

ANDORRA 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Principality of Andorra is a constitutional parliamentary democracy. Two co-princes--the president of France and the Spanish bishop of Urgell--serve with joint authority as heads of state. In 2011 the country held free and fair multi-party elections for the 28 seats in parliament (the General Council of the Valleys), which selects the head of government. Having won a majority in parliament, the Democrats for Andorra elected Antoni Marti Petit head of government. The national police, the country's sole security force, reported to civilian authorities, which maintained effective control. Security forces did not commit human rights abuses.

The country's main human rights problem during the year was the lack of legal protection for the constitutional rights of workers to organize, bargain collectively, or strike.

Other problems included isolated instances of domestic violence, including spousal abuse and child abuse. Gender discrimination persisted, especially related to unequal salaries for comparable work.

There were no reports that government officials or the national police committed abuses or acted with impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings. The law does not provide for a specific body that examines security force killings and evaluates if they occurred in the line of duty. The Area of Legal and Forensic Medicine of the Ministry of Justice and Interior would intervene if the need were to arise.

b. Disappearance

There were no reports of disappearances or politically motivated abductions or kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit torture and other cruel, inhuman, or degrading practices, and there were no reports that government officials employed them. According to the Ministry of Justice and Interior and the Public Prosecutor's Office, there were no complaints concerning acts of torture between 2007 and 2013. Detainees are entitled to at least eight hours of rest during every 24-hour period of detention, and the government respected this requirement.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

In response to recommendations made in 2012 by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the government revised the practices used in searching detainees before and after family visits and ensured medical confidentiality. Regarding the CPT's concern over the law that allows prisoners to be held for a maximum of 30 days of isolated confinement, the government asserted that since 2008 it has limited the maximum period that any prisoner may be kept in such confinement to seven days.

Physical Conditions: As of September there were 49 inmates--six women and 43 men--in prison. No minors were incarcerated. The prisoners were either Andorran nationals or foreigners who chose not to be transferred to prisons in their countries of origin. Authorities separated pretrial detainees from convicted prisoners. The prison applied special measures if detainees had physical and/or mental illnesses or if they had been convicted of nonmalicious offenses. There were no reports of deaths in prison or the pretrial detention center.

All detainees have the right to medical care, education, and social security as well as access to cultural and recreational activity. Detainees have access to employment within the prison system, as available. Prisoners had access to potable water.

Administration: Recordkeeping on prisoners was adequate. In some cases authorities used alternatives to sentencing for nonviolent offenders. There was no prison ombudsman, but authorities allowed the country's ombudsman to visit

prisoners without restriction. Authorities allowed prisoners reasonable access to visitors and permitted religious observance. Authorities also allowed prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The government investigated and monitored prison and detention center conditions.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The country's only security forces are the police, prison officers, traffic police, and forestry officials. The Ministry of Justice and Interior maintained effective control over the security forces, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving police during the year. A May 2012 report by the Council of Europe's European Commission against Racism and Intolerance (ECRI) noted, however, that the country lacked an independent body to investigate allegations of police misconduct and control police activities.

Arrest Procedures and Treatment of Detainees

The law requires warrants for arrest. Police legally may detain persons for 48 hours without bringing them in front of a judge for a hearing. Police generally observed this time limit. The judge then has up to 24 hours to charge the detainee with a crime or release him or her. Police promptly informed detainees of charges against them. A bail system exists. The law provides detainees the right to legal counsel from the moment of arrest. Persons charged with a crime may choose their own lawyers or accept one designated by the state. Detainees generally had prompt access to family members.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence.

Trial Procedures

The constitution and law provide for the right to a fair trial, and the judiciary generally enforced this right. Defendants enjoy a presumption of innocence and receive prompt, detailed notification of the charges against them. The government provides an interpreter, if needed. Trials are public and usually held before a judge or tribunal of judges depending on the penal offense or in cases of civil law depending on the amount. Defendants have the right to be present and consult in a timely manner with an attorney of their choice. If a defendant cannot afford an attorney, the government must appoint a public attorney. Defendants and their attorneys had adequate time and facilities to prepare a defense. Defendants and attorneys have access to government-held evidence in their cases. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants cannot be compelled to testify or confess guilt, and they have the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The judiciary is independent and impartial in all jurisdictions, including civil matters. Plaintiffs can bring lawsuits seeking damages for, or cessation of, a human rights violation. The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens.

Regional Human Rights Court Decisions

The country is subject to the jurisdiction of the European Court of Human Rights (ECHR). Persons may appeal court decisions involving alleged violations by the state of the European Convention on Human Rights to the ECHR once they exhaust all avenues of appeal in the country's courts.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press.

Internet Freedom

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. According to the International Telecommunication Union, 86 percent of the population used the internet in 2012.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights.

Protection of Refugees

Access to Asylum: The laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. Andorra is not normally a refugee-receiving country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: Observers considered parliamentary elections held in 2011 to be free and fair.

Participation of Women and Minorities: After the 2011 elections there were 14 women in the 28-seat parliament. Two women sat in the 10-member cabinet.

Citizens were ethnically and linguistically homogeneous but represented only 45 percent of the country's population. The majority of the population consisted largely of immigrants from Spain, Portugal, and France. Because only citizens have the right to vote and hold official position, there were no members of minorities in government.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively.

Corruption: There were no reports of government corruption during the year.

Whistleblower protection: No specific law provides protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality. The law does provide for confidentiality for disclosures related to money laundering and terrorist financing.

Financial Disclosure: The constitution and the law do not require disclosure of income or assets by elected or appointed officials, except for the declaration of earned income to the social security agency required of all employees. The law mandates no agency to monitor disclosures or sanctions for noncompliance.

Public Access to Information: No specific law provides for public access to government information. The government publishes a weekly compilation of laws,

dispositions, and administrative acts in its official bulletin, which is available online or via e-mail.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The ombudsman's main function is to defend and oversee the fulfillment and application of the rights and liberties included in the constitution and to ensure that the public sector adheres to constitutional principles. The ombudsman is independent from other institutions and provides its functions free of charge for interested persons. The ombudsman enjoyed the government's cooperation and operated without government interference. In general the ombudsman had adequate resources and was considered effective. The ombudsman published an annual report to parliament with recommendations.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law declare all persons equal before the law and prohibit discrimination on grounds of birth, race, gender, origin, religion, opinions, or any other personal or social condition. For the most part, the government effectively enforced these provisions. In its latest report in May 2012, the ECRI noted that the country's criminal laws relating to racism and intolerance are not exhaustive and do not include, inter alia, a provision prohibiting public incitement to violence, hatred, and discrimination.

Women

Rape and Domestic Violence: The law prohibits rape, including spousal rape, both of which are punishable by up to 15 years' imprisonment. Although there is no specific law on violence against women, the law penalizes domestic violence with a prison sentence of up to three years for physical or psychological violence. Authorities enforced the law effectively.

According to the Ministry of Health and Welfare, there were 170 reports of domestic violence against women as of September, compared with 207 reports

submitted in 2012. Of these, only 113 cases filed complaints against their aggressors. All the cases involved elements of psychological abuse, 40 percent physical abuse, 30 percent economic and social mistreatment, and 20 percent were rape cases or sexual aggressions.

The Interdisciplinary Team on Gender Violence (EAID) provided medical and psychological services as well as legal assistance to victims of domestic violence. It also operated a hotline. In addition the government placed abused women and their children in a shelter, in a hotel, or with families who agreed to provide them shelter. During the year 170 women approached EAID, resulting in the opening of 56 cases. The team also worked on 114 cases that were continuing and pending from previous years. Caritas, a religious nongovernmental organization (NGO), worked closely with the government and with other NGOs on providing support to the victims in their integration into society.

Victims of domestic violence could also request help from the NGO Andorran Women's Association (ADA), which works for women's rights. According to ADA, victims were reluctant to file a complaint with police due to fear of reprisal.

Sexual Harassment: The law prohibits sexual harassment under the provisions for other sexual aggressions, punishable by three months' to three years' imprisonment. The country's statistics did not distinguish between cases of sexual harassment and cases of sexual aggression and sexual abuse.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of children and to have the information and means to do so free from discrimination, coercion, and violence.

Discrimination: The law prohibits discrimination against women privately or professionally with fines up to 24,000 euros (\$32,400). Although no cases were filed during the year, the ADA and trade union representatives from the Andorran Trade Union reported cases of gender discrimination especially related to unequal salaries for the same work and workplace bullying. The government's Department of Statistics estimated that women earned 26 percent less than men for comparable work. The government made an effort to combat pay discrimination in general, and it applied pay equality within the government. There were no limitations on women's participation in the labor market, and the government encouraged women to participate in politics. Women held fewer senior management positions than men.

Children

Birth Registration: Citizenship derives from one's parents. Birth in the country's territory confers citizenship if one of the parents' principal and permanent residences was in the country during the 10 years prior to the birth of the child. Children are registered at birth.

Child Abuse: As of September, authorities assisted 212 minors, compared with 184 in 2012. Seven of these cases were reported to the police for psychological and physical violence. As of September, 15 minors lived in a shelter designated for them.

The government's Specialized Child Protection Team consisted of three social workers, two social educators, and two psychologists. The team, which intervened in situations where children and young persons were at risk or lacked protection, collected data on cases of child abuse.

Forced and Early Marriage: The minimum legal age of marriage is 16 for both women and men and as early as 14 with judicial authority. In 2012, the most recent year for which data was available, authorities did not record any marriages below the age of 18.

Sexual Exploitation of Children: The country's general law against rape also covers statutory rape. Child pornography is illegal and carries a prison sentence of up to four years. The minimum age of sexual consent is 14. The penalty for statutory rape is 15 years' imprisonment, the same as for rape in general.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abductions.

Anti-Semitism

Unofficial estimates placed the size of the Jewish community between 120 and 200 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons

As of mid-December there were no confirmed reports that persons were trafficked to, from, or within the country.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other state services. Discrimination, nevertheless, against persons with disabilities existed in the form of social and cultural barriers. In January the European Committee of Social Rights expressed concern that persons with disabilities also faced disadvantages in the labor market. The Council of Europe's human rights commissioner observed there was a gap between the law and the actual conditions facing persons with disabilities. The commissioner emphasized a need to increase awareness about the rights of persons with disabilities and the need to remove physical and cultural barriers impeding persons with disabilities from living in dignity.

The law mandates access to public buildings, information, and communications for persons with disabilities, and the government generally enforced this provision.

According to the National Commission of Assessment, schools continued to implement the law requiring them to adapt their infrastructure to the needs of children with disabilities. The majority of children with disabilities attended regular schools. Additionally, one specialized school existed in the country.

The Andorran Federation of Associations for Persons with Disabilities represented the organizations in the country that worked with persons with disabilities.

National/Racial/Ethnic Minorities

The ECRI report of May 2012 noted some incidents of direct and indirect discrimination in employment based on citizenship and emphasized the need for the government to enact comprehensive legislation against racism and racial discrimination. The government did not monitor the application of the civil and administrative law provisions prohibiting discrimination. Judges, prosecutors, and lawyers received no specific training on racism and racial discrimination.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution declares all persons equal before the law and prohibits discrimination on the grounds of birth, race, gender, origin, or any other personal

or social condition. The constitution and other laws explicitly prohibit discrimination on the grounds of gender.

There were no reports of official or private discrimination based on sexual orientation or gender identity in employment or occupation, housing, or access to education or health care.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution and law recognize that workers have the right to form trade unions to defend their economic and social interests. The law does not, however, provide for collective bargaining or the right to strike. Alternate dispute resolution mechanisms such as mediation and arbitration exist. The law does not prohibit antiunion discrimination. Unions continued to criticize the lack of laws to develop and effectively protect the constitutional rights of workers.

The government lacked mechanisms to protect worker rights. Neither collective bargaining nor strikes occurred during the year. There were no official reports that any antiunion discrimination occurred during the year. Workers continued to be reluctant to admit to union membership, fearing retaliation by their employers and arbitrary dismissal, and unions did not make their membership numbers public.

b. Prohibition of Forced or Compulsory Labor

Slavery and forced or compulsory labor are punishable by a maximum of 12 years in prison. There were no reports that such practices occurred.

c. Prohibition of Child Labor and Minimum Age for Employment

Without exception the law prohibits children younger than 14 from working. Children who are 14 or 15 may work up to two months per year during school holidays following strict regulations contained in the law. The law limits work by children who are 14 or 15 to no more than six hours per day and by children who

are 16 or 17 to eight hours per day, provides for safety restrictions, restricts the types of work children may perform, and outlines other conditions.

The law protects children from exploitation in the workplace, and the Labor Inspection Office in the Ministry of Justice and Interior effectively enforced child labor laws and regulations.

d. Acceptable Conditions of Work

The national minimum wage is 5.55 euros (\$7.49) per hour and 962 euros (\$1,300) per month. The Labor Inspection Office enforced the minimum wage effectively. The law limits the standard workweek to five eight-hour days for a total of 40 hours per week. Workers may work up to two overtime hours per day or 15 hours per week, 50 hours per month, and 426 hours per year. The law provides for premium pay of time plus 25 percent for the first four hours per week and time plus 50 percent for the following four hours. There is a required rest period of 12 hours between work shifts.

The Labor Inspection Office sets occupational health and safety standards and has the authority to levy sanctions and fines against companies violating them. The law covers agricultural, domestic, and migrant workers. Penalties were sufficient to deter violations.

By the end of September, the Labor Inspection Office received 132 complaints against companies for violating health and safety regulations. The majority of reported cases came from the hotel and construction sectors. As of April, the latest date for which information was available, the Andorran Social Security recorded 1,472 labor accidents. The majority of reported accidents came from the hotel, construction, motor, and machinery sectors.