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2009 Human Rights Report: Andorra

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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The Principality of Andorra is a constitutional parliamentary democracy with a population of approximately 84,500. Two princes--the president of France and the Spanish bishop of La Seu d'Urgell--serve with joint authority as heads of state, and a delegate represents each in the country. In April the country held free and fair multiparty elections for the 28 seats in the General Council of the Valleys, which selects the head of government. Civilian authorities generally maintained effective control of the security forces.

The ombudsman reported prolonged pretrial detention and violence against women and children. The law does not protect the right of workers to form and join unions or unions' right to bargain collectively and to strike.

RESPECT FOR HUMAN RIGHTS

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.

b. Disappearance

There were no reports of politically motivated or other disappearances.

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

The constitution and law prohibit such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

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

Civilian authorities maintained effective control over the national police, the country's only security force. The government has effective mechanisms to investigate and punish abuse and corruption, and there were no reports of impunity involving police during the year.

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Arrest Procedures and Treatment While in Detention

Warrants are required for arrest. Police may legally detain persons for 48 hours without charging them with a crime. The law allows detainees to have access to an attorney no later than 25 hours after arrest, and the government observes these legal provisions in practice. Persons charged with a crime can either choose their own lawyer or accept one designated by authorities. A system of bail exists.

Cases of foreigners, who represented 75 percent of those arrested and awaiting trial, accounted for most of the lengthy detention cases, primarily because in most such cases two or even three countries might be involved. Pretrial detainees accounted for approximately 30 percent of the prison population. The ombudsman criticized the lengthy pretrial periods.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are public, and defendants can request a jury. Defendants have the right to be present and consult with an attorney in a timely manner. If a defendant facing serious criminal charges cannot afford an attorney, the government must appoint a public attorney. 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. The law extends the rights to all citizens with no exception. Defendants 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 civil matters, and plaintiffs can bring lawsuits seeking damages for, or cessation of, a human rights violation. No administrative remedies are available for alleged wrongs.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 70 percent of the country's inhabitants used the Internet.

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 the freedoms of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice. Under the constitution, the Roman Catholic Church and the state have a special relationship; one of the two constitutionally designated princes of the country is the bishop in the Spanish town of La Seu d'Urgell. The government pays the salaries of Catholic priests and religion teachers, who teach the Roman Catholic religion in the public schools as an optional course outside regular school hours.

Societal Abuses and Discrimination

There were no reports of anti-Semitic acts against the approximately 100-person Jewish community.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the government did not employ it.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. The law does not provide for the granting of asylum or refugee status. However, the government has from time to time cooperated with the UNHCR and other organizations in assisting refugees "for humanitarian reasons." In practice, the country provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

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

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

Elections and Political Participation

General Council elections in April were considered free and fair. Individuals and parties could freely declare their candidacy and stand for election.

There were nine women in the 28-seat General Council and two women in the six-seat cabinet. One of the five judges of the Supreme Court of Justice is a woman.

Citizens are ethnically and linguistically homogeneous but represent only 36 percent of the total population. Only citizens have the right to vote and to hold official positions; consequently, there were no members of minorities in government. The population largely consists of immigrants from Spain, Portugal, and France.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. The chief of police is responsible for combating corruption. There were no reports of government corruption during the year. Public officials are not subject to financial disclosure laws.

The law provides for public access to government information, and the government has permitted access in practice for citizens and noncitizens, including foreign media.

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. The ombudsman enjoyed the government's cooperation and operated without government interference.

Section 6 Discrimination, Societal Abuse, 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, opinions, or any other personal or social condition; however, the law reserves a few rights and privileges exclusively to citizens.

Women

The law prohibits rape, including spousal rape; rape is punishable by up to 15 years' imprisonment. Authorities enforced the law effectively.

There is no specific law prohibiting domestic violence, although other laws may be applicable in such cases. Victims of domestic violence could request help from the Andorran International Women's Association (AIWA) and the Andorran Women's Association (AWA), but victims rarely filed a complaint with the police due to fear of reprisal. The two associations reported that some women complained about the treatment they received from police when they filed a complaint. The government did not have any shelter, but it operated a hotline and provided medical and psychological services to victims of domestic violence. The government and AIWA placed abused women and their children in the private apartments of persons who agreed to provide shelter to them. Caritas, a religious NGO, worked closely with the government and AIWA on social issues.

According to the Ministry of Health, Welfare, and Family, there were 162 reports of physical abuse against women until the end of November, a 40-percent increase from 2008. Authorities prosecuted approximately 50 persons for violence against women.

Prostitution is illegal and was not a problem.

The law does not prohibit sexual harassment. According to an local women's rights organization, only two women formally reported sexual harassment cases to the police.

Couples and individuals have the right to decide freely the number of children they wish to have. There was easy access to contraception, skilled attendance during childbirth, and women were treated for sexually transmitted infections, including HIV, equally with men.

The law prohibits discrimination against women privately or professionally; however, the AWA reported that there were some cases of women dismissed from employment due to pregnancy. Observers estimated that women earned 35 percent less than men for comparable work; this gap appeared to be decreasing slowly. The government is making efforts to combat pay discrimination in general, and it applied pay equality within the government. There are no limitations on women's participation in the labor market, and the government has encouraged them to participate in politics.

Children

Citizenship is derived from one's parents (*jus sanguinis*); birth in the country's territory does not confer citizenship. Legal immigrants may obtain citizenship after 20 years of residence in the country. Children of residents may obtain citizenship after age 18 if they have resided virtually all of their life in the country. Dual nationality is not permitted.

Violence against children persisted. According to data from November, 159 minors were treated for various forms of abuse.

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 age of majority, 18 years, is also the age of consent. The penalty for statutory rape is the same as for rape in general: 15 years' imprisonment.

Trafficking in Persons

The law prohibits trafficking in persons for labor exploitation, and there were no reports that persons were trafficked to, from, or within the country. Trafficking for purposes of labor exploitation is punishable by up to five years' imprisonment and by fines of up to 180,000 euros (approximately \$257,400). There is no law that specifically penalizes human trafficking for sexual exploitation, but such cases could be prosecuted as trafficking for labor exploitation. The government agencies responsible for dealing with trafficking are the Department of the Interior and the Department of Social Welfare.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the government enforced it effectively. Nevertheless, societal discrimination against persons with disabilities existed on a small scale in the form of social and cultural barriers. Persons with disabilities also faced disadvantages in the labor market. The law mandates access to public buildings for persons with disabilities, and the government generally enforced this provision. In December 2008 the government approved a decree that ordered ordinary schools to adapt infrastructure to the needs of children with disabilities. More than 100 children with disabilities are currently attending modified schools. An association for persons with disabilities operates in the principality.

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

No lesbian, gay, bisexual, or transgender organizations exist in the principality, and no gay marches occurred during the year. On the basis of constitutional guarantees of the right to freedom of ideas, religion, and ideology, the government acts against any discrimination that may occur in the country.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS. However, the government bars immigrants with HIV/AIDS.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Section 7 Worker Rights

a. The Right of Association

The constitution recognizes that workers have the right to form trade unions to defend their economic and social interests. In January the government approved a labor relations law to protect the right of unions to operate. National and international unions, however, criticized the law because it does not provide the right to strike. No strikes occurred during the year. Alternate dispute mechanisms such as mediation and arbitration exist.

In practice the government lacked mechanisms to protect worker rights. Workers were reluctant to admit to union membership, fearing retaliation by their employers, and unions did not make their membership numbers public. However, on May 1 (Labor Day), the government permitted workers to conduct a peaceful demonstration calling on the government to approve a law allowing the right to strike.

b. The Right to Organize and Bargain Collectively

The law does not specifically provide for collective bargaining. Collective bargaining did not occur.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Slavery or forced and compulsory labor is punishable by a maximum of 12 years' imprisonment. There were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under the age of 16 from working, except in limited circumstances when school is not in session. The labor inspection office in the Ministry of Social Welfare, Public Health, and Labor effectively enforced child labor regulations.

e. Acceptable Conditions of Work

The national minimum wage of 7.60 euros (approximately \$10.90) per hour and 915.20 euros (approximately \$1,309) per month did not provide a decent standard of living for a worker and family due to the high cost of living. The government sets the national minimum wage administratively and adjusts it twice a year. Wages increased at a slower rate than housing and lodging costs. The labor inspection office enforced the minimum wage effectively.

The law limits the standard workweek to five eight-hour days. 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

the first four hours and time plus 50 percent the following four hours. There is a required rest period of 12 hours between working shifts.

The labor inspection service sets occupational health and safety standards and had the authority to levy sanctions and fines against companies violating them. Although the law authorizes employees to refuse certain tasks if their employers do not provide the necessary level of protection, it does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment. During the year the labor inspection service received more than 200 complaints against companies for violating labor regulations. For the first time in years, accidents at work diminished; from January through November there were 4,043.