

ANDORRA 2016 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 March 2015 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 Martí 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 does not protect workers from antiunion discrimination.

Other problems included 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 Deprivation of Life and other Unlawful or Politically Motivated Killings

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

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

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

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

Improvements: As of May inmates had internet access, which allowed them to communicate with their families periodically. Inmates could also register to study online courses.

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 Social Affairs, 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 security forces during the year.

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.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested and detained are entitled to challenge in court the legal basis or arbitrary nature of their detention and to obtain prompt release and compensation if found to have been unlawfully detained. They may also seek to appeal to the European Court of Human Rights (ECHR).

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 public 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, from the moment charged through all appeals. Trials are fair and public and for the most part without delay. 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. The law extends the above rights to all defendants.

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 may bring lawsuits seeking damages for, or cessation of, a human rights violation. Individuals and organizations may appeal adverse

domestic decisions to the ECHR. The national ombudsman also serves to protect and defend basic rights and public freedom on behalf of citizens.

f. Arbitrary or Unlawful 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.

Actions to Expand Press Freedom: In February the Barcelona hate crimes prosecutor gave the first-ever training on hate crimes and discrimination to Andorran judges, prosecutors, and attorneys. In July the Andorran prosecutor's office delivered a similar training to justice staff members.

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, 38 percent of the population had a fixed broadband subscription to the internet, and 97 percent of the population used the internet in 2015.

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/.

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.

The country has cooperated with the Office of the UN High Commissioner for Refugees and other international refugee relief organizations.

Protection of Refugees

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees, preferring to deal with them on an ad hoc basis. There is a lack of domestic legislation on asylum seekers and refugees, and in particular on measures to protect unaccompanied and refugee children. According to the Ministry of Social Affairs, Justice, and Interior, no requests were received during the year.

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 held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: Observers considered parliamentary elections held in March 2015 to be free and fair.

Participation of Women and Minorities: No laws limit the participation of women in the political process, and they did participate. Citizens were ethnically and linguistically homogeneous but as of 2015 represented only 46 percent of the country's population. The majority of the population consisted of immigrants, largely from Spain, Portugal, and France. The law requires 15 to 20 years of

residency for naturalization. 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. Officials infrequently engaged in corrupt practices with impunity. There were no reports of government corruption during the year.

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 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 the public sector adheres to constitutional principles. The ombudsman is independent from other institutions and provides its functions free of charge to 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

Women

Rape and Domestic Violence: The law prohibits rape, including spousal rape, both of which are punishable by up to 15 years' imprisonment. It penalizes domestic physical or psychological violence with a prison sentence of up to three years. Authorities enforced the law effectively. To implement the law on the Elimination of Gender-Based and Domestic Violence that entered into effect in February 2015, the government in March established a national commission for the prevention of domestic and gender-based violence with the participation of members of the Ministries of Social Affairs, Justice, and Interior; Health; and Education and Higher Instruction, as well as the judiciary and the prosecutor's office.

As of June 30, the Prosecutor's Office initiated 67 criminal proceedings related to gender violence and 19 related to domestic violence. The Prosecutor's Office concluded 33 cases of gender violence and four cases 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 127 cases of domestic violence against women of which 42 were new. 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 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.

The government established a department on equality policies in the Ministry of Social Affairs, Justice, and Interior to promote and develop programs to prevent and fight against gender and domestic violence as well as any other forms of inequality.

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 30, four cases of sexual harassment were reported.

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

Discrimination: The law prohibits discrimination against women privately or professionally with fines up to 24,000 euros (\$26,400). As of June 30, two cases were processed.

In a press statement at the conclusion of his visit to the country on May 10-11, Nils Muiznieks, the Council of Europe's commissioner for human rights, called upon the government to adopt a comprehensive antidiscrimination law, providing effective protection against discrimination, including gender. He also called to engage the authorities with the private sector, in particular the banking sector, to find ways of remedying reported inequalities and discrimination facing many women employed in this sector.

In February the government organized a training session on nondiscrimination, for journalists and another course for labor inspectors. The courses provided indicators and highlighted strategies on how to identify hidden or invisible discrimination.

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 52 criminal proceedings related to child abuse, of which nine related to domestic violence against children and 43 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 two 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 185 minors at risk, of which 58 were new cases. As of the end of July, 23 minors lived in a shelter designated for them.

Early and Forced Marriage: The minimum legal age of marriage is 16 years for both girls and boys and as early as 14 years with judicial authority.

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.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

Unofficial estimates placed the size of the Jewish community at approximately 100 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons

There were no confirmed reports during the year that Andorra 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.

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

According to the Ministry of Social Affairs, Justice, and Interior, 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 most of 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.

National/Racial/Ethnic Minorities

Although the government effectively enforced the provisions of the constitution and the law against discrimination for the most part, in its latest report in 2015, 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.

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

According to lesbian, gay, bisexual, transsexual, and intersexual associations, the number of bullying cases at school has increased. As of June, 10 cases were registered, one of which was in court. Many of these cases were due to sexual orientation.

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 independent 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. No laws require the reinstatement of workers fired for union activity.

The government effectively enforced the law; however, unions continued to criticize the lack of laws effectively protecting workers. Administrative and judicial procedures were not subject to lengthy delays and appeals.

The government and employers respected freedom of association. 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 all forms of forced or compulsory labor.

The government effectively enforced applicable laws. Slavery and trafficking for labor exploitation are punishable by a minimum of four years and a maximum of 12 years in prison. Penalties were sufficient to deter violations.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children younger than 14 years old from working. Children 14 or 15 years old 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, limits work 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. According to the law, children cannot work overtime, work overnight, or can carry out

dangerous occupations, especially in the construction sector. The law protects children from exploitation in the workplace.

The Labor Inspection Office in the Ministry of Social Affairs, Justice, and Interior effectively enforced child labor laws and regulations. Penalties are adequate to deter violations. Economic fines range from 50 euros (\$55) for minor violations to 24,000 euros (\$26,400) for severe violations. There were no reports of child labor.

d. Discrimination with Respect to Employment and 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, and HIV-positive status or other communicable diseases. The government effectively enforced these laws and regulations. The law permits fines of up to 24,000 euros (\$26,400) for a violation. The penalties are sufficient to deter violations.

Some cases of discrimination against persons with disabilities, persons based on sexual orientation, and women occurred with respect to employment or occupation. Discrimination against persons with disabilities existed in the form of social and cultural barriers, as well as disadvantages in the labor market. The Ministry of Social Affairs, Justice, and Interior's Department for Social Affairs and Labor approved a four-year (2016-19) strategic plan to favor labor insertion of persons with disabilities.

While women represent 49 percent of the workforce, 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. Victims were reluctant to file a complaint due to fear of reprisal from employers. The Andorran Social Security and the Department of Statistics estimated that women earned 24 percent less than men for comparable work. In the finance sector this percentage increases to 47 percent. The government made an effort to combat pay discrimination in general, and it applied pay equality within the government. The law permits fines from 3,001 euros (\$3,301) to 24,000 euros (\$26,400). These fines were sufficient to deter violations.

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.

e. Acceptable Conditions of Work

The national minimum wage was 5.63 euros (\$6.19) per hour and 975.87 euros (\$1,073.46) per month. The most recent poverty income level was 886 euros (\$974.60). The minimum wage did not provide a decent standard of living for a worker and family.

The law limits the standard workweek to five eight-hour days for a total of 40 hours per week and provides for paid annual holidays. 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, time plus 50 percent for the following four hours, and time plus 75 percent for the remaining hours. There is a required rest period of 12 hours between work shifts.

The Labor Inspection Office sets occupational health and safety standards. Workers had the right to remove themselves from situations that endangered health or safety without jeopardy to their employment. Authorities effectively protected such employees.

The law covers agricultural, domestic, and migrant workers. The Labor Inspection Office has the authority to levy sanctions and fines against companies violating standards and enforced compliance. The office consisted of nine persons, including seven labor inspectors. The law permits fines of up to 24,000 euros (\$26,400) for a violation. Penalties were sufficient to deter violations. As of the end of July, the Labor Inspection Office received 55 complaints. The majority of reported accidents came from the hotel, construction, motor, and machinery sectors.