

ANDORRA 2012 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 La Seu d'Urgell--serve with joint authority as heads of state, and a delegate represents each in the country. In April 2011 the country held free and fair multiparty 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 Martí Petit as head of government. The national police, the country's sole security force, reported to civilian authorities.

The most significant human rights problem was the failure of the law to provide effective protection for the right of workers to organize, bargain collectively, or strike. Ethnic discrimination in employment occurred. Violence against women and children continued to be a problem.

Other problems included pretrial detention of up to a year for foreigners charged with crimes involving two or more countries. 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.

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 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, and the government permitted visits by independent human rights observers.

On November 15, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report on its third periodic visit to the country from November 28 to December 1, 2011. It noted the need to improve the treatment of prisoners, who receive a humiliating search before and after family visits. The CPT also expressed its concern for the legislation allowing for a maximum of 30 days of isolated confinement and the absence of medical confidentiality.

Physical Conditions: As of the end of the year, 32 inmates, three women and 29 men, were in prison. No minors were incarcerated. The only prison and detention center in the country had a capacity of 125 persons. There were no reports of deaths in prison or the pretrial detention center.

Administration: Recordkeeping on prisoners was adequate. In some cases, authorities used alternatives to sentencing for nonviolent offenders. There is no prison ombudsman, but the country's ombudsman is allowed to visit prisoners without restriction. Prisoners had reasonable access to visitors and were permitted religious observance. Since June, visits were also allowed during the weekends. Authorities permitted 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.

Monitoring: The government permitted visits by independent international and nongovernmental human rights observers, including the CPT, but none 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, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving police during the year. However, in a report published May 22, the Council of Europe's European Commission against Racism and Intolerance (ECRI) noted that the country lacked an independent body to investigate allegations of police misconduct and control police activities.

Arrest Procedures and Treatment While in Detention

The law provides that warrants are required 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 in practice. The judge then has up to 24 hours to charge the detainee with a crime or to release him. Police promptly informed detainees of charges against them. A bail system exists. The law allows detainees to have prompt access to a lawyer. Persons charged with a crime may choose their own lawyer or accept one designated by authorities. Detainees generally had prompt access to family members.

Pretrial Detention: On average, authorities incarcerated prisoners for eight and a half months before being tried for crimes of robbery and drug smuggling. Foreigners accounted for most cases of lengthy (up to one year) detentions, primarily because such cases often involved two or even three countries.

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 and were informed promptly and in detail of the charges against them. An interpreter was provided, if needed. Trials are public, and defendants can request a jury. Defendants have the right to be present and consult in a timely manner with an attorney of their own choice. If a defendant facing serious criminal charges 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 civil matters. Plaintiffs can bring lawsuits seeking damages for, or cessation of, a human rights violation. Persons may appeal court decisions involving alleged violations by the state of the European Convention on Human Rights to the European Court of Human Rights (ECHR) once all avenues of appeal in the country's courts have been exhausted. The national ombudsman also 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 ECHR. The government complies promptly with the court's orders.

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 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 credible reports that the government monitored e-mail or Internet chat rooms without appropriate legal authority. According to the International Telecommunication Union, 81 percent of the population used the Internet in 2011.

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 in practice.

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, and the government generally respected these rights in practice.

Protection of Refugees

Access to Asylum: The laws do not provide for the granting of asylum or refugee status.

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

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

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

Citizens were ethnically and linguistically homogeneous but represented only 38 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. 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. No public outreach activities or public official training to encourage its effective use were organized during the year.

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 makes a published 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. The ECRI report of May 22 noted that the country's criminal legislation relating to racism and intolerance is not exhaustive and does 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. Authorities enforced the law effectively.

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. The government enforced the law effectively, and there was no police or judicial reluctance to act. According to the Ministry of Health and Welfare, there were 207 reports of domestic violence against women as of the end of the year, as compared with 213 reports submitted in 2011. Ninety percent of the cases involved elements of psychological abuse, 70 percent physical abuse, 60 percent economic mistreatment, and 20 percent were rape cases or sexual aggressions. Of the 32 cases reported of rape or sexual aggressions, only 12 victims have filed complaints against their aggressors. Of the 207 women who approached the Office for the Assistance of Women, 83 cases were opened during the year; the other 124 cases were continuing and pending cases from previous years.

Victims of domestic violence also could request help from the nongovernmental organization (NGO) Andorran International Women's Association (AIWA), which works for women's rights, and the Andorran Women's Association, but victims rarely filed a complaint with police due to fear of reprisal. In addition, the

government and the AIWA placed abused women and their children in the private apartments of families who agreed to provide them shelter. The government also operated a hotline and provided medical and psychological services to victims of domestic violence. Caritas, a religious NGO, worked closely with the government and with other NGOs on social problems.

In a press statement at the conclusion of his visit to the country on February 16-17, Thomas Hammarberg, the Council of Europe's commissioner for human rights, urged the government to adopt measures to protect victims of domestic violence better. His recommendations included a wider use of restraining orders to oblige offenders to leave the family home, the adoption of a specific law addressing gender-based violence, awareness-raising efforts to dismantle cultural stereotypes, and measures to address the reluctance of those subject to violence to report the problem.

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 (\$32,000). However, the AIWA and trade union representatives from the Andorran Trade Union reported cases of gender discrimination especially related to unequal salaries for the same work. The Andorran Social Security Fund estimated that women earned 33 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 are 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 did men.

Children

Birth Registration: Citizenship is derived from one's parents; birth in the country's territory does not confer citizenship.

Child Abuse: The number of government professionals working with children at risk, including social workers and psychologists, more than doubled from five in 2009 to 11 during the year.

The government's specialized child protection team, which intervened in situations where children and young people were at risk or lacked protection, collected data annually on cases of child abuse. During the year 184 minors received assistance compared with 204 in 2011. Of these, 150 children had suffered some type of negligence or abandonment, nine minors had been physically mistreated, two psychologically mistreated, and three sexually abused. Thirty-six minors lived in a shelter designated for them.

Child Marriage: The minimum legal age of marriage is 16 for both women and men. In 2011, the most recent data available, no marriages below the age of 18 were on record.

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 16. 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 at between 100 and 200 persons. During the year there were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports of human trafficking during the year.

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. The government enforced it effectively. The law mandates access to public buildings, information, and communications for persons with disabilities, and the government

generally enforced this provision. 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 Council of Europe's human rights commissioner observed a gap between what is written in the law and the situation in reality regarding persons with disabilities and a need to increase the awareness about the rights of persons with disabilities and the removal of all barriers, physical and cultural, which impede persons with disabilities from living in dignity.

According to the National Commission of Assessment, schools continued to implement the law to adapt infrastructure to the needs of children with disabilities. An association for persons with disabilities operated in the country. There is no restriction for persons with disabilities to participate in civic affairs.

National/Racial/Ethnic Minorities

The ECRI's report of May 22 pointed out 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. Meanwhile, the application of the civil and administrative law provisions prohibiting discrimination was not monitored. 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 grounds of birth, race, gender, origin, religion, opinions, or any other personal or social conditions. 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 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. However, the law does not provide for collective bargaining or the right to strike. Alternate dispute mechanisms such as mediation and arbitration exist. The law does not prohibit antiunion discrimination. Unions continued to criticize the lack of laws that effectively develop and protect the constitutional rights of workers.

In practice the government lacked mechanisms to protect worker rights. Neither collective bargaining nor strikes occurred during the year. In March approximately 50 workers peacefully demonstrated against the government's economic austerity measures, which cut governmental salaries. There were no official reports that any antiunion discrimination occurred during the year. However, workers continued to be reluctant to admit to union membership, fearing retaliation by their employers, 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 ages 14 and 15 may work up to two months per year during school holidays following strict regulations contained in the law. Laws limit work by children aged 14 and 15 to no more than six hours per day and by children ages 16 and 17 to eight hours per day, provide for safety restrictions, restrict the type of work children may perform, and outline 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 Justice and Interior effectively enforced child labor regulations.

d. Acceptable Conditions of Work

The national minimum wage is 5.49 euros (\$7.25) per hour and 951.60 euros (\$1,256) 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 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 office sets occupational health and safety standards and has the authority to levy sanctions and fines against companies violating them. The law includes agricultural, domestic, and migrant workers. Penalties were sufficient to deter violations.

During the year the Labor Inspection Office received 174 complaints against companies for violating health and safety regulations and recorded 3,591 labor accidents. The majority of reported accidents came from the construction, motor, and machinery sectors.