



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixty-first session

### Summary record of the 1735th meeting

Held at the Palais des Nations, Geneva, on Friday, 21 September 2012, at 3 p.m.

*Chairperson:* Mr. Zermatten

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*The meeting was called to order at 3 p.m.*

**Consideration of reports of States parties** (continued)

*Second periodic report of Andorra* (continued) (CRC/C/AND/2; CRC/C/AND/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Andorra took places at the Committee table.*
2. **Mr. Villaverde** (Andorra) said that, by virtue of the new functions assigned to him by the law of 25 October 2010, the Ombudsman (*Raonador del Ciutadà*) could advise minors on their rights and freedoms and consider the validity of a complaint filed by a minor before transmitting it to the prosecutor. Those new measures had been the subject of awareness-raising campaigns in schools and on television. The fact that the Ombudsman had not received any complaint was probably a testimony to the effectiveness and adequacy of other complaint mechanisms.
3. **Mr. Cardona Llorens** (Country Rapporteur) said that it was regrettable that children could only contact the Ombudsman by postal mail, and not through social networks or by e-mail. He noted that adults had already lodged complaints with the Ombudsman concerning children and that it would be appropriate to look into the reasons why minors did not file complaints.
4. **Mr. Villaverde** (Andorra) offered to undertake a study on the exact reasons for the absence of complaints from minors. He informed the Committee that religious instruction was optional and was provided outside school hours.
5. A shelter existed for minors who could not find homes with families; it could accommodate 21 children, under the care of 17 social workers. Only the courts could order special supervision for a minor. The shelter had its own budget, which covered all its operating costs and its social and educational services, supplemented by donations from private persons and non-governmental organizations.
6. **Mr. Cardona Llorens** (Country Rapporteur) wished to know if all the places in the shelter were taken and whether there existed other care facilities.
7. **Mr. Villaverde** (Andorra) said that the occupancy rate of the shelter had never attained 100 per cent and that, at the present time, it held 17 children.
8. **Ms. Mallol** (Andorra) said that children were first placed with members of their extended family, whether in Andorra or abroad. If the extended family lived abroad, or if the process of assessing the situation of members of the extended family was a lengthy one, the child was placed with a foster family, who would be assisted by a social worker and a specialized psychologist. An awareness-raising campaign was to be carried out in November 2012 in order to expand the list of such families, who were required to look after children pending their reintegration into their biological family.
9. The Ministry of Health and Welfare had two response teams and one specialized child protection team, responsible in particular for maintaining the link between children and their biological parents during their time with their foster family. Members of the extended family and the foster families received training to help them to look after the children.
10. Professional and non-professional care providers alike were required to report any suspected case of ill-treatment.
11. **The Chairperson** wished to know how many children were placed with foster families or adopted and whether the reporting requirement was imposed by law.

12. **Ms. Mallol** (Andorra) said that foster families received specific training. At the present time, there were 11 children with foster families and 29 with members of their extended family.
13. **Mr. Cardona Llorens** (Country Rapporteur) asked if there had been cases of intercountry adoption and whether adopted children were ever rejected by their foster family.
14. **Mr. Forner** (Andorra) said that, since 2004, the process of preparing families for intercountry adoption could last a year, during which the families attended three meetings on the question and were given time to think it over. Approval was only granted after review of a psychosocial report by a multidisciplinary specialized team. To date, there had not been a single case of an adopted child being rejected in Andorra.
15. **Ms. Mallol** (Andorra) extolled the merits of the current system, which enabled the professionals who had made a pre-adoption assessment of families to ensure post-adoption psychosocial follow-up of families and children.
16. **Mr. Villaverde** (Andorra) read out article 21 of the Code of Labour Relations, which defined light work as any work that was not prejudicial to the security, health, development or education of the child or to the child's participation in vocational or other training. Authorization for such work, which was always performed when schools were not in session, had to be given not by the labour inspectorate but by a doctor.
17. **Mr. Cardona Llorens** (Country Rapporteur) expressed concern that that definition was too loose.
18. **Ms. Mallol** (Andorra) said that the labour inspectorate services gave special attention to contracts concluded with minors, which sometimes concerned internships.
19. **The Chairperson** expressed surprise that a 14-year-old child could work 30 hours a week during school holidays and urged the State party to seek guidance from the standards laid down in International Labour Organization (ILO) Convention No. 138 on the minimum age of admission to employment, even if it did not intend to ratify it.
20. **Mr. Villaverde** (Andorra) said that a child could not work for two consecutive months but that work periods had to be separated by a minimum of two weeks' rest.
21. **Ms. Mingorance** (Andorra) said that the 1999 Qualified Act on Juvenile Justice set the age of criminal responsibility at 18. A child under the age of 12 was not deemed to be legally responsible for his acts and was not liable to criminal punishment.
22. **Mr. Cardona Llorens** (Country Rapporteur) asked whether the Protocol on action in cases of children in danger (PACIP) provided for a specific judicial procedure for minors.
23. **The Chairperson** wished to know what reintegration measures were proposed to juvenile offenders between the ages of 12 and 18 and what legal regime was applied to them.
24. **Ms. Mingorance** (Andorra) said that children between the ages of 12 and 18 could be subject to criminal proceedings conducted by a juvenile magistrate who would determine the penalty in accordance with the age of the child and the seriousness of the offence. There were two juvenile magistrates serving in Andorra. The most severe penalty that could be incurred by a minor was secure custody; that could be decided only for offences which, when committed by an adult, were punishable by more than 8 years' imprisonment; the period of custody for a minor could not exceed one third of that for an adult. A minor could also be sentenced to semi-secure custody, with temporary release, or to open custody, which allowed him or her to practise sports activities under particular

conditions. Most of the time, minors were required to undergo an educational programme or were released on probation with educational assistance, which consisted of medical and social follow-up, reviewed by the juvenile magistrate every three months. In 2012, three juvenile offenders had been placed in detention, including one in secure custody for 1 month. The minor concerned had been kept in the same place as adults but had never been in contact with them and had had access to various educational and sports activities.

25. **The Chairperson** enquired about the conditions governing pretrial detention.

26. **Ms. Mingorance** (Andorra) said that the magistrate could order a maximum of 3 months' pretrial detention. Statements from minors who had been victims or witnesses of an offence were taken in the presence of a psychologist or the prosecutor and could be recorded if required by the circumstances, particularly in the light of the seriousness of the offence or the age of the minor. Minors were heard in a separate room of the courthouse so as not to be in contact with their aggressors.

27. **The Chairperson** asked if there was any limit to the number of times a child could be questioned.

28. **Ms. Mingorance** (Andorra) replied that no such limit had been set.

29. **Mr. Forner** (Andorra) said that Andorra had established a central authority responsible for ensuring compliance with the obligations arising from the Hague Convention on the Civil Aspects of International Child Abduction, ratified in July 2011. In order to give full effect to that Convention, a law had been adopted to enable judges to act rapidly in cases of child abduction and mediation machinery had been put in place. The Convention had not been able to be applied to the two cases of child abduction that had occurred in the country since ratification, as the countries concerned had not notified their acceptance of Andorra's accession to the Convention. The cases had been swiftly settled through mediation. Andorra did not yet recognize the European single hotline number 116000 for missing children, which served to centralize calls concerning missing children, but the question was due to be studied.

30. Andorra devoted a substantial portion of its gross domestic product to international cooperation in the form of funding for projects of non-governmental organizations and financial contributions to the United Nations Children's Fund (UNICEF). The sum of €2 million had recently been released to support development projects in Cameroon.

31. **The Chairperson** asked whether a code of conduct had been established to regulate activities in the tourism sector, particularly with regard to the use of juvenile labour.

32. **Mr. Villaverde** (Andorra) replied that the Ministry of Labour maintained the necessary controls and that most of the persons hired during the peak of the tourism season were adults.

33. **Mr. Forner** (Andorra) said that a 1999 law provided for the teaching of human rights to primary and secondary school pupils. Teachers received thorough human rights training under an agreement concluded with the Council of Europe.

34. **Mr. Villaverde** (Andorra) said that children suffering from stress-related mental problems received psychosocial care.

35. **Mr. Cardona Llorens** (Country Rapporteur) asked what steps had been taken to maintain the privacy of minors and to protect them from information that might disturb them. He also wished to know whether sex education was provided at school, what measures were taken to facilitate the integration into school of children with disabilities and whether a preschool education programme had been put in place in the State party.

36. **Ms. Mallol** (Andorra) said that the Youth Department had set up a service under the name of *Consulta jove*, which provided young people with advice about contraception and sexually transmissible diseases. The Ministry of Health and Welfare had in 2004 established the National Plan for Drug Abuse Prevention, which provided for a set of measures to raise awareness of the harm done by tobacco, alcohol and drugs. Carried out with the collaboration of the Red Cross and the active involvement of young people, it focused on the prevention of addiction. Under the law on the prevention of passive smoking, smoking would be prohibited in all public places from December 2012. In December 2011, the Government had adopted a plan for health education in schools, which would be implemented in the three school systems (Andorran, French and Spanish) and would be geared to the prevention of high-risk behaviours.

37. **Ms. Gesse** (Andorra) said that young people had access to confidential, anonymous sexual and reproductive health services in hospitals. As abortion was prohibited in Andorra, it was likely that young women went abroad for that purpose; however, the delegation had no information on the subject.

38. **Mr. Villaverde** (Andorra) said that young people could freely obtain contraceptives, particularly in primary health care centres. Moreover, sex education courses covering contraceptive use were provided for them in public schools, but that measure had been strongly opposed in Catholic educational establishments.

*The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.*

39. **Mr. Forner** (Andorra) said that the Government of Andorra had made considerable progress towards ratifying the Council of Europe Convention on Cybercrime and had already acceded to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, known as the Lanzarote Convention.

40. Since ratification of the Convention on the Rights of the Child in 1996, all laws relating to children, such as the Adoption Act, the Marriage Act and the laws establishing the principles of juvenile justice, had been brought into line with its provisions.

41. The Government had made a significant effort to facilitate the integration of children with disabilities into ordinary schools through the assignment of specialized personnel to such schools, particularly psychologists and educators. In addition, it had invested €3 million in the establishment of a specialized care institution for children with disabilities, recently opened, which offered boarding facilities to children suffering from serious disabilities who could not be enrolled in ordinary schools; it also provided specialized teacher training. A large number of early action programmes, including learning assistance, had been put in place for children disabled from birth, while another programme, bringing together the Government, local authorities and parishes, was aimed at helping young people with disabilities to enter the job market.

42. **Mr. Cardona Llorens** (Country Rapporteur) wished to know if it was true that some recreational activity programmes had been discontinued through lack of resources or personnel.

43. **Mr. Forner** (Andorra) said that he did not know of any budget cuts that would have led to the discontinuation or suspension of such programmes.

44. A bill to amend the Criminal Code had been submitted to Parliament in June 2012 in order to take account of the provisions of the Council of Europe Convention against Sexual Exploitation and Sexual Abuse. The ban on the sale of organs now specifically targeted minors, which had not been the case previously. The new Code was expected to be adopted by Parliament at its next session and might well be amended further in the future in response to new situations that were likely to result from the boom in new technologies.

45. The Principality of Andorra treated as criminal offences all the acts listed in the two Optional Protocols to the Convention, so it was highly unlikely that it would be seized of a request for extradition for any such act committed within its territory; any person committing such an act would be prosecuted in Andorra. Furthermore, as the principle of extraterritoriality was recognized in the Criminal Code, any Andorran national or resident who had committed an offence under either of the Protocols would be brought before the courts in the Principality.

46. No parents had ever failed to meet their obligation of registering their child within 15 days of birth.

47. A working group had been set up in 2008 to establish a code of conduct to protect the private lives of minors and ensure that they were not exposed in the media. The project had not borne fruit and the right to information often took precedence over the right to privacy, which was regrettable.

48. **Ms. Mingorance** (Andorra) said that legal entities found guilty of certain offences incurred penalties ranging from a mere fine to dissolution; that was tantamount to recognizing their criminal responsibility. Such penalties had already been imposed by the courts in several cases.

49. **Mr. Villaverde** (Andorra) said that the National Equality Commission established in 2010 was tasked with drawing up a national plan for equality which, for political reasons, would remain pending so long as the social services law had not been adopted. According to available information, it should enter into force no later than February 2013.

50. **Ms. Mingorance** (Andorra) said that, in criminal cases, minors deemed to be sufficiently mature were systematically required to be heard; otherwise, the judicial decision concerning them could be annulled. She would communicate to the Committee additional written information on any cases in which the Convention had been directly invoked before the Andorran courts.

51. **Mr. Forner** (Andorra) added that minors were required by law from the age of 10 to be heard in any case concerning them, in particular in divorce proceedings between their parents. Younger children showing sufficient maturity could also be heard.

52. **Mr. Cardona Llorens** (Country Rapporteur) welcomed the fruitful dialogue established with the delegation of Andorra and thanked its members for their frankness and their commitment to children's rights. In the Committee's concluding observations, the State party would find a number of recommendations designed to help it mitigate the effects of the crisis on children. He encouraged the State party to disseminate those recommendations throughout the country, particularly to Government offices and civil society.

53. **Mr. Villaverde** (Andorra) thanked the Committee for its interest in the situation of children's rights in Andorra and assured it that the Government of Andorra would give all due attention to the concluding observations to be conveyed to it.

54. **The Chairperson** noted with satisfaction the undertaking by the State party to accede to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

*The meeting rose at 5.30 p.m.*