

# ANDORRA 2015 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. On March 1, 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 re-elected Antoni Marti Petit head of government. Civilian authorities maintained effective control over the security forces.

The country's main human rights problem was the lack of legal protection for the constitutional rights of workers to bargain collectively or strike. The law did not protect workers from antiunion discrimination.

Other problems included the lack of a mechanism to monitor and investigate police misconduct. There were isolated instances of domestic violence, including spousal abuse and child abuse. Gender discrimination persisted, especially related to unequal salaries for comparable work. Although the law prohibits discrimination against persons with disabilities, discrimination existed in the form of physical, social, and cultural barriers.

There were no reports that government officials or the national police committed violations.

### **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.

Physical Conditions: There were no reports of deaths in prison or in the pretrial detention center.

Administration: The government investigated credible allegations of inhuman conditions.

Independent Monitoring: The government permitted visits by independent human rights observers.

### **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 civilian control over the security forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving police.

### **Arrest Procedures and Treatment of Detainees**

The law requires warrants for arrest. Police legally may detain persons for 48 hours without a hearing, and police generally observed this time limit. The judge has up to 24 hours to charge the detainee with a crime or to 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 government. 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 an independent 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 fair, 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 asked for in damages. 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 have 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 also serves to protect and defend basic rights and public freedom on behalf of citizens.

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

The constitution and law prohibit such actions, and there were no reports that the government failed to respect 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**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. According to the International Telecommunication Union, 96 percent of the population used the internet in 2014.

### **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.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **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.

### **Protection of Refugees**

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and the government has declined to establish a system for providing protection to refugees, preferring to deal with them on an ad hoc basis. According to the Ministry of Justice and Interior, there were no requests received during the

year. There is a lack of domestic legislation on asylum seekers and refugees, and in particular at the absence of measures to protect unaccompanied and refugee children. The country has cooperated with the UN High Commissioner for Refugees and other international refugee relief organizations.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and the law provide citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Observers considered parliamentary elections held on March 1 to be free and fair.

Participation of Women and Minorities: Women participated in government. Citizens were ethnically and linguistically homogeneous but, as of 2014, represented only 45 percent of the country's population. The majority of the population consisted of immigrants, largely from Spain, Portugal, and France. Because only citizens have the right to hold official positions, 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: In July a court sentenced a police officer to two years in prison and four years' ban from public office for disclosure of sensitive information.

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 government does not publish the declarations.

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 email.

## **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 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. The ombudsman had adequate resources, published an annual report to parliament with recommendations, and was considered effective.

## **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. Although the government effectively enforced these provisions for the most part, in its latest report June 9, the European Commission against Racism and Intolerance noted that the country's laws do not apply the principle of the sharing of the burden of proof. The law relating to hearing complaints on the grounds of race, color, ethnicity, nationality, religion, or language in civil and administrative courts does not provide that, when persons establish before the court facts of alleged direct or indirect discrimination, the respondent should prove that there has been no discrimination, racism, or intolerance.

### **Women**

Rape and Domestic Violence: The law prohibits rape, including spousal rape, both of which are punishable by up to 15 years' imprisonment. The law penalizes domestic physical or psychological violence with a prison sentence of up to three years. Authorities enforced the law effectively. The first law on the Elimination of Gender-Based and Domestic Violence entered into effect on February 11. The

law envisages the establishment of a national commission for the prevention of domestic and gender-based violence.

As of the end of June, the Prosecutor's Office initiated 44 criminal proceedings related to gender violence and 12 related to domestic violence. As of the end of June, the Prosecutor's Office concluded 10 cases of gender violence and one case of domestic violence. Almost all the cases involved elements of psychological abuse and mistreatment. Some cases also involved injuries, sexual aggression, and threats.

The government's Interdisciplinary Team on Gender Violence (EAID) provided medical and psychological services (including a hotline) as well as legal assistance to victims of domestic violence. In addition the government placed abused women and their children in a shelter, in a hotel, or with foster families who agreed to provide shelter. As of August, EAID had assisted 102 female victims of domestic violence. These cases involved psychological, physical, and sexual violence, as well as social and economic mistreatment. Caritas, a religious nongovernmental organization (NGO), worked closely with the government and with other NGOs in 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 the 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. As of June two cases of sexual harassment were reported.

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

Discrimination: The law prohibits discrimination against women privately or professionally with fines up to 24,000 euros (\$26,000). The law does not require equal pay for equal work. 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 (see section 7.d.).

## Children

Birth Registration: According to the law, citizenship is acquired at birth in the following circumstances: a child is born in the country to an Andorran parent or born abroad to an Andorran parent born in the country; a child is born in the country if either parent was born in the country and is living there at the time of birth, or if both parents are stateless or of unknown identity. A child of foreign parents may acquire Andorran nationality by birth in the country if at the time of birth one of the parents has completed 10 years' permanent residence in the country. Otherwise, the child may become a citizen before attaining the age of majority or a year after reaching the age of majority if his/her parents have been permanently resident in the country for 10 years or if the person can prove that he/she has lived in the country permanently and uninterruptedly for the last five years. In the meantime, the child has a provisional passport.

Children are registered at birth.

Child Abuse: Through the end of June, the Prosecutor's Office initiated 51 criminal proceedings related to child abuse, of which 17 related to domestic violence against children and 34 related to violence against children. As of the end of June, the Prosecutor's Office concluded one case of violence against children.

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. As of June 30, authorities assisted 156 minors at risk, of which 30 were new cases. As of the end of June, 10 minors lived in a shelter designated for them.

Early and Forced Marriage: The minimum legal age of marriage is 16 years for both women and men and as early as 14 years with judicial authority. In 2014, the most recent year for available data, authorities did not record any marriages below the age of 18 years.

Sexual Exploitation of Children: The 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 years. The penalty for statutory rape is 15 years' imprisonment, the same as for rape in general.

Through the end of June, the Prosecutor's Office concluded one case of forced prostitution of a child with mental impairment.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abductions. For information see the Department of State's country-specific information at [travel.state.gov/content/childabduction/en/country/Andorra.html](http://travel.state.gov/content/childabduction/en/country/Andorra.html).

### **Anti-Semitism**

Unofficial estimates placed the size of the Jewish community at approximately 100 persons. In April 2014 two men assaulted and severely beat a 21-year-old Jewish Andorran outside of a discotheque in the city of La Massana. The victim maintained that the assault was motivated by anti-Semitism, a charge the single assailant in custody denied. The case remained under review.

### **Trafficking in Persons**

There were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking.

### **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 government services. Discrimination against persons with disabilities nevertheless existed in the form of social and cultural barriers. In 2013 the European Committee of Social Rights expressed concern that persons with disabilities also faced disadvantages in the labor market (see also section 7.d.). During his visit to the country in 2013, the Council of Europe's human rights commissioner observed 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 separate school for children with disabilities 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. The federation's priorities are accessibility for persons with disabilities and their entry into the workforce, two areas in which the country was not fully compliant with international standards. The lack of sufficient adapted public transportation remained a concern.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution and law provide for workers to form and join trade unions. The law does not 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 effectively protecting workers. No laws require the reinstatement of workers fired for union activity.

The government did not provide the necessary mechanisms, including laws, resources, investigations, remediation, or penalties to protect worker rights. Neither collective bargaining nor strikes occurred during the year. There were no official reports of or investigations into any antiunion discrimination. Workers continued to be reluctant to admit to union membership due to fear of retaliation by their employers and arbitrary dismissal.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits slavery and the trafficking in persons for the exploitation of their work.

Resources were limited and no formal structure for action against forced labor existed. There were no reports of such practices.

Slavery and trafficking for labor exploitation are punishable by a minimum of four years and a maximum of 12 years in prison.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits children younger than 14 years of age from working. Children 14 or 15 years of age may work up to two months per year during school holidays following strict regulations contained in the law. The law limits work by children 14 or 15 years old to no more than six hours per day and by children 16 or 17 years old 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. Discrimination with Respect to Employment or Occupation**

Labor laws and regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation and/or gender identity, age, language, or HIV-positive status or other communicable diseases. The government effectively enforced these laws and regulations.

The Advisory Council on Health and Well-being established and supervised a “National Plan for Equality.” Its recommendations are taken into account by the Council of Ministers.

The law does not require equal pay for equal work. 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 Department of Statistics estimated that women earned 34 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. Employment rates among men and women were equal, although women held fewer senior management positions than men.

Some cases of discrimination with respect to employment or occupation occurred against women, persons with disabilities, and persons based on sexual orientation (see section 6).

### **e. Acceptable Conditions of Work**

The national minimum wage is 5.55 euros (\$6.11) per hour and 962 euros (\$1,058) per month. This wage did not provide a decent standard of living for a worker and family. 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.

The majority of reported cases came from the hotel and construction sectors.

The majority of reported accidents came from the hotel, construction, motor, and machinery sectors.

Workers had the right to remove themselves without jeopardy to their employment from situations that endangered health or safety. Authorities effectively protected such employees.