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Please find in attach the report on the country visit to Spain of Ambassador Ömür Orhun, Personal Representative of the Chairman-in-Office of the OSCE on Combating Intolerance and Discrimination against Muslims and comments on the report made by the Government of Spain.



REPORT TO THE CHAIRMAN-IN-OFFICE  
OF THE OSCE ON THE COUNTRY VISIT TO  
SPAIN

Ambassador Ömür Orhun  
Personal Representative of the Chairman-in-Office of  
the OSCE on Combating Intolerance and Discrimination  
against Muslims

25 – 27 September 2006

## **Introduction**

I conducted a country visit to Spain upon an official invitation from the Government during 25 – 27 September 2006. The programme for the visit was coordinated by the Ministry of Foreign Affairs of Spain and included extensive and comprehensive meetings with both governmental and civil society representatives. A copy of the programme is attached to the report. During my visit I was accompanied by Ms. Nav Purewall from the OSCE-ODIHR's Tolerance and Non-Discrimination Unit.

Given that my mandate as the Personal Representative of the OSCE Chairman-in-Office includes promoting better co-ordination of participating States' efforts to effectively implement relevant Ministerial and Permanent Council Decisions on tolerance and non-discrimination, and to cooperate with the Chairmanship-in-Office in such efforts, the purpose of the visit was to:

- 1) Learn about the situation of Muslims in Spain, make observations and report findings to the OSCE Chairman-in-Office;
- 2) Identify good practices to promote tolerance and respect towards Muslims and to combat discrimination and intolerance against Muslims in Spain;
- 3) Raise awareness about programs available to support the Government of Spain and civil society in their efforts to combat intolerance and discrimination against Muslims.

I would like to thank the Ministry of Foreign Affairs of Spain and also to the OSCE Task Force of Spain for their efforts to develop a comprehensive and well-rounded programme for my visit. The programme was, for the most part, well-coordinated and also balanced in terms of representation from high-level authorities, politicians, Muslim communities and experts from non-governmental organizations.

I would also like to thank Mr. Erkan Aytun, First Secretary of the Turkish Embassy in Madrid, for helping me in taking notes during my visit.

## **Overview of Meetings during Country Visit to Spain 25-27 September 2006**

**Monday, 25 September 2006**

### **Separate Meetings with the two Secretaries General of the Islamic Commission of Spain**

I conducted separate meetings with Mr. Riay Tatari, Chairman of the Union of Islamic Communities of Spain (UCIDE) and with Mr. Felix Herrero, Chairman of the Spanish Federation of Islamic Religious Entities (FEERI), both Co-Secretaries General of the Islamic Commission of Spain. I met Mr. Tatari at the Abu Bakr Mosque and Mr. Herrero at the Ministry of Foreign Affairs.

I briefed my counterparts on my mandate, my activities, my perspectives in general and also on my impression about the situation of Muslims in Spain based on reports of international organizations and NGO's. (I did the same throughout my other meetings.)

The two Secretaries General of the Islamic Commission, with differing words and stress, underlined the following:

- Spain has a long and complex historical relationship with Islam and Muslims. However, we have to look into the situation of Muslims in the light of recent past, especially since 1960's, when the migration of Muslims to Spain started.
- There is now a Muslim community of around one million in Spain. Half are thought to be citizens. Most recent Muslim migrants are from the Maghreb and generally speaking they have moved for economic reasons.
- The legal basis of the Spanish Muslim Community is the 1992 Agreement between the Spanish government and the Muslim Commission, which has also become law. It is argued that this legal basis is moving towards maturity. (Such a legal basis is unique among European countries.) On the

other hand, time has come to revise the Agreement under prevailing circumstances.

- This Agreement covers the status of Imams, mosques, cemeteries, religious assistance in public, holding of festivities and Islamic heritage. However, the Agreement does not cover financial assistance and as such is incomplete.
- Due to the internal political situation, the Agreement was not implemented for almost a decade and was frozen. Since 2004, however, the situation has changed and slow but positive progress was achieved.
- The impressive legal basis (of the Muslim community) provides, in principle, equal footing with other religious communities. Now, a methodology must be found to bring the Muslim community closer to the mainstream. Adequate space in the society is also needed.
- The Muslim community is trying to build bridges with the mainstream society. They are fighting to have new mosques and adequate education for their children. The solidarity within the Muslim community is commendable, with newcomers being supported by the “old” Muslims.
- Although a legal basis exists, Muslim faith is not accepted as a religious teaching subject. (Especially in some autonomous regions.) Religious education is not compulsory, parents can opt-out. For Muslims, religious education is very important, especially as it is given to other religions.
- Another difficulty is getting permissions for proper prayer places (mosques). This difficulty emanates mainly from City Councils and the issue is politicized.
- Imams are now officially recognized, with some social security, but not with employment benefits. Muslims also face difficulties in finding places of burial. Through a decree, religious assistance has started to be provided in prisons.
- The biggest challenge and the most acute problem of the Muslim community is lack of financial assistance from the State. Expenditure for fixed assets (mosques) and the salaries of Imams are provided by the

Muslim community, whereas, based on the Concordato, the Catholic Church can and does receive State aid. This situation is considered discrimination. (Freedom of religion, but not equality.) The Catholic Church also gets support for “cultural heritage”.

- The recently established Foundation for Living Together in Pluralism (Pluralismo y Convivencia) has been cited as a good practice, which supports cultural and educational projects of also the Muslim community, but not religious projects. (This Foundation is seen as an attempt by the government to compensate the financial assistance gap.) All in all, the Muslim community does face problems, but there are also searches to find solutions.
- Media : Media tends to pick up events in the outside world and tries to publish juicy stories to the detriment of the Muslims.
- After the Madrid bombings, the Muslim community clearly condemned this terrorist act and the public welcomed this message. However, the media reporting was not positive. Mosques were portrayed as terrorist nests. Same goes true for some political discourse.
- Situation in housing is acceptable. In the employment sector, however, due to fears fueled by the media, some employers tend not to employ Muslims.
- Most of the problems faced by the Muslims are not directly related to their being Muslim, but their being foreigner.
- It was argued by one of the Secretaries General that Consular Offices of the Spanish Embassies put restrictions on family reunification and also on mixed marriages, through personal interviews. (Subsequently an official from the Consular Department of the MFA explained that such interviews are compulsory, that the objective is to detect possible cases of fraud and to prevent marriages of convenience. We were also told that Consuls can reject to register mixed marriages, which I found rather an arbitrary practice. It was not clear whether an appeal is possible or not.)
- One of my interlocutors said that it would be best to pull religion completely out of public life, so that all citizens of all faiths can get along

better with much less conflict. He went on to argue that, some high officials quite often publicly overstate their religious convictions, while being paid by the State. He also took exception to the (then) recent statement of former PM Aznar, underlining the difficulties of having a meaningful dialogue with such personalities. He was also quite critical of media representation on Muslims and Islam.

### **Meeting with Mr. Fernando Fernandez-Arias, Head of the Office of Human Rights, Ministry of Foreign Affairs**

Mr. Arias explained briefly the mandate and scope of activities of his department. Human Rights Office operates logistically under the General Directorate of Multilateral Organizations, but due to the nature of the subject matter also covers issues such as bilateral human rights, relations with national and international NGOs working on human rights and democratization processes. The office has more of a horizontal competence.

In relation with the NGO's, they had a meeting before the summer to define the Spanish Chairmanship priorities in the OSCE and they decided to adopt as the theme of the Chairmanship "Diversity".

Furthermore, Spain will be the leading country in presenting Resolutions in the UN on Religious Intolerance on behalf of the EU. Following the cartoon crisis and the Pope's speech during the year, there is a conception that the EU is against Islam, but it is definitely not so.

Mr. Arias also mentioned their interest in the project of Alliance of Civilizations. Besides this project he pointed that the Spanish Government was preparing with the collaboration of House of Asia a roundtable on religion and universal values. He emphasized that religious issues were a priority for them and they were trying to establish an environment of dialogue by involving as many partners as possible to prevent misunderstandings.

I underlined the importance of differentiating culture and religion and mentioned the cooperation between the two Secretaries General of the OIC and the OSCE and the idea of organizing a general event by these two organizations on the issue of

“intolerance against Muslims”. Mr. Arias also agreed with me to try to revive the OIC – EU Forum.

I also stated the importance of the responsibility of the politicians and the media on creating a peaceful environment between different religious groups and presented the “Media Guide” prepared by the Media Council in the UK. I proposed that a similar work can be undertaken also in the OSCE for member countries.

Mr. Arias said that although he believed that such a guide could be very useful, he thought that it would be rather difficult to elaborate a document within the OSCE, because of the different social and political situations of the member countries. He pointed out that although hate crimes were basically the same, the reactions seemed to be very different in Christian and Muslim countries. The demonstration of anger only occurs in Islamic countries whereas the reactions in others are more peaceful. This fact probably is a result of lack of political freedoms in Islamic countries.

Mr. Arias also emphasized the importance of keeping all channels of dialogue open and made reference to the cooperation between Turkey and Spain as a good example of such dialogue.

I conveyed the information I received during my meetings with the Islamic community organizations. I told him that although there were some problems regarding the 1992 Agreement and the positive discrimination of the Catholic Church, in general the situation of the Muslim community of Spain seemed to be much better as compared with other EU members.

Mr. Arias confirmed that the Spanish society tended to be very tolerant to other religions and ethnic differences and accepts change very easily. He also stated that the legal and regular immigration was not considered as a negative issue and argued that in general terms there was no discrimination on the basis of religion in Spain. As for the Catholic Church, he accepted the power of the Church as an institution, but emphasized the secular nature of the State.

### **Meeting with the OSCE Chairmanship Task Force**

Ambassador Jorin, Head of the Spanish OSCE Chairmanship Task Force, and his collaborators briefed me on the structure, resources and line of work of the Task Force. He underlined that the Task Force would heavily rely on the Political Departments and the Spanish Chairmanship would not try to promote Spanish interests. Ambassador



Jorin stressed their determination to emphasize the first dimension of the OSCE, giving due attention to dialogue and interaction among participating States. He also amplified their intentions regarding the economic and environmental issues, which goes beyond the scope of this report.

On the human dimension, “managing diversity in multicultural societies” (or “challenges of diversity”) would be Spanish priorities.

Spain also would like to close the so-called reform chapter, as the OSCE is an organization in permanent evolution.

Ambassador Jorin said that they intend to prolong the mandates of the three Personal Representatives with the same mandate and working modalities.

Upon my remark that the OIC and the Muslim civil society organizations would wish the OSCE to organize a special event related to intolerance and discrimination against Muslims and that I second this wish, my counterparts stated that this suggestion goes in line with their intentions.

During a working luncheon, we continued our deliberations on how to make best use of the human dimension mechanisms in promoting diversity, tolerance and respect in cohesive societies, as well as on better utilization of the services of the Personal Representatives. I, as always, underlined the “part-time and honorary” character of these positions, which necessitate adequate support. I stated that, two years ago when I was first appointed, this position was completely unknown to the outside world and therefore there were no demands from me. Today, however, as awareness has been raised, the demand to write articles, to give lectures, to make speeches and to attend international events has increased considerably, which is difficult to meet with the present working modalities. My counterparts promised to look into this matter.

**Meetings with Mr. Mansur Escudero, Editor of “Web Islam” and former  
Chairman of the FEERI, and with Mr. Antonio Gallardo, Contact Point for Spain  
of the EUMC**

I conducted separate meetings with Mr. Escudero and with Mr. Gallardo. (Mr Mohammed Chaib, Member of the Regional Parliament of Catalonia did not show up for his meeting.)

Mr. Escudero, underlining that he himself had signed the 1992 Agreement, mentioned that the intention behind this Agreement was to put an end to the exclusion of Muslims from the mainstream, as well as to end the monopoly of the Catholic Church, since Spain is a secular state. He went on to say that the Muslim community has a lot of expectations and the 1992 Agreement helped to foster this community to gather under one umbrella. He said that the 1992 Agreement gives civil rights to Muslims and as it is a unique piece of legislation in Europe, it can be considered a benchmark. Like other representatives of the Islamic Commission, he underlined the fundamental drawback of the Agreement as containing no funding provision, which constitutes a discrimination *vis-a-vis* the Catholic Church. Mr. Escudero said that he does not object Christians getting financial assistance, but takes exception to the fact that Muslims do not.

Mr. Escudero stated that as most of the Muslim heritage in Spain is destroyed, the Muslim community is in need of structural facilities, especially in the fields of education and integration. He pointed out that education is the basis for fighting intolerance.

Reiterating that the 1992 Agreement was not implemented for almost a decade, Mr. Escudero said that under the present government modest but positive developments were seen. He spoke favorably of the Foundation for Living Together in Pluralism, also criticizing that this Foundation can only support social and cultural projects, but not religious projects.

Mr. Escudero stated that as far as legislation is concerned there exists no obstacle in building new mosques, but in practice they are not able to do so. Finding proper burial places was mentioned as another problem area.

Mr. Escudero praised the efforts of the government in combating anti-Muslim activities and said that there have been no physical attacks or violence against Muslims. However, he pointed to some racist reactions, whereby while the general public was looking positively to the past achievements of Islam, there is still some reaction to the present day Muslims, citing former PM Aznar's recent statement.

Mr. Escudero also was of the opinion that 1992 Agreement should now be revised and Muslims should be proportionally represented in public life.

Mr. Escudero underlined that Muslims are facing some problems in their relations with the police, not necessarily because they are Muslims, but because they are foreigners.

Mr. Escudero also conveyed information on the research projects on Islam by some Spanish universities and attempts to train religious leaders.

I suggested to Mr. Escudero that Spanish NGO's should go beyond the Spanish borders and participate in relevant international events.

During my meeting with Mr. Gallardo, he briefed me about EUMC and RAXEN reports for Spain, underlining that no official data exists on numbers and manifestations of hate against Muslims. He went on to say that in the minds of people there is confusion about Islam and terrorism and that the media plays a negative role in that respect. As other civil society representatives, Mr. Gallardo as well was of the opinion that the 1992 Agreement should not only be fully implemented, but also should be revised.

Underlining EU Directives on Combating Discrimination, Mr. Gallardo proposed establishment of an independent special body or an observatory in Spain to deal with manifestations of discrimination. He was also of the opinion that the existing laws should be amended to be fully in line with EU Directives.

Mr. Gallardo said that racism is considered only as an aggravating circumstance and since court proceedings take a long time, perpetrators usually remain unpunished.

During this meeting, we also discussed the necessity of creating inclusive societies and multiculturalism.

### **Roundtable Meeting with Representatives of the Civil Society**

I conducted an NGO roundtable meeting at the Ministry of Foreign Affairs, which was well attended. The list of the NGO's invited is annexed to this report.

The participating NGO representatives, after explaining their fields of activities and their main areas of interest, underlined most of the points raised by my previous civil society counterparts. Some of the important points that were mentioned are summarized here below:

- Most of the NGO's complained about lack of official data on racial discrimination and hate crimes.
- Racial profiling by the law enforcement officials were also referred to.
- Going deeper into the reasons for hate and discrimination was another point raised.
- Some of the NGO's underlined their activities in assisting victims of racial discrimination, including provision of legal representation.
- It was stressed that Islamophobia was able to reach large segments of the society through the media. Similarly, some anti-Muslim books were mentioned.
- Almost all NGO's underlined the need for more dialogue and interaction with the mainstream communities and in that respect stressed the importance of the Alliance of Civilizations initiative, which must also be implemented at the grassroots level.
- It was recognized that the level of information and knowledge about Islam must be increased.
- Responsibility of politicians in creating cohesive and tolerant societies was repeatedly mentioned.
- Lack of proper burial places and purpose-built mosques was also underlined.
- An NGO representative said that as individuals Muslims have no rights, but they acquire some rights if they go through the Islamic Council.
- Importance of education was repeatedly mentioned. It was stated that the Spanish government wants to facilitate religious education, but was facing structural problems.
- In general, legislation was found to be adequate, but implementation needed to be improved.

- One representative, underlining peaceful coexistence as an ultimate aim, said that “the cause of the other should also be our cause”.
- The necessity of international networking of NGO’s working in the field of tolerance and discrimination was recommended.
- Development of ethical codes of conduct was another point raised.
- Another NGO representative stressed the need of a critical review of both Islamic and Christian histories.

I on my part encouraged civil society representatives to be more aware of the tolerance and non-discrimination programs of the OSCE and suggested that they should send their reports, publications and other material, including information on good practices, to the ODIHR. I also referred to ODIHR’s Hate Crime Report and ODIHR’s Data Collection Improvement Program.

Furthermore, referring to the remarks of the NGO’s to their educational activities and good practices, I briefed them on the OSCE meeting on education that would be held in Dubrovnik. I also spoke about ODIHR’s Law Enforcement Training Program on Hate Crimes.

**Tuesday, 26 September 2006**

**Meeting with Mr. Luis Lopez Guerra, Secretary of State of Justice, and  
Ms. Mercedes Rico, Director General of Religious Affairs, Ministry of Justice**

At the outset, Secretary of State Mr. Lopez outlined their emphasis on establishing official relationship with different confessions, especially with the Muslim communities, in Spain. They estimate that there are 600.000 to 800.0000 Muslims in Spain and they try not to discriminate any of them and also any religion in general. Although Catholic Church is mentioned by name in the Constitution, the obligation of “maintaining appropriate cooperative relations” with other confessions is stated thereto also. (Section 16.3) To that end, he stated that they tried to collaborate with different religions in different aspects of life. He also reported that because of their history, cultural tolerance in Spain was exemplary.

Director General of Religious Affairs Ms. Mercedes Rico stated that, as a demonstration of this tolerance, after the terrorist attack of March 11 the government

tried to do everything to avoid any incident against the Muslim community and succeeded in that. The Spanish society distinguishes well the criminals and the normal people. She also added that the Muslim community was well positioned in Spain with well known distinguished leaders and was very open.

I explained briefly my mission and transmitted the information I received from the previous meetings with NGOs and Muslim community representatives, with special reference to the 1992 Agreement and the financial problems of the Muslim community for their religious needs.

Mr. Lopez stated that although there was religious freedom in Spain, they were more close to the Catholic Church for obvious reasons. The only religion mentioned in 1979 Constitution is Catholicism, but 1992 Agreement is the first step for a more equal treatment. The idea for the Catholic Church was self sufficiency, but the system was not consolidated and was not stable even for the Catholic Church. The agreement reached with this institution on abolishing their privilege on VAT and increasing their percentage which they receive from the income tax on a voluntary basis may also open a way for other religions. The same implementation can be extended to other confessions or their resources could be increased. There is still no decision on this subject.

Ms. Rico stated that the government was willing to facilitate all the opportunities that they provide to the Catholic Church to other three confessions (Muslims, Protestants and Jews) but there are organizational problems. Since other confessions lack a central institution and they are much dispersed, it is difficult to find a proper body to direct the financial contributions. Even though there are no financial clauses in the 1992 Agreement, they try to provide funds to the Muslim communities by publishing text books for religious education, providing classes of education of Islam in public schools, inclusion of the Imams to the social security system (the salary of Imams are paid by the community itself) and providing religious assistance in the prisons. She also agreed that some reform could be made on the 1992 Agreement and the conditions could be improved.

State Secretary Lopez emphasized the importance of regional practices. Since Spain consists of several autonomous regions, there may be some differences on the implementation, but the central government is well aware of its responsibilities and acts in that direction. A good example in that respect is the meeting which took place a few months ago between the President of the Government Mr. Zapatero and the heads of the religious communities in the Presidential Palace.

As of the total number of the Muslims in Spain, Director General Rico reported that it was very difficult to find out the exact number due to the restrictions in the constitution. It is not allowed to ask the citizens their confession.

I welcomed the importance of having an agreement with the Muslim community and the willingness of the Spanish government to revise it. I also transmitted the concerns of the Muslim community regarding the difficulties in obtaining permissions to build mosques, insufficiency of the Muslim burial places and the problems related to family reunification process.

State Secretary Lopez said that the first two issues were under the jurisdiction of local authorities and that they were aware of the fact that sometimes there might be some retentions on solving these problems. As of the third issue, there was no discrimination on the basis of religion and general rules are applied to all citizens.

I asked about “hate crimes”, if they were all reported, how the police handled such cases, how long the judiciary process took and about the laws on non-discrimination.

Mr. Lopez admitted that the length of the judicial process has always been a problem in Spain in general. He said that they were working for a more efficient judiciary system. About the laws on non-discrimination, Mr. Lopez stated that there were several laws, regulations, etc. but they were always open to be improved. He admitted that the behavior of the police was a very difficult issue to control, but there were important improvements in the last 20 years on the issue of human rights.

### **Meeting with Mr. Jose Maria Contreras, Director of “Pluralismo y Convivencia” Foundation**

Mr. Contreras explained the mission of their Foundation. “Pluralismo y Convivencia” Foundation was founded by the State to provide financial support to three confessions (Islam, Judaism and Protestant) which have agreements with the government and to promote religious pluralism in Spain. For the time being the only contributor of the Foundation is the Spanish government, but they are open to contributions. The Foundation was established in 2005 and the same year they provided a sum of 1.5 million Euros to the federations and 1 million Euros to local communities on project basis. This constitutes 85 % of the budget of the Foundation. They also spend 100.000 Euros for promotion of religious pluralism (3% of the budget). The three

confessions have prepared 174 projects in 2005 and this number has increased to 332 in 2006.

In 2006, the federations received 1.6 million Euros and the communities 1.8 million Euros. The financial support is only provided to concrete projects on education, culture, integration etc. Religious projects can not benefit from funds. Mr. Contreras highlighted the difficulties they had on differentiating the cultural and religious projects especially in the Muslim communities.

The Board of Trustees of the Foundation is composed of State representatives (12), three confessions (8) and NGO's (1). The representatives of the confessions are designated by the communities. They do "pro bono work" and the Board of Trustees meets at least two times a year.

The executive organ of the Foundation is the Management Board, consisted of 5 members of the Board of Trustees and the Director (1 for each religion, Director of Religious Affairs and the NGO representative). Management Board approves the projects according to the budget previously approved by the Board of Trustees.

I stated that this Foundation was a good example of a best practice.

Mr. Contreras said they do not concern themselves too much about the quality of the projects during the approving process and try to provide sufficient funding to the communities who needed it. There are no training courses for preparing the projects but they help the communities to fill the forms and provide personnel assistance.

For the future funding they want to focus more on building the capacity of the individuals and projects involving women and young people. They are aware of the importance of confidence building, reaching out to the communities and providing a decent place to come together as a community.

I stated that the main concern of the Muslim community was discrimination between the Catholic Church and the other confessions. Although the Catholic Church benefited support from the government for their religious needs, the other confessions were not able to benefit from this opportunity. On the other hand, although the Foundation is providing financial support to the communities, they are not able to use it for their religious needs. I suggested that the Foundation should advise the government on this aspect of the problem and change the regulations so that these communities could get a fairer treatment.



**Meeting with Ms. Consuelo Rumi, Secretary of State for Immigration Affairs,  
and officials of the Ministry of Labor and Social Affairs**

Secretary of State Ms. Rumi underlined their determination to make integration possible for all a priority, based on principles of equality, non-discrimination and citizenship. She explained that a strategic plan was drawn up for citizenship and integration, with tangible results. This plan is also to be used to resolve any conflict that may occur related to cultural and religious practices. She also underlined major efforts to promote education and to provide values that do not run counter to basic human rights. During 2006-2009 the government would allocate 2 million Euros for cross-cutting themes on equal opportunities, equal rights and equal obligations. The aim is to prompt a change in the mindset of the public related to immigration issues.

2007 is designated as the year of equal opportunities, whereby a debate over diversity in the Spanish society will take place. The message to be conveyed will be that everyone is entitled to equal treatment, irrespective of race, religion, sex, disability, gender, age or political conviction. Social cohesion in the society would necessitate to deal with diversity and pluralism.

Ms. Rumi underlined that integration is a two directional process, which can only be achieved when both parties are committed. Spain is a new receiving country, but in a very short space of time has recorded huge numbers of immigrants. They face a new situation and a new phenomenon.

How to achieve true integration? People without jobs cannot integrate. On the other hand training on the social and political system is a must. Spain has deliberately adopted this approach, considering that the practice in some other countries did not produce adequate results. Integration depends on the person, and not his or her religion or place of origin.

The Ministry has set up a fund for integration and education for migrants two years ago. The budget for this fund for 2006 is 182 million Euros. Central government distributes funds across autonomous regions, in proportion to the immigrants in that region.

We continued our talks during a working luncheon, whereby the Forum for Integration, an independent consultative body, which was established ten years ago, was explained. The Forum has 31 members and works under four committees. The Forum

can initiate opinions on any plans affecting immigration. The Forum issues an annual report, which appraises the situation of immigrants in Spain. A website containing information on Forum's activities has also been established.

50 per cent of the reception fund is allocated to education and 40 per cent to local authorities.

Immigration in Spain is connected to a great extent to the labor market, so that immigrants can get a residence and work permit legally. The system for refugees and asylum seekers is separate, whereby such people are asked to regularize their situation within five years. Through this system 600.000 jobs have now become legal. Some European countries criticize Spain because of this regularization process, which is unjustified.

We were also briefed about the Observatory of Racism and Xenophobia, which is attached and report to the Director General for Immigration and Integration. This Observatory has been working now for a year and is also the focal point for the EUMC. On the other hand Spain will set up a new body for non-discrimination and equality in conformity with the EU Directives.

The Observatory has carried out a survey in 2005 asking Spaniards their thoughts on racism and xenophobia. The result of the survey highlighted surreptitious and concealed racism. The government is committed to eradicate this phenomenon. They hope the next survey will portray a more positive outcome.

Spanish criminal justice system does not define racist and xenophobic acts as an offense, but only as an aggravating circumstance. The Observatory is monitoring the situation, but data is not readily available.

### **Meeting with Members of the Parliament**

I met a number of Members of the Parliament at the Cortes, including members of the Spanish Delegation to the OSCE Parliamentary Assembly.

We had a frank and constructive dialogue, concerning relations with the Muslim world, cooperation between the government and the Muslim communities, need for dialogue and interaction and the situation of the Muslim community in Spain. Most of the points that were discussed in my other meetings were underlined in this gathering

also. I noted with appreciation that the Members of the Parliament were very much aware of the problems and were willing to address them and to find remedies to the difficulties faced by the Muslim community in Spain. I also noted with appreciation the commitment of the Members of Parliament to the work of the OSCE in furthering tolerance and in fighting discrimination.

**Meeting with Mr. Jose Luis Perez Iriarte, Director General of Education,  
Vocational Training and Educational Development, Ministry of Education and  
Science, and his collaborators**

Mr. Perez highlighted the determination of Spain to provide adequate education for persons from different cultures. For the Muslim community they provide four basic areas of education: Teaching of Islam; Citizenship and Human Rights; Training Program for Immigrants; and Arabic Language and Moroccan Culture. The last one is carried out with close cooperation with the Moroccan Government.

Spain has a long experience of migration as compared with the rest of Europe. They are aware of the problems, because the same problem of maintaining balance between integration and preserving the cultural values faced by the Spanish immigrants 30 years ago is now in front of the Spanish government. The Ministry is trying to establish balanced student groups in schools to provide better knowledge of other cultures. This task is not an easy one due to the concentration of the cultural groups in the same sector of the cities.

Teaching of Islam: According to the legislation, students are asked which kind of religious education they want to receive. In practice, the level of choosing Islam is very low; the parents prefer to provide religious education somewhere else. In the last two years, the government increased allocation of funds and the number of teachers. In 5 autonomous communities, where the central government has authority, the number of teachers has duplicated and reached to 32 in the last two years. There is no data about the other communities. They meet with the Muslim community leaders every 6 months to decide in which cities there is a need for new teachers and discuss other issues related to education. The curriculum is decided by the Islamic Commission and is a unified curriculum containing practice and philosophy of religion.

Civic Education and Human Rights: This subject, which will start next year, will be obligatory for four years for all students between 11-18 years of age. The curriculum

will include teaching of diversity, religions, ideologies, citizenship etc. These courses will be complimentary to religious teaching.

**Educational Programs for Immigrants:** This is an intercultural education. The experiences of several teaching institutes and teachers are collected and published in a book. There is also a website for teachers and parents. The aim is to put into practice the best experiences on immigrant students, language learning, reception etc. accumulated through time. The idea is “education is not for immigrants but with immigrants”.

**Arabic language and Moroccan culture:** There is a cooperation program between Moroccan and Spanish Governments. Teachers are provided by the Moroccan Government and Spain provides class rooms, material etc. Spain also trains and takes necessary steps for the integration of these teaches.

Cooperation between the Ministry, local authorities and Moroccan authorities is satisfactory. The decisions are made by consensus at the monthly meetings which take place at the Moroccan Embassy; there are also meetings with the coordinators in regional level.

The objective of the program is teaching Arabic and enabling the Moroccan immigrants to maintain their identity, integration of the immigrants to the educational system and to the Spanish society and enhance the method used by other European countries.

The program has gathered considerable interest not only from Moroccan immigrants, but also some Spanish, Ecuadorian and East European students assist in the classes.

I pointed out that other European counties were doing exactly the opposite of what Spain is intending to achieve and suggested that they should inform other European partners on their achievements and urge the European Commission to adopt their approach as a good practice. On the other hand, I mentioned that the NGOs were complaining about the low number of teachers in schools.

Director General Perez responded that unfortunately they did not have total control over the educational system due to the constitutional restrictions, and also even though they wanted to increase the number of the teachers in the 5 autonomous communities which they have authority over the Muslim community was not able to come up with 20 new teachers and the number could only reach to 32. He also said that in the

coordination meetings they make suggestions to other autonomous regions to increase the number of teachers, but not always get positive response.

**Wednesday, 27 September 2006**

**Meeting with Mr. Miguel Angel Moratinos, Minister of Foreign Affairs**

I briefly explained my mandate and activities and the purpose of my visit to Spain. I highlighted specifically the 1992 Agreement and the need of reforming it by including financial clauses. I added that in their discourses the politicians and the media should be very careful in order to prevent discrimination on religious basis.

Minister Moratinos emphasized the importance that their government was attaching to cooperation with the Muslim community and said that there was no other European government as committed as they were to such cooperation.

Mr. Moratinos underlined that, as the Spanish media was controlled largely by right wing supporters, the current government did not have sufficient control over it. The Spanish society is not racist and is not against the Muslim community said the Minister, and added that after the terrorist attack of March 11, there was not a single act against the Muslims. He also pointed out that although the Spanish society was open; there were some complications with the media. The Minister admitted that there could be a potential in the direction of a negative change (self-fulfilling prophecy of clash of civilizations), but they were doing their best to prevent it.

Financing of different religious communities is a subject that the government takes seriously, said Mr. Moratinos, and added that it would need dialogue and cooperation with these communities.

Minister Moratinos stated that the Muslim community in Spain was still not too big and was not very influential. However this has been changing gradually and the government was implementing policies to improve their situation. They are not well organized as the other confessions because of the diversity of the community. Mr. Moratinos added that the government was willing to listen to the Muslim community's expectations.

I said that Spain could be a model for other European countries in tolerance and non-discrimination against Muslims. The Muslim organizations, however, are weak and they need encouragement and support from the government.

Minister Moratinos also expressed their intention to organize a conference against “Islamophobia” in collaboration with their Mediterranean partners and the OIC during their Chairmanship in the OSCE. I welcomed this intention warmly.

### **Meeting with Mr. Enrique Mugica, Defensor del Pueblo (Ombudsman)**

Mr. Mugica explained briefly the institution of the Ombudsman in Spain. It is a constitutional institution established to defend the fundamental rights of the citizens and to control the administration. It is the second term of the Ombudsman, who was elected for five years with 3/5 majority of the two houses of the Parliament.

The Ombudsman has the competence of investigating any demands from the citizens on the actions of the administration and asks the administration to clarify the situation. It also has the competence to appeal to the Constitutional Court against any law approved by the Parliament.

Mr. Mugica emphasized that there was no discrimination on the basis of religion in Spain. They have received only one or two complaints. He made a distinction between the rejection of the “different” and “violation of rights”, and put this as a question of attitude.

Legally there is full religious liberty in Spain, said Mr. Mugica. This issue is regulated by several laws and regulations in their full extend. There are also some references in the penal code to prevent actions which can be interpreted as intolerance against Muslims and the judicial system has integrated sufficient mechanisms to ensure non-discrimination, added the Ombudsman.

I said that during my meetings with several NGOs, they drew a picture different than what Mr. Mugica was portraying. There are many hate crimes registered in NGO reports, but the NGO representatives claimed that it could be actually thousands of them. The bad treatment of police is also raised as a complaint by the NGOs.

I urged the Ombudsman to organize seminars and informative meetings targeted to explain to the Muslim communities about the Ombudsman's competences and mission. Lack of information and trust can be one of the causes why the office does not receive hate crime claims.

Mr. Mugica responded that they distribute such information to several communities and in Spain even illegal immigrants have the right to receive health care and education. He also said that they had good relations with most of the NGOs but there were some of them abusing their rights.

Mr. Mugica did not accept the bad treatment allegations and argued that even though there could be some isolated cases, the situation was much better in comparison to the dictatorial times of Franco. He added that there were control mechanisms to investigate these claims.

I underlined that the control mechanisms mentioned are integrated in the police force and the allegations are not investigated by an independent institution. The investigations on the police officers are carried out by other police officers, and that creates problems. I also took exception to the comparison with the situation under the dictatorship.

The Ombudsman replied that the investigations were serious and if they found any irregularity the cases were sent to the judicial authorities. So, there is full control over the police force.

At the end of our meeting, I tried to stress my disappointment that the Ombudsman was off hand rejecting maltreatment, that even the government officials were not so resentful.

#### **Meeting with Mr. Antonio Camacho, Secretary of State for Security, Ministry of Interior and his advisers**

At the outset of this meeting, we received a presentation on the activities of the Ministry of Interior related to our subject matter.

I underlined that manifestations of racist and xenophobic violence should be addressed promptly and institutional responses, including criminal prosecutions, should recognize and reflect their racist dimensions. I said that although official figures on hate crime indicate that Spanish law enforcement bodies registered slightly over 100

incidents, NGO's registered approximately 4000 cases of hate motivated violence. I recommended that there is a need for improved recording of hate crimes, as well as cases that have proceeded through the criminal justice system. Referring to reports of ECRI, I also mentioned racist organizations, which disseminate hate speech and recommended to increase response to such crimes, including implementing existing criminal law provisions.

I also referred to ethnic profiling practices by the police that have been cited as a concern by NGO's, as well as police misconduct, including abusive speech and ill treatment. As it is difficult to assess the extent of such behavior I recommended establishment of an independent commission to investigate such allegations and to strengthen police training efforts in human rights and non-discrimination. In that context I underlined ODIHR's law enforcement training program on hate crimes.

My counterparts referred to the existing protection mechanisms and to Spain's particular features in knowing how to treat Muslims, in view of the country's historical background.

My counterparts underlined that even after the train bombings there were no xenophobic feelings, although there were isolated cases of abuse and discrimination, which were prosecuted according to legislation.

It was also stated that the present government is determined to open lines of contact with the Muslim community and to meet Muslim leaders, with a view to solving all problems. It was stated that by establishing sound contacts it would be easier to solve worries and problems.

The present legislation was characterized as rigid on xenophobia, which directs the law enforcement agencies to avoid any discriminatory practice. There are individual cases of excesses, which the government and the society finds unacceptable and which are inspected and prosecuted.

The government's determined efforts to implement more measures in order to avoid any manifestation of discriminatory behavior were also stressed.

Subsequently we were briefed on the competencies and structure of the National Police and the Civil Guard.



Upon my inquiry, I was told that although it is difficult to get exact numbers, the Ministry of Interior estimates that there are 900.000 Muslims in Spain, the great majority being legal. There are quite a number of Muslim police officers, both in the National Police and the Civil Guard. Though it is difficult to give exact numbers, they estimate that there are around 160 Muslims in the Civil Guard and 800 in the National Police.

Subsequently we had an interesting presentation on “Citizen Participation Program”. Police must be fully integrated to the society, must know the needs, so as to prepare remedies.

My counterparts underlined their aim to ensure objectivity of officers and mentioned training programs in that respect. Concerning hate crime reporting, my remarks were noted. I was told that training on hate crimes was not yet included in the curriculum of the National Police Academy.

I was appraised that the status of 600.000 illegal immigrants was regularized.

### **Meeting with Trade Union Representatives**

I met representatives of CCOO (Confederation of Workers Commissions) and UGT (Workers General Union) at the CCOO Headquarters.

After a general introduction by myself, representatives of trade unions stated the following:

“During the last ten years Spain has become an immigration receiving country, instead of a sending country. Within a span of five years, Spanish population increased by four million, majority of which are immigrants, albeit not all of them Muslims. Therefore we can understand the shortcomings Muslims encounter. Spain is a tolerant country and aims for peaceful coexistence. There is hardly any discrimination or xenophobic manifestation, even after the train bombings.

Trade unions generally deal with employment issues. We are on guard that we can anticipate any possible sign of xenophobia, humiliation or discrimination. In that respect, we are running awareness raising campaigns.

Trade unions’ work in that respect are twofold: On the one hand we cooperate with the trade unions of other countries, and on the other hand through collective bargaining

we try to ensure that the employers take due notice of different needs of the Muslim workers. Among the Spanish working class there is no intention to discriminate immigrants in general or Muslims in particular. We try to supplement the government's integration and citizenship efforts in the industrial sector, also concentrating on health and education.

It is difficult to administer the rapid growth of the immigrant population. Deficiencies are remedied.

Housing is a problem for all Spaniards, as rents have risen sharply.

As far as illegal immigrants are concerned, our aim is to minimize their numbers through regularization of their status. We do not approve exploitation of illegal immigrants by employers. (Not paying social security and tax, and comparably low salaries.)

In collective bargaining negotiations, trade unions have included specific conditions for Muslim workers, to meet their specific requirements.

Constitutional values of equality and non-discrimination are also part of trade union charters. However, we are concerned about some recent public statements and media representation. We are worried that these negative messages are taking root in people who have to live in diversity.

Spanish experience with immigrants is much different from other EU countries. We are committed to protect the human rights and employment benefits of migrants, including Muslims.

Majority of trade union publications are directed to children and teachers. A recent survey on job expectations of migrant teenagers revealed that the majority is inclining to go to agriculture, construction and services, which is a worrying development, as this trend might create a divided society.

In the work force, there are not as many examples of hate crimes as compared to other European countries.”

## Summary of Findings and Recommendations

On the basis of the information gathered from government authorities during my country visit to Spain, the views and concerns expressed by the civil society and the assessment of relevant International Organizations, the following can be identified as summary of findings and recommendations:

**1. Overall Situation of Muslims in Spain:** Spain has a long and complex historical relationship with the Muslim world. Also because of this past relationship, understanding, tolerance and desire to co-exist with Muslims, especially as compared to other European countries, is generally positive and exemplary. Spanish society does not seem to be inclined to discriminate Muslims because of their religion or ethnicity. Although some of the political and media discourse is negative, violence against Muslims has not been recorded. As a general observation, it can be stated that Spain can be a model for other European countries in tolerance and non-discrimination against Muslims. The determination and the actions of the government to correct the deficiencies and shortcomings is commendable.

**2. Legislative Framework:** Spain is unique in the sense that the government has signed a comprehensive Agreement with the Islamic Commission, which has become law. The only shortcoming of this Agreement is reported to be lack of financial clauses, which the government is trying to compensate through other channels. However, it would be best to revise this Agreement under prevailing conditions, also including financial support clauses.

**3. Freedom of Religion and Belief and Equality of Religions:** As far as freedom of religion and belief is concerned, the situation seems to be satisfactory, except in provision of new and proper mosques and burial places. As far as equality is concerned, the Muslim community is of the opinion that they are disadvantaged due to lack of financial support.

**4. Education:** Although more dedicated teachers are needed, the educational programs and activities are commendable and should be taken as an example by other countries.

**5. Integration and Structural Problems:** As Spain has recently started to receive immigrants, the integration policies are in a process of evolution. The resources and structural set up is satisfactory.

**6. Law Enforcement:** It would be advisable to initiate a better system of hate crime reporting and prosecution. An independent complaints committee is also recommended.

## **Recommendations to the Chairman-in-Office**

- 1.** This report should be shared with the government of Spain who should in turn be encouraged to circulate it to representatives of the civil society. The report should also be shared with other participating States of the OSCE, Partners for Cooperation, other OSCE institutions, as well as with the other two Personal Representatives of the Chairman-in-Office.
- 2.** In order to support increased cooperation between the OSCE and other international organizations dealing with combating racism, intolerance and discrimination, it is also recommended that the report be shared with ECRI, EUMC, UNHCHR, CERD and OIC.
- 3.** The Spanish government is to be commended for its policies and activities in meeting the requirements of the Muslim community in Spain and for its display of willingness to improve their situation. The Spanish government is to be encouraged to continue to display willingness to respond to acts of intolerance against Muslims, including negative political and media discourse.
- 4.** The various good practices noted throughout this report should be disseminated to OSCE participating States in order to demonstrate constructive and effective ways for dealing with intolerance and discrimination against Muslims. On the other hand, the 1992 Agreement should also be made available as a model to other countries where a considerable Muslim community is residing.
- 5.** Representatives of Muslim communities and civil society in Spain should take note of and try to participate to the programs and mechanisms available through the OSCE Office for Democratic Institutions and Human Rights (ODIHR).
- 6.** Authorities in Spain are encouraged to continue to maintain an open and constructive dialogue with a wide cross-section of representatives of the Muslim community in Spain, in order to ensure that they are well informed of developments and in order to ensure that their expectations are met.

**COUNTRY VISIT TO SPAIN**

**AMBASSADOR ÖMÜR ORHUN**

**September 24**

21:50h. Arrival at Madrid Airport (LH 4428) Transfer to hotel

**September 25**

10:00h. Meeting with Mr. Riay Tatari, Chairman of the Union of Islamic Communities of Spain (UCIDE) and Secretary General of the Islamic Commission of Spain, in representation of the UCIDE.  
Venue: Mosque “Abu Bakr”.

11:00h. Meeting with Mr. Felix Herrero, Chairman of the Spanish Federation of Islamic Religious Entities (FEERI) and Secretary General of the Islamic Commission of Spain, in representation of the FEERI.  
Venue: Ministry of Foreign Affairs. Room 08-36

12:00h Meeting with Mr. Fernando Fernández-Arias, Head of the Office of Human Rights.  
Venue: Ministry of Foreign Affairs, Meeting Room DG United Nations, 11 th floor.

13:00h: Meeting with the OSCE Presidency 2007 Task Force  
Venue: Ministry of Foreign Affairs. Room 08-36

14:00 Working lunch with the OSCE Task Force and the Head of the Office of Human Rights

16:00h. Meeting with Mr. Mansur Escudero, Editor of the web page “Webislam” and former Chairman of the FEERI  
Venue: Ministry of Foreign Affairs. Room 08-36

16:30h. Meeting with Mr. Mohamed Chaib, member of the Regional Parliament of Catalonia and Chairman of the NGO “Ibn Batuta  
Venue: Ministry of Foreign Affairs. Room 08-36

17:00h. Round Table with Representatives of the Civil Society.  
Venue: Ministry of Foreign Affairs. EU Meeting Room, 3th floor

19:00h. Meeting with Mr. Antonio Gallardo, Contact Point for Spain of the EUMC (European Union Agency on Racism and Xenophobia) and of the network RAXEN  
Venue: Ministry of Foreign Affairs. Room 08-36

## September 26

- 9:15h. Meeting with Mr. Luis López Guerra, Secretary of State of Justice and Ms. Mercedes Rico, Director General for Religious Affairs.  
Venue: Ministry of Justice
- 10:15:00h. Meeting with Mr. José María Contreras, Director, “Pluralismo y Convivencia” Foundation (“Living together in pluralism”).  
Venue: Ministry of Justice.
- 12:45h. Meeting with Ms. Consuelo Rumí, Secretary of State for Immigration Affairs, and advisers  
Venue: Ministry of Labour and Social Affairs.
- 13:30h. Working lunch at the Ministry of Labour and Social Affairs with:  
Ms. Estrella Rodríguez, Director General for Integration of Immigrants  
Ms. Amapola Blasco, Director, Observatory of Racism and Xenophobia  
Ms. Irene García Suarez, Deputy Director General for Institutional Relations, General Directorate for Integration of Immigrants  
Mr. Lorenzo Cachón, Representative “Forum of Immigration”  
Ms. María Luisa Casado, Adviser for International Relations, General Directorate for Immigration
- 16:00h. Meeting with MPs  
Venue: Spanish “Cortes” (Parliament)
- 18:00h. Meeting with Mr. José Luis Pérez Iriarte, Director General of Education, Vocational Training and Educational Development. Ministry of Education and Science, and:  
  - Ms. Montserrat Grañeras, Technical Councilor, Center for Educational Research and Documentation (CIDE)
  - Mr. Angel Freire, Technical Adviser, CIDEVenue: Ministry of Education and Science

## September 27

- 09:15h. Meeting with Ambassador Máximo Cajal (Alliance of Civilizations ) Prime Minister’s Office. (Could not be realized)
- 10:30h Meeting with H.E. Miguel Angel Moratinos, Minister of Foreign Affairs
- 11:45h. Meeting with Mr. Enrique Múgica, “Defensor del Pueblo” (Ombudsman) and his Deputy.. Ms. María Luisa Cava de Llano  
Venue: Office of the Ombudsman
- 13:00h. Meeting with Mr. Antonio Camacho, Secretary of State for

Security, and advisers.  
Venue: Ministry of Interior.

14:00h. Working lunch at the Ministry of Interior, with:

Ms. Victoria Sánchez, Chief of Cabinet of the Secretary of State for Security  
Mr. Julián Martínez, Superintendent, National Police Corps, in charge of the  
Central Unit for Citizens Participation  
Mr. Eugenio Pereiro, Adviser, Secretary of State for Security

17.15h. Meeting with Trade Unions representatives:

Mr. Julio Ruiz, Secretary for Migrations, CC.OO. (Confederación Sindical de  
Comisiones Obreras)

Ms. Ana Corral, Head, Department of Migrations, UGT (Unión General de  
Trabajadores)

Venue: CC.OO. headquarters

## **September 28**

06.45: Departure, OS 8900 (Jk 0163)



**REUNIÓN ONG/OSC-REPRESENTANTE DEL PRESIDENTE OSCE PARA LA LUCHA  
CONTRA LA INTOLERANCIA Y LA DISCRIMINACIÓN HACIA LOS MUSULMANES**

**MAEC-Torres Ágora, Sala 3.11, torre norte. 25/9/2006**

1. Red Acoge
2. ACCEM
3. Amnistía Internacional
4. Asociación pro Derechos Humanos España
5. Asociación pro Derechos Humanos Andalucía
6. ATIME (Asociación de trabajadores inmigrantes marroquíes en España)
7. Fundación ATMAN
8. CEAR (Comisión española de ayuda al refugiado)
9. Cruz Roja Española
10. Federación de Asociaciones de Derechos Humanos
11. Fundación de Cultura Islámica.
12. Fundación Tres Culturas del Mediterráneo.
13. Helsinki España
14. Asociación socio-cultural Ibn Batuta.
15. MPDL (Movimiento por la Paz, el Desarme y la Libertad)
16. Movimiento contra la intolerancia
17. Mujeres musulmanas por la luz del islam.
18. Asociación de hijos de inmigrantes Sababia
19. Federación SOS Racismo
20. Webislam
21. Coalición española contra el racismo (CECRA)

COMMENT BY THE GOVERNMENT OF SPAIN TO THE REPORT  
ON THE COUNTRY VISIT TO SPAIN BY AMBASSADOR ÖMÜR  
ORHUN, 25-27 SEPTEMBER 2006

The Government of Spain is pleased that the Personal Representative of the Chairman-in-Office of the OSCE on Combating Intolerance and Discrimination against Muslims was able to pay a visit to Spain in September 2006 and that he issued a Report on that visit.

In this regard, the Government of Spain wishes to make the following comment on the reference made on page 5 of the Report to the role Consular Offices play in specific cases of mixed marriages:

- 1- An interview by a Consular officer is required prior to registration of a mixed marriage in the Consular Civil Registry and when processing family reunification visa applications, specially when there are reasons to believe that the intended marriage could be a fraud.
- 2- Consular officers can and must refuse to register a marriage (mixed or otherwise) in the Consular Registry when the documents presented to them are inadequate or appear to be faked.

In such cases, the interested party has two consecutive instances of appeal:

- a) Administrative: to the Ministry of Justice, Directorate General for Registries and Public Notary Affairs.
- b) Judicial: to the Courts of Justice, at different levels.

Moreover, regarding the reference made in page 5, line 1 of the Report, on a "Concordato" between the Kingdom of Spain and the Holy See, the Government of Spain wishes to point out that the said Concordato is no longer in force, having been replaced with Agreements in specific fields.

We thank Ambassador Örhün for his comprehensive and detailed report and wish him success with the activities planned ahead.