures have also been developed to address the issue of minorities, notably the Roma. In particular:

⁶ In an informational book on Roma or Travellers, aimed at understanding them and revealing more about them, their culture and lifestyles, as well as the treatment they have undergone over their history. It was written by Jean Pierre Légeois, a professor at the Paris Descartes University and head of the Centre of Roma Studies.

⁷ These reports include: “Training the teachers of Romani children” (doc. DECS/EGT (83) 63); “Schooling Romani children: evaluating innovative actions” (doc. DECS/EGT (87) 36); “Romani children at school: training teachers and other staff” (doc. DECS/EGT (88) 42); “Towards an intercultural pedagogy: training educators who work with Romani children” Spain (doc. DECS/EGT (89) 31); and “Schooling Romani and traveller children: long-distance learning and pedagogical monitoring” (doc. DECS/EGT (90) 47).

- Community Charter on Fundamental Social Rights of Workers, which affirms the right to sufficient provisions and suitable assistance for people excluded from the labour market (approved 9 December 1989).
- Resolution of the European Parliament, of 24 May 1984, on the situation of the Roma in the Community⁸.
- Resolution of the European Parliament, of 16 March 1984, on teaching children whose parents have no fixed residence. The European Parliament adopted a resolution on this same matter on 17 March 1989, ruling on illiteracy and the education of children whose parents have no fixed residence⁹.
- The Council's Decision on the implementation of medium-term programmes for measures promoting the economic and social integration of economically and socially disadvantaged groups of persons: Fight Against Poverty Programme. European Programme (decision taken on 18 July 1989 by the Council of Ministers of the European Community).
- Resolution of the European Parliament of 1989, by which the EEC's declaration of Fundamental Rights and Freedoms was approved.
- Resolution of the Council and the Ministers of Education gathered at the Council on 22 May 1989 regarding schooling of Romani and Traveller children 889/c 153/02¹⁰. Inviting the Commission to produce programmes subsidised by Community credits, with a view to improving the situation of the Roma without destroying their specific values.
- Resolution of the Council of Member States on the fight against racism and xenophobia, of 29 May 1990.
- Draft European Charter for Regional and Minority Languages of 24 June 1991, drawn up by the Committee of Experts on behalf of the Committee of Ministers.
- Declaration of the European Council, held on 10 December 1991 in Maastricht, by which the European Union Treaty on racism and xenophobia was approved.
- Resolution of the European Parliament (1992) on the eradication of illiteracy in European Community Member States.
- Resolution A3-0124/94 of the European Parliament on the situation of Roma in the European Community.
- Resolution of the Council and representatives of Member State governments on combating racism and xenophobia in employment and social affairs, dated 5 October 1995 (95/C296705).
- Resolution of the Council, dated 23 July 1996, declaring 1997 the "European Year Against Racism".

The European Union also has a series of Bodies relating to this matter, for example:

- The Racism and Xenophobia Advisory Committee. In 1997, the European Union established a European Monitoring Centre on Racism and Xenophobia (OJEC No. 151 of 10 June 1997), as well as a European Network against Racism, co-financed by the European Union and its Member States. It unites NGOs that combat racism and promote equal rights with the adoption of legal and social measures against racism at the European and national levels.
- Organisation for Security and Cooperation in Europe (OSCE). Since the 1989 Paris Summit and at all the Human Dimension Conferences, this body has been concerned with the Romani issue, advocating for the need to protect this minority. In fact, on the occasion of the Second Conference on the Human Dimension (Copenhagen, June 1990), the Member States accepted a significant document on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE). In November 1990, the document defending minorities in Europe and around the world, which expressly mentions the "Roma people" for the first time, was ratified. Similarly, the report following the CSCE *Meeting of Experts on National Minorities* held in Geneva on 1-19 July and the *CSCE Conference on the Human Dimension* held in Moscow from 10 September to 4 October 1991 explicitly call the attention of Member State Representatives to the situation of the Romani people. Similarly, the 1992 Helsinki Summit (final document) called on States to reaffirm the desirability of developing programmes to address problems faced by the Roma and other groups known as "gypsies", to create conditions

⁸ Article 4 invites the governments of Member States to eliminate discriminatory provisions that may exist in their national legal systems.

⁹ We can see how the European Parliament has adopted resolutions that are very significant for the Roma community. This reflects the deep awareness that exists on this issue in the European Union, as measures and actions concerning the Roma have been intensifying, especially in the field of education.

¹⁰ Resolution adopted following a study on the conditions of schooling for Romani and Traveller children, commissioned by the Commission of European Communities at the Centre of Roma Studies at Paris Descartes University.

enabling them to benefit from equal rights and to participate fully in society, and to examine ways of achieving this objective.

In September 1994, the OSCE organised the *Human Dimension and NGOs Seminar* in Warsaw, which addressed the matter of the Roma at the Conference on Security and European Cooperation (CSCE). The *Office for Democratic Institutions and Human Rights (ODIHR)*¹¹, which promotes the continuity of the actions in the Roma's interests initiated by the CSCE, has its headquarters in Warsaw and is attached to the OSCE presidency. As we enter the 21st century, we see that there have been many legislative advances in the international arena, especially in Europe. What happened at the turn of the millennium? If we take the Treaty of Amsterdam (which came into force in 1999) as a reference, we can see that it provides a new perspective on the European Union's equality policy, as article 14 strictly prohibits *discrimination based on sex, ethnicity and race, sexual orientation, beliefs, convictions, disability and physical condition and age*. Although this Treaty provided the European Union with the legal basis to act on this matter, its competences were fairly limited. For this reason, this form of politics (soft politics) was not fully appreciated, given the lack of obligation on the part of states (FSG, 2012). Nevertheless, the EU's competences in this area were increased or extended (either supplemented and/or supported) by the Treaty of Nice (which came into force on 1 February 2003).

Similarly, we find the Lisbon Strategy¹² (2005-2010) which, although it proposed a new European social agenda, did not manage to achieve the objectives that were initially planned. In order to achieve this (to try to eradicate poverty and exclusion), Member States will have to launch National Reform Plans. These plans should include three main axes (FSG, 2012):

1. The concept of *active social inclusion*, linked to active participation in the labour market, the fight against poverty and promoting the most vulnerable groups.
2. Ensuring access to basic rights, resources and social services for all people, tackling all accessible forms of discrimination.
3. The need to ensure proper coordination of inclusion policies by involving all relevant governments and actors.

Regardless of the extent of the achievements of the planned objectives, it must be said that this strategy has managed to keep this issue alive within the European political agenda, as it has been able to create coordination and planning instruments, which are essential to facilitate new policies. In terms of our country, it is important to point out that, thanks to this, both the Spanish state and a large number of its Autonomous Communities have been able to implement their Social Inclusion Plans. In 2009, the European Council proposed a review of this strategy, as a consequence of the crisis and the future challenges arising from it. As a result of this consideration, and as it was due to expire in 2010, the Commission proposed a new successor policy strategy called "*Europe 2020*".

The Open Method of Coordination (OMC) was born as a coordination system (within the Lisbon Strategy). This appears as a system that enables coordination between the Member States of the European Union. In fact, its implementation has led to the activation of a number of common mechanisms for planning, information, review and exchange, so much so that it is necessary to point out the positive results, not only because it was able to strengthen social protection and inclusion policies at the European level, but also because it has helped each State to be able to specify its commitments and collectives. In short, this method should enable Member States to evaluate their policies and learn from the national initiatives launched (mutual learning).

Another important treaty related to this matter is the *Treaty of Lisbon*¹³ (in force since 1 December 2009). It amends the Maastricht Treaty and the Treaty Establishing the European Community (OJ C 306, 17.12.2007). With regard to our topic, the Treaty of Lisbon (as well as the Fundación Secretariado Gitano [2012]) reinforces the citizen and social dimension of the European Union in three main dimensions. Firstly, by guaranteeing respect for

¹¹ This Office promotes democratic development and human rights. Its areas of work include monitoring elections, protecting the rule of law, promoting tolerance and non-discrimination, and improving the situation of Roma and Sinti communities. Every year, the ODIHR organizes the annual Human Dimension Implementation Meeting, the largest annual conference dedicated to human rights in the OSCE region.

¹² Also known as the Lisbon Agenda or Lisbon Process. This is a European Union Development Plan that was approved at the European Council meeting in Lisbon, in March 2000.

¹³ It was signed on 13 December 2007 during the European Council in Lisbon, and has been ratified by all Member States.

common values, human dignity, freedom, democracy, equality, the rule of law and human rights; secondly, by guaranteeing fundamental freedoms such as the free movement of persons, goods and capital and the freedom of establishment; and thirdly, by guaranteeing non-discrimination on the basis of nationality, as it establishes that European citizenship must be compatible with the nationality of each individual (FSG, 2012:21). Furthermore, point B contains the concept of strengthening democracy and the protection of fundamental rights. In fact, the Treaty establishes three fundamental principles: democratic equality, representative democracy and participatory democracy, with the latter taking the form of a citizens' initiative (4.1.5) (EevaPavy, 2020)¹⁴.

It should be noted that the European Union's Charter of Fundamental Rights has not been directly incorporated into the Treaty of Lisbon, however article 6 (1) of the Maastricht Treaty makes it legally binding, giving it the same legal value as the treaties (4.1.2) (EevaPavy, 2020)¹⁵. Amongst other rights, it guarantees: the dignity of all persons (art. 1), physical and mental integrity (art. 3), free compulsory education (art. 14), that people from other countries can work under conditions equivalent to those enjoyed by citizens of the Union (art. 15), the prohibition of discrimination of any kind (art. 21), equality between men and women (art. 23) and the integration of persons with disabilities (art. 26). As we can see, under the protection of the legal bases granted by this Treaty, the European Union will be able to plan, design and implement much more effective actions in the field of social protection, and therefore in the fight against social exclusion.

What are the implications of all this for the Romani population? Although we now have a solid framework in place that ensures all fundamental rights are respected, including those of ethnic minorities such as the Roma, this is not the case at a practical level. There is still much resistance to implementing some of these rights, given the crisis of human and social values that is taking place in certain European countries, the most current example of which is the unfortunate statements made by the Italian Minister of the Interior, Matteo Salvini, announcing his intention to take a census of the Sinti ethnic group living in Italy and to expel all those who are irregular, saying “*As for the Italian Roma, unfortunately, one has to keep them at home*”¹⁶.

Another fact that touches the heart of the Romani population has to do with the expansion processes that have taken place in the European Union (2004-2007). In fact, as Rey Martinez (2012) notes, practices of institutional racism in the vast majority of Eastern Europe have caused European institutions, including the European Court of Human Rights, to react. As the FSG (2012) points out, the incorporation of some Eastern European countries with large Roma minorities (Czech Republic and Hungary in 2004; Bulgaria and Romania in 2007) into the European Union has led to significant migration processes to other Western European countries. This has allowed both Member States and European Union institutions to become aware of the socially disadvantaged situation (poverty, segregation, social exclusion, etc.) in which a large part of these Roma minorities find themselves. As a result, the Roma issue has been placed on the European agenda, and with this legal and political measures and actions have been taken to promote processes of social inclusion for these minorities.

An example of this is the private-public initiative that emerged in 2005 under the name of the “Decade for Roma Inclusion in Europe” (2005-2015). It was constituted at the Conference held on 2 February 2005 in Sofia: “*Roma in an Expanding Europe: Challenges for the Future*”, so that the signatory governments would work towards *eliminating discrimination and barriers between the Roma population and the rest of society*, proposing Action Plans as part of this initiative¹⁷. There is a *Decade Trust Fund (DTF)* made up of contributions from Member States and administered by the World Bank. It also receives contributions from donors such as the World Bank, the Open Society Institute (Soros Foundation)¹⁸ and other international organisations and institutions. It is made up of 12 countries, mainly in Central and Eastern Europe¹⁹, some multilateral organisations (including the World

¹⁴ Information taken from: EevaPavy (2020). Lisbon Treaty. Fact Sheets on the European Union.

¹⁵ Information taken from: EevaPavy (2020). Lisbon Treaty. Fact Sheets on the European Union.

¹⁶ MelguizoSoraya, (18/06/2018). The Italian Minister of the Interior proposes a census of the Roma and expulsion of those who are undocumented. El Mundo. International. In: <http://www.elmundo.es/internacional/2018/06/18/5b27f0ede2704ee3bb8b4589.html>.

¹⁷ The commitment made by the signatory countries was: To support the full participation of national Romani communities to achieve the objectives proposed for the period, and to demonstrate progress, measuring the achievements, as well as reviewing the experiences and the implementation of the Action Plans of the Decade (Romani Union, 2008).

¹⁸ This Foundation covers the expenses of representatives from the Roma association movement. Each country must bear the expenses of its representative, and the expenses incurred during their presidency period (meetings, conferences, etc.).

¹⁹ It was initially made up of Bulgaria, Croatia, Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia and Slovakia. Later, Albania, Spain and Bosnia and Herzegovina also joined.

Bank, the United Nations Development Programme and the Council of Europe), and non-governmental organisations such as the *European Roma Information Office* (ERIO), the *European Roma and Traveller Forum* (ERTF) and the *European Roma Rights Centre* (ERRC). The NGO *Roma Education Fund*²⁰ (REF) was created within this framework, and is the most important instrument of the Decade, as its objectives include reducing the social and economic disparities of the Roma population, breaking the vicious circle of poverty and exclusion of this population using education as a point of departure, extending access to all levels of education and reducing the educational distance from the non-Roma population, with special emphasis on the disappearance of segregated schools. It is registered as a foundation in Switzerland with a budget office in Budapest. It has also been registered as a Hungarian foundation since 2008.

During this time, the European Parliament has also played a very important role, as it has issued several resolutions centred around the fight against discrimination, violence against the Roma, integration into the labour market and the discrimination suffered by Romani women, including:

- Resolution of the European Parliament on the situation of the Roma in the European Union (P6_TA (2005)0151).
- Resolution of the European Parliament on the situation of Roma women in the European Union (P6_TA (2006)0244 of 1 June).
- Resolution of the European Parliament on a European strategy for the Roma (P6_TA (2008)0035. 31 January).
- Resolution of the European Parliament, of 9 September 2010, on the situation of the Roma and freedom of movement in the European Union: a European strategy for the Roma (P7_TA (2010)0312).

Along the same lines, in 2007-2008 both the European Council and the European Commission are carrying out a series of reports and communications regarding the Roma community. In particular, the European Commission published a series of Communications and Reports, and attested to the situation of the Roma people in the European Union in the Conclusions of the Presidency of the Council of Europe (14 December 2007), urging the Member States and the European Union to use all means available to improve their situation. Given the mobilisations carried out by some social organisations, as well as the initiatives of the European Parliament, the First EU Roma Summit was consolidated the following year (16 September 2008). Amongst other issues, the following objectives were outlined: raising awareness of the needs of the Roma; identifying the most effective processes for improving their situation; and obtaining commitments for action. The *European Platform for Roma Inclusion* was created in 2009, taking advantage of the boom in initiatives, reports and projects. The aim of this platform is not only to support initiatives and encourage mutual learning, but also something fundamental for this group: deepening knowledge of the specific issues faced by the Romani population, as lack of this understanding leads, in most cases, to processes of social discrimination²¹.

Under the Spanish Presidency of the European Union (2010), and within the context of the European Year for Combating Poverty and Social Exclusion, the content that the Platform should have in the medium term was established, defining axes, themes and work plans. Looking towards 2010-2011, and to give continuity to the work carried out, it worked jointly with Hungary and Belgium²², launching a work plan so that each presidency had to make progress on a specific issue: health, education and housing. An agreement was also reached at the European Council (June 2010) which meant the Platform's role could be consolidated, and the Ten Common Basic Principles could be integrated into European policies in general. This commitment was shown again when the Second European Roma Summit was held in Córdoba on 8 April 2010.

Along the same line, the World Bank published a study addressing the economic costs of Roma exclusion in several Eastern European countries (*Roma Inclusion: An Economic Opportunity for Bulgaria, Czech Republic, Romania and Serbia*)²³. In the same year, the Structural Funds Regulations were modified (ERDF, art.7.2), expanding the eligibility criteria to include actions related to housing in rural and segregated areas. This

²⁰ Roma Education Fund promoted by the Soros Foundation (Open Society Institute) and the World Bank.

²¹ Under the Czech Presidency of the European Union, the ten *Common Basic Principles for the Inclusion of the Roma Population* were adopted and endorsed by the European Council in its conclusions of June 2009 (FSG, 2012:24).

²² Known as the Trio of Presidencies of the European Union for the period 2010-2011.

²³ This report explores the question: What is the economic argument for Roma inclusion? The analysis is based on quantitative data from Bulgaria, the Czech Republic, Romania and Serbia.

represented a great step forward, as it made it possible to address the inclusion of the most excluded Roma population (marginal communities) in a comprehensive way. This modification was very relevant given that, according to the FSG (2012), it meant a change in the way these funds were perceived, as they were political in addition to being a financial instrument. The Europe 2020 Strategy was also adopted in this year. It lays out the European Union's priorities, objectives and initiatives for emerging from the crisis and achieving inclusive growth. In fact, initiatives 2, 6 and 7 of this Strategy have been considered of major relevance in terms of inclusion policies for the Roma population, as they make it possible to tackle such important issues as ending poverty, improving access to early education, fighting school dropout rates, and facilitating access to employment, all of which are determining factors and areas in the processes of social exclusion.

In 2011, under the Hungarian Presidency of the European Union, the Commission presented a European Framework of National Strategies for the Social Inclusion of Roma, which was adopted by the Council of Europe in April of the same year. As the FSG (2012) points out, it intended to respond to the demands made by NGOs working with the Romani population. As expected, the essential pillars of this European Framework were education, employment, health care and housing. It also urged Member States to establish national strategies, so that by early 2012 almost all were able to publish their lines under the National Reform Programmes to be followed up to 2020. Apart from involving Member States, implementation of this Strategic Framework also affects countries that want to be candidates. It therefore creates a solid mechanism at the European level that is able to tackle not only the challenges that inclusion of the Roma population implies for individual Member States, but also for Europe as an integrating entity, capable of uniting thought, policy definition and establishment of actions.

Meanwhile, shortly after the European Union created the European Framework of National Strategies for Roma Integration, in 2012 the European Network Against Racism (ENAR) published a document containing a series of proposals aimed at promoting the social inclusion of Roma in order to combat racism (FSG, 2013).

Finally, while it may seem that steps taken at the legal and institutional level so far would have been sufficient, reality shows us that this is not the case. On the contrary, there are still many obstacles that reveal the existence of xenophobic political parties and governments, whose declarations and actions are reminiscent of times when racism, xenophobia and discrimination against different groups, including the Roma, were rife in Europe.

2.3. Spanish Framework.

The main framework for us to refer to is the *Constitution*. While it is true that the Spanish Constitution (approved on 6 December 1978) does not explicitly mention ethnic minorities, overall it has meant a radical change in their situation. The constitutional establishment of a Social and Democratic State under the Rule of Law (article 1.1)²⁴ has unequivocally determined full equality of rights and freedoms for all citizens in our country. Thus, their full development and integration is promoted through a series of rules that serve as a support. We can cite, amongst others, several articles of the constitutional text which establish that all Spanish citizens have the right to equality before the law as a point of departure, assigning Public Authorities the duty of achieving this equality in practice, as well as the power to correct any inequalities that may prevent the achievement of such equality.

In effect, our constitutional text not only enshrines the formal equality of all persons, but also grants the Public Authorities the task of ensuring that this is done in practice by giving them the power to correct, if necessary, the social, cultural and ethnic inequalities that act as an impediment to genuine equality. This means protecting those citizens and groups in which these inequalities are clearly greater, allowing the law to favour and encourage those who find themselves in a situation of marginalisation or discrimination. This is all within the framework of solidarity provided for in article 2 of the Constitution, as a corrective element for inequalities in a triple sense: individual, social or ethnic and territorial. Human Rights are always held as the sole point of reference. In fact, the rules relating to fundamental rights and freedoms recognised by the Constitution shall be interpreted in accordance with the Universal Declaration of Human Rights and the international treaties and agreements on the same matters ratified by Spain (Art. 10.2).

²⁴ Article 1.1 of the Spanish Constitution establishes that “Spain is established as a Social and Democratic State, subject to the rule of law, which advocates as the highest values of its legal order the following: liberty, justice, equality and political pluralism”.

The same happens at the level of the Autonomous Communities. If we focus on Andalusia, the first regulation worth mentioning is *Organic Law 6/81 of 30 December (BOE 11-1-82). Autonomous Community of Andalusia reformed by Organic Law 5/96 of 30 December*. Article 1 (2) of this Law expressly states the aspiration to make the principles of freedom, equality and justice a reality for all Andalusians. In this sense, article 12 assigns the Autonomous Community of Andalusia the duty of promoting the freedom and real equality of Andalusians by removing existing obstacles and encouraging all Andalusians in political, economic, cultural and social life. Similarly, article 11 states that it will be the responsibility of the Autonomous Community to ensure respect for the minorities living there²⁵.

In order to cover possible situations of social exclusion as far as is possible, the Autonomous Communities, including Andalusia, have drawn up Social Services Laws which include ethnic minorities as one of their priority areas of action. These include *Law 2/88 of 4 April on Andalusia's Social Services*, currently *Law 9/2016 of 26 December on Andalusia's Social Services*.

Apart from the above, there are other frames of reference that can be used as legal instruments to be taken into account and which are obviously related, even if indirectly, to ethnic minorities. These include:

- Advisory Resolution on facilities for the Roma community to normalise their situation and be able to register with the Civil Registry and obtain the Family Book, dated 12 June 1980.
- Organic Law of the Judiciary 5/85, of 1 July. It states that the work of judges, like that of the courts, is linked to compliance with the rights and freedoms recognised in Title I of the Constitution.
- Regulations on *Empadronamiento* (Census Registration). One of the main modifications made by the Law regulating the basis of the local government is simplifying the ancestral classification of inhabitants, eliminating outdated categories such as *transeúnte* (“passer-by”), as this did not confer rights on the population who registered in this way. In fact, article 15 of Law 4794 establishes that *the status of resident is acquired at the moment of registration in the Padrón (census)*. Meanwhile, Article 54.3 of Royal Decree 2612/96 states that *the registration of persons who reside in the municipality but are not domiciled there can only be carried out after the competent Social Services in the geographical area where the person resides have been informed*. This means that census registration must be completely independent of legal and private disputes over ownership of the home, and of the physical, hygienic, sanitary or any other circumstances affecting the home. As a result, substandard housing (huts, caravans, caves, or a total lack of a roof) can and should appear as valid addresses in the Census, as this is often the social reality in which some people (including Roma) live.

Nevertheless, the main institutional framework of reference for the Romani population comes from the Advisory Resolution on the creation of an *Administrative Body for Attention to the Romani Community* and a *Romani Development Plan*, which was approved by the Plenary of the Congress of Deputies in its session of 3 October 1985. Given the magnitude and complexity of this Plan, it was necessary for all public administrations to be involved. This involvement was materialised by signing various *Framework Partnership Agreements* to co-finance potential future projects. Amongst others:

- Resolution of 7 April 1997 (B.O.E. of 17/04/97) publicising the Agreement of the Council of Ministers determining the objective criteria for the distribution of credit under the Roma Development Plan.
- Resolution of 12 January 1999, of the General Technical Secretariat, publicising the Collaboration Agreement between the Ministry of Labour and Social Affairs and the Department of Social Affairs of the Autonomous Community of Andalusia for the co-financing of comprehensive social intervention projects to address the marginalisation and insertion of the Roma people (B.O.E. number 35 of 19 February 1999).
- Article 6d. of Royal Decree 839/196 of 10 May (establishing the basic organic structure of the Ministry of Labour and Social Affairs), which refers to the *General Roma Secretariat of Social Affairs*, to which the General Directorate of Social Action for Minors and the Family reports (B.O.E. 115 of 11/05/1996).
- Approval by the Congress of Deputies of the creation of a *Sub-Commission for the Study of Issues in the Romani Population* in 1999.

²⁵ We should not forget that Andalusia is the Autonomous Community with the largest Roma population in Spain. In fact, estimates suggest that between 38% and 52% of this population resides in Andalusia, representing between 300,000 and 350,000 people (Comprehensive Plan for the Romani Community in Andalusia 2017-20).

- Parliamentary Motion passed in 2005, which urged the government to promote the history, identity, language and culture of the Romani community. This led to the creation of the *Institute of Romani Culture* in 2007, which at that time was attached to the Ministry of Culture.
- Royal Decree 891/2005 of 22 July 2005, which creates and regulates the *State Council of the Roma People*. This is an inter-ministerial collegiate body of a consultative and advisory nature, in which the collaboration and cooperation of the Roma association movement and the General State Administration is institutionalised, for the development of social welfare policies based on the development and comprehensive promotion of the Roma population.
- Creation of the *Council for the Promotion of Equal Treatment and Non-Discrimination of Persons based on Racial or Ethnic Origin* (Law 62/2003, of 30 December, on Administrative Fiscal Measures and Social Order, in article 33). Its composition, powers and operating system are regulated by Royal Decree 1262/2007 of 21 September 2007. It is attached to the Ministry of Health, Social Services and Equality, through the General Directorate for Equal Opportunities. Two entities of the Romani association movement are part of it: *Unión Romani* (Romani Union) and the *Fundación Secretariado Gitano* (Romani Secretariat Foundation).
- Approval of the *Action Plan for the Development of the Roma Population 2010-2012* (currently in force).

There is a series of agreements amongst the Public Administrations to jointly finance a network of social services that guarantees the implementation of a series of basic benefits for those citizens who are in a situation of vulnerability or social exclusion. In particular, the Central Administration will allocate a specific budget item within the General State Budget²⁶, which is updated every year, publishing the total amount corresponding to each Autonomous Community. This is calculated according to a scale which takes into account a series of data on demography, poverty index, etc. (Agreement of the Council of Ministers, B.O.E. 12/03/1999). Meanwhile, the Autonomous Communities commit to matching the amount received, with the contribution made by the Local Administration varying according to the Autonomous Community in question.

Apart from the aforementioned Law on Social Services in Andalusia, another measure carried out by the Autonomous Communities with competence in this area has been the implementation of the *Plans for the Roma Community*. In fact, of the most relevant initiatives carried out in this field in Andalusia, we can highlight the following:

- The *Andalusian Plan for the Gypsy Community* approved by the Delegate Commission for Social Welfare of the Andalusian Government (20/04/1987).
- Agreement of 26 December 1996 of the Government Council, approving the *Integral Plan for the Gypsy Community of Andalusia* (1997-2000) (BOJA number 22, d3 20 February 1997). The Comprehensive Plan for the Inclusion of the Romani Community of Andalusia 2017-2020 is currently being implemented.
- Order of 7 October 1985, by which the Regional Ministry of Labour and Social Security created the *Secretariat of Studies and Applications for the Romani Community of Andalusia*. It is currently attached to the General Secretariat of Social Services of the Department of Equality and Social Policies.
- Order of 28 January 1997, by which the Andalusian Romani Award was created, and Order of 30 January 1997, which called for this Award for the social and cultural promotion of the Romani Community (BOJA number 20 of 15 February 1997 and BOJA, number 20, of 15 February 1997).
- Institutional Declaration of the Andalusian Parliament proposing celebrating 22 November as Andalusian Romani Day (1997).

With the aim of meeting the needs of the Andalusian Roma population to participate in community life, the Andalusian Social Services Plan 1993-1996 defined the establishment of institutional spaces specifically for the Roma as one of its objectives, and under this proposal, the Government of the Junta of Andalusia created the Andalusian Roma Socio-Cultural Centre (CSGA) in 1989. Located in Granada, it functions as a centre for advice, coordination and socio-cultural promotion. This complements and consolidates the actions carried out by the Regional Administration, covering the following areas: education, employment, leisure and free time, plus all those aimed at achieving the full development of the Roma community in Andalusia.

²⁶ At the state level, the economic contribution is made through the annual call for applications at the cost of 0.7% of personal income tax.

Finally, another important issue that must be highlighted with respect to this subject relates to the appearance, promotion and development of the *Roma Association Movement*. It is well known that, for several decades in our country, a whole associative network has been forged and consolidated, with a great capacity for dialogue with the administration, and whose main objective has always been improving the living conditions of the Roma who live in a situation of vulnerability or social exclusion. It can benefit from the annual call for subsidies for the implementation of cooperation programmes and social voluntary work charged to Personal Income Tax (IRPF), where specific actions in favour of equal treatment and non-discrimination are considered as eligible for general interest programmes aimed at different groups, including the Roma. Eligible programmes aimed at the Roma community include those aimed at social inclusion, which would include promoting awareness and intercultural coexistence, as well as equal treatment and non-discrimination of the Roma population and assistance to victims of discrimination as part of its priorities. The entities that benefit most from this type of aid are the *Unión Romani* and the *Fundación Secretariado Gitano*, both of which are fundamental pillars of the Roma association movement in Spain.

3. Conclusion.

As we have seen throughout this work, the protection of minorities has been on the political agenda of many governments and major international organisations, meaning very positive developments have been achieved in this area. For this reason, protection of minorities must not be understood as a privilege, but rather as a right inherent to their condition and identity, and it must be capable of granting them the same vital opportunities and social advantages as the citizens who make up the majority.

Although all of the above may lead us to conclude that the Roma ethnic minority in our country has a great amalgam of legal instruments capable of guaranteeing their human rights, reality has shown that in practice these rights are limited, as a large part of this population continues to be immersed in processes of discrimination that prevent them from enjoying full social citizenship.

Similarly, this leads us to infer that the criteria underlying each of the agreements and provisions are backed by political approaches whose ethical obligation and pragmatic will have, in many cases, been called into question, rather than being accredited by a unanimous interest in protecting this minority. In fact, there are currently still many differences, both in terms of implementation measures and control mechanisms, between the international community and the European countries which are bound to full compliance due to their accession and ratification.

Today, we continue to witness situations where minorities' rights are violated, because the mechanisms for monitoring and controlling states' obligations are not functioning correctly. Regardless of the procedures for filing complaints or the early warning mechanisms implemented by the UN, a change is needed in the *anthropological view of the other*, making the concepts and values that involve respect, tolerance, pluralism and multicultural enrichment plausible.

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