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## 2010 Human Rights Report: Andorra

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

The Principality of Andorra is a constitutional parliamentary democracy with a population of approximately 85,000. Two co-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 2009 the country held free and fair multiparty elections for the 28 seats in the General Council of the Valleys (the parliament), which selects the head of government. Citizens elected Jaume Bartomeu from the Social Democratic Party as head of government. Security forces reported to civilian authorities.

The ombudsman reported prolonged pretrial detention. The law does not protect effectively 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 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.

According to information obtained from the government, at year's end 61 persons, 10 women and 51 men, of 15 nationalities, including Romanian, Spanish, Andorran, Georgian, Ukrainian, Chinese, French, Moroccan, and Italian, were in jail. In the majority of cases the prisoners were accused of robbery.

The prison regime separated prisoners according to gender, age, and other personal circumstances. Convicted prisoners were held separately depending on their sentence and were separated from pretrial detainees. Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and 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

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

#### Arrest Procedures and Treatment While in Detention

Warrants are required for arrest. Police legally may detain persons for 48 hours without charging them with a crime, and police generally observed this time limit in practice. A system of bail exists. The law allows detainees to have prompt access to a lawyer. In September the Constitutional Court declared unconstitutional the established practice of not allowing detainees to have access to a lawyer for as long as 24 hours after their detention. Persons charged with a crime can either choose their own lawyer or accept one designated by authorities. Detainees generally were allowed prompt access to family members.

Cases of foreigners accounted for most of the lengthy detention cases of up to one year primarily because in most such cases two or even three countries might be involved.

#### 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 can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and attorneys have access to government-held evidence in their cases. 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. Plaintiffs can bring lawsuits seeking damages for, or cessation of, a human rights violation. No administrative remedies are available for alleged wrongs.

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#### 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 the year, approximately 79 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

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://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 providing protection and 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 on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were no such cases during the year.

### 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 in practice through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

Observers considered the General Council elections in April 2009 free and fair. Individuals and parties could freely declare their candidacy and stand for election.

There were 10 women in the 28-seat General Council and two women in the nine-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 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 Unit for the Prevention and the Fight against Corruption is the governmental agency responsible for the implementation and monitoring of the provisions contained in the law.

The law provides for public access to government information, and the government 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 is a consolidated entity well known in different areas of the government and among citizens. While the ombudsman is a complementary institution to the traditional judicial control of the administrative activity, its main function is to defend and oversee the fulfillment and application of the rights and liberties included in the constitution and ensure that the performance of 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 makes a published annual report to parliament with recommendations.

There was a moderate increase in the number of cases examined by the ombudsman. According to the latest report, the institution received 266 complaints in 2009 (compared with 258 in 2008). Of these, 184 were simple requests for information; 37 complaints related to housing controversies between owners and renters and social security services; and 45 complaints dealt with prolonged pretrial detention. In October parliament authorized the ombudsman to accept requests and complaints from minors.

#### 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. In the most part, the government effectively enforced it.

##### 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. According to the Ministry of Health, Welfare, and Family, there were 167 reports of physical abuse against women until the end of November, an increase from 2009, when the total number of cases was 162. Of the 167 cases to which the State Secretariat for Equality and Welfare of the Ministry of Health attended, 15 percent of the women were Andorran nationals. Only 47 percent of the complaints were filed by women. Victims of domestic violence could also request help from the Andorran International Women's Association (AIWA) and the Andorran Women's Association, but victims rarely filed a complaint with police due to fear of reprisal. In early December the government opened its first shelter for women. The government also 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 families who agreed to provide them with shelter. Caritas, a religious nongovernmental organization, worked closely with the government and AIWA on social problems.

The law prohibits sexual harassment under the provisions for other sexual aggressions. The law provides a penalty of three months to three years. The government enforced the law effectively.

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

The law prohibits discrimination against women privately or professionally; however, the nongovernmental organization working for women's rights and trade union representatives reported cases of gender discrimination especially related to unequal salaries for the same work. Observers estimated that women earned 35 percent less than men for comparable work. 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 women to participate in politics.

##### Children

Citizenship is derived from one's parents; 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 January, the latest available, 222 minors were treated for various forms of abuse during the year.

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 15 years' imprisonment, the same as for rape in general.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abductions. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

#### Anti-Semitism

There were no reports of anti-Semitic acts against the approximately 500-person Jewish community.

#### Trafficking in Persons

In 2009 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, access to health care, and 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.

According to the Ministry of Health, Welfare, and Labor, there were approximately 400 persons with disabilities, of whom 99 were minors. Schools continued to implement the law to adapt infrastructure to the needs of children with disabilities. During the year approximately 99 children with disabilities attended 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

On the basis of constitutional provisions for the right to freedom of ideas, religion, and ideology, the government acts against any discrimination that may occur in the country. There were no reports of official or societal discrimination based on sexual orientation 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. However, the government bars immigrants with HIV/AIDS.

#### 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 2009 the government approved a labor relations law to protect the right of unions to operate. However, this law does not provide the right to strike. Alternate dispute mechanisms such as mediation and arbitration exist. During the second half of the year, the government and all relevant agents worked to develop further the rights contained in the constitution

regarding this issue, including the right to strike as well as provisions for minimum services in cases of strike. In practice, the government lacked mechanisms to protect worker rights. Unions continued to denounce the lack of laws that effectively develop and protect the constitutional rights of workers.

No strikes occurred during the year. However, on May 1 (Labor Day), approximately 100 workers conducted a peaceful demonstration calling on the government to approve new laws further developing workers rights.

#### b. The Right to Organize and Bargain Collectively

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

The law does not prohibit antiunion discrimination but there were no official reports that it occurred during the year. Workers continued to be reluctant to admit to union membership, fearing retaliation by their employers, and unions did not make their membership numbers public.

There are no export processing zones.

#### c. 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.

#### d. Prohibition of Child Labor and Minimum Age for Employment

Without exception, the law prohibits children younger than 14 years from working. Children between the ages of 14 and 15 may work up to two months per year during school holidays following strict regulations contained in the laws. Laws protect children between the ages of 14 and 15 and children between the ages of 16 and 17 by limiting working hours, providing for safety restrictions, restricting the type of work children may perform, and outlining other conditions.

Laws protect children from exploitation in the workplace, and the government effectively enforced these laws.

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 5.28 euros (\$7.08) per hour and 915.20 euros (\$1,226.40) per month did not provide a decent standard of living for a worker and family due to the high cost of living. 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 the first four hours per week 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 and security standards, it does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

The labor inspection service received more than 200 complaints from January to October against companies for violating health and safety regulations. Accidents at work diminished; from January through December, there were 4,019 accidents

reported. The majority of accidents reported came from the construction sector, as well as the motor and machinery sector.

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