

ANDORRA 2017 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 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.

There were no reports of egregious human rights abuses.

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 disappearances by or on behalf of government authorities.

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.

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 provide for the right of any person to challenge the lawfulness of his/her arrest or detention in court, 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. 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 may legally detain persons for 48 hours without a hearing, and police generally observed this time limit. A judge has up to 24 hours to charge or release the detainee. 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.

Pretrial Detention: On average, prisoners spent nine months in pretrial detention before being judged.

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 and impartiality.

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. Trials are fair and public and for the most part held 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. The government provides an interpreter, if needed, from the moment of being charged through all appeals. 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

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 Expression, Including for the Press

The constitution and law provide for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the 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, 98 percent of the population used the internet in 2016.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms 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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The country 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 for asylum or refugee status were received during the year.

Durable Solutions: The report of the European Commission against Racism and Intolerance (ECRI) published on February 28 criticized the government for not easing residence requirements for obtaining citizenship to 10 years.

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 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 the end of the year, 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 three cases of political and institutional corruption processed during the year involving six individuals. Three additional cases involving three individuals were under investigation.

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 Andorran Social Security Fund required of all employees. The government did not publish the declarations.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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. The ECRI report noted that the ombudsman's remit does not cover the private sector and does not have the explicit authority to deal with racial or discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

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. As of July 31, the prosecutor's office initiated 51 criminal proceedings related to gender violence and 36 related to domestic violence. The prosecutor's office concluded 13 cases of gender violence and six 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 Department of Equality Policies within the Ministry of Social Affairs, Justice, and Interior (designed to promote and develop programs to prevent and fight against gender and domestic violence as well as any other forms of inequality), was consolidated during the year. The Department was restructured and grew in resources as it increased the services provided to victims.

Additionally, to address domestic violence in a comprehensive manner, the National Commission for the Prevention of Domestic and Gender-based Violence comprised 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 continued to meet regularly.

The government's Service for the Assistance of Victims of Gender Violence and the Service of Domestic and Family Violence provided medical and psychological services as well as legal assistance to victims of gender violence and domestic violence. In addition the government placed abused women and their children in a shelter, in a hotel, or with voluntary foster families. During the year the government made the national hotline for victims a 24-hour service. Since July female victims of gender and domestic violence have had access to a free lawyer.

As of the end of August, the Service for the Assistance of Victims of Gender Violence assisted 156 cases of domestic violence against women. Of the 156 domestic violence cases, 79 were new ones. These cases involved psychological, physical, and sexual violence, as well as social and economic mistreatment.

Victims of domestic violence could also request help from the nongovernmental organization (NGO) Andorran Women's Association (ADA), which works for women's rights.

The Department of Equality Policies prioritized school outreach programs and organized 32 prevention training sessions at schools throughout the country. Additionally it organized workshops on tools for the prevention of gender violence for workers in the Ministry of Social Affairs, the Fire Department, and law enforcement agencies, as well as for the University of Andorra.

Sexual Harassment: The law prohibits sexual harassment under the provisions for other sexual aggressions, punishable by three months' to three years' imprisonment. As of the end of August, one case of sexual harassment was reported.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at:

www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The law prohibits discrimination against women privately or professionally with fines up to 24,000 euros (\$28,800). There were no reports of discrimination during the year.

The government worked with civil society associations in the elaboration of a study on equality that mapped the situation facing women and other vulnerable groups. The recommendations, which included the adoption of a law on equality and nondiscrimination, the establishment of an observatory on equality, training, and awareness campaigns, were presented in July.

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 born in the country and 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 completed 10 years' 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 continuously for the last five years. In the meantime the child has a provisional passport.

Children are registered at birth.

Child Abuse: As of July 31, the prosecutor's office initiated 35 criminal proceedings related to child abuse and concluded two cases of violence against children. The government's Specialized Children's Assistance Office intervened in situations where children and young persons were at risk or lacked protection.

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

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

The Andorran Federation of Associations for Persons with Disabilities represented that accessibility for persons with disabilities and their entry into the workforce, are the two areas in which the country was not fully compliant with international standards.

National/Racial/Ethnic Minorities

The government effectively enforced the provisions of the constitution for the most part. Complaints on the grounds of race, color, ethnicity, nationality, or language may be brought before the civil and administrative courts.

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

The law considers sexual orientation an "aggravating circumstance" for crimes motivated by hate or bias. No cases of violence, discrimination, or other abuses based on sexual identity were registered during the year.

The Ministry of Social Affairs, Justice, and Interior together with the local LGTBI NGO Som com Som launched an awareness campaign and organized roundtables, talks at schools, as well as specialized training sessions on equality and prevention of LGTBI-phobia throughout the year. Complaints on the grounds of gender identity and sexual orientation may be brought before the civil and administrative courts.

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 neither prohibits antiunion discrimination nor requires the reinstatement of workers fired for union activity.

The government effectively enforced the law; however, the county's main union Unio Sindical d'Andorra (USDA) continued to denounce the lack of laws effectively protecting workers.

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.

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 work in dangerous occupations, especially in the construction sector. The law provides for protection for children from exploitation in the workplace.

d. Discrimination with Respect to Employment and Occupation

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's four-year (2016-19) strategic plan favors labor insertion of persons with disabilities. The government established a Network of Inclusive Businesses to foster hiring of persons with disabilities. Companies received fiscal and social incentives for participating.

Women represented 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 USDA reported cases of gender discrimination especially relating 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 Fund and the Department of Statistics estimated that women earned on average 24 percent less than men for comparable work. In the finance sector this percentage increases to 38 percent. The government made an effort to combat pay discrimination in general, and it applied pay equality within the government.

e. Acceptable Conditions of Work

There is a national minimum wage, but it was not sufficient to provide a decent standard of living for a worker and family. The government generally enforced minimum wage laws. Additionally, the government provided 600 families some sort of social assistance mainly for meals, rent, and childcare.

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, 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 have the right to remove themselves from situations that endanger 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 had sufficient resources to enforce compliance. The law permits fines of up to 24,000 euros (\$28,800) for a violation. Penalties were sufficient to deter violations. As of the end of August, the Labor Inspection Office received 73 complaints.