



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Combined initial and second to sixth periodic
reports of Andorra under article 9 of the
Convention, due in 2007^{*, **}**

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* The present document is being issued without formal editing.
** The annexes to the present report are on file with the Secretariat and are available for consultation.



Part I General information

I. Demographic information

A. Geography

1. The Principality of Andorra is a State situated in the Central Pyrenees mountain range, covering a surface area of 468 km². It shares a border with Spain to the south and France to the north. Its territory is mountainous and rugged, with narrow valleys. The highest point (Comapedrosa) is 2,942 metres above sea level and the lowest (Runer River) is 840 metres above sea level. The country has a temperate continental climate that is cold in winter and mild in summer. The territory is divided into seven parishes for administrative purposes: Canillo, Encamp, Ordino, La Massana, Andorra la Vella (the capital), Sant Julià de Lòria and Escaldes-Engordany.

B. Population

2. The registered population of Andorra has increased significantly in the last half-century, from 8,392 inhabitants in 1960 to 78,264 at the end of 2016, owing largely to the economic development of the country from a rural society to one with a major service sector. At present, the population comprises 50 per cent Andorran nationals, 24.7 per cent Spanish, 12.6 per cent Portuguese, 4.1 per cent French and 8.6 per cent nationals of around a hundred different countries.

3. In 2016, Andorra had a mortality rate of 4.24 and a birth rate of 8.66. The natural growth rate was 4.50. The average age of the population in 2016 was 40.33 years, with a total dependency ratio of 38.83.

C. Religion

4. Article 11 (1) of the Constitution guarantees freedom of opinion, religion and worship. No one can be forced to reveal or manifest his or her ideology, religion or beliefs.

5. Paragraph 3 of the same article guarantees the right of the Catholic Church to conduct its activities freely and publicly. This is intended not to violate the religious freedom of other faith groups, but to recognize the country's Catholic tradition, given that the Bishop of Urgell in Spain and the President of the French Republic are the joint and indivisible Head of State (Co-Princes).

6. Although no official register of religions is kept, there are diverse religious communities in the country. According to the family budget survey conducted by the Department of Statistics, the distribution of population by religion and ethnic background is as follows:

<i>Religion</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Buddhist	0.4%	1.0%	1.0%
Catholic	69.0%	64.2%	69.8%
Hindu	0.0%	0.7%	0.0%
Jewish	0.0%	0.5%	0.3%
Muslim	1.5%	0.0%	0.7%
Protestant	0.8%	0.7%	1.7%
Other	3.1%	1.9%	2.1%

<i>Religion</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
None	25.2%	30.7%	24.4%
No response	0.0%	0.2%	0.0%

D. Education system

7. The Andorran system of education is defined in article 5 of the Qualified Act of 3 September 1993 on Education. It is a unique system combining three education systems: the Andorran, Spanish (secular and religious) and French systems, all of which are overseen by the Ministry of Education of the respective country. Education is compulsory and free up to the age of 16. The enrolment rate was 100 per cent in 2016. Of the 11,013 pupils in the 2015/16 school year, 39 per cent were enrolled in the Andorran education system, 33 per cent in the French system and 28 per cent in the Spanish system.

8. Education in Andorra is based on the rights, freedoms and principles laid down in article 20 of the Constitution, the laws on education and the international agreements which Andorra has ratified. The country's three education systems have as a basic principle the admission of all persons regardless of their origin, religion, sex or political or ideological beliefs.

9. Work schemes for teachers in the Andorran education system include educational projects intended to promote human rights, tolerance and non-discrimination in schools; facilitate democratic participation; promote group cohesion; encourage the acquisition of values and social skills; and encourage pupils, from the earliest age, to have a sense of commitment and responsibility.

E. Economy

10. Most economic activity in Andorra is in the service sector. Tourism and trade are the mainstays of the economy, and the country receives nearly 8 million visitors every year, mostly from Spain and France. Limited national production of goods is compensated by high imports to meet internal demand and, particularly, the demand of foreign visitors to the country. Finance and insurance are also key sectors which, in 2015, accounted for 22 per cent of gross domestic product (GDP). By contrast, the agricultural sector accounted for 0.5 per cent in the same year.

11. With regard to the economic institutional framework, Andorra has had a customs union agreement with the European Economic Community since 1991. Moreover, the Monetary Agreement with the European Union entered into force on 1 April 2012, establishing, inter alia, the euro as the official currency of the Principality of Andorra. On 15 March 2015, negotiations for an association agreement were initiated with the European Union with a view to allowing Andorra to participate in the internal market.

F. Labour market

12. The high level of economic activity in the tourism service sector has resulted in flexible employment models and a proliferation of seasonal work. The distribution of the population by employment status shows that, in 2016, 50 per cent were salaried workers and 7.8 per cent were entrepreneurs or self-employed. The rate of unemployment is relatively low at 0.7 per cent.

13. In 2016, the number of salaried workers in Andorra was 36,603. By activity sector, 87.8 per cent of workers were employed in services, followed by construction (7.7 per cent) and industry (4.0 per cent), while only 0.5 per cent were employed in the agricultural sector.

14. The wage bill in 2016 was €912.18 million, with an average salary of €2,076.68 and a guaranteed minimum wage of €975.87.

15. In 2016, 8,051 companies were operating in Andorra. The predominance of small businesses in the service sector meant that 80 per cent of companies had a workforce of between 1 and 5 employees, while 0.8 per cent of businesses employed more than 100 workers.

II. Constitutional, political and legal structure

A. Form of government

16. Andorra is a parliamentary co-principality and its official language is Catalan. The Co-Princes are the joint and indivisible Head of State. The current Co-Princes are the Bishop of Urgell, Monsignor Joan Enric Vives Sicilia, and the President of the French Republic, Mr. Emmanuel Macron.

17. The institution of co-principality is inherited from the feudal system of joint lordship, established in 1278 after the signing of the first *Pareatge*, or feudal charter, by the Bishop of Urgell and the County of Foix in France.

B. Parliament (*Consell General*)

18. The parliament ensures diverse and equal representation of the national population and of the seven parishes. It exercises legislative power, approves the State budget, and promotes and monitors the political actions of the Government.

19. The parliament is composed of a minimum of 28 and a maximum of 42 Members, half of whom are elected in equal number by each of the seven parishes, and the other half by the national constituencies. Members of Parliament are elected by free, equal, direct and secret universal suffrage for a term of four years. The *Sindicatura* is the governing body of the parliament.

C. The Government

20. The Government, which is composed of the Head of the Government and a set number of ministers, as established by law, directs the national and international policy of Andorra. It also directs the administration of the State and exercises regulatory authority. The Head of the Government is elected by the parliament, then appointed by the Co-Princes, in accordance with the provisions of the Constitution. Barring a few special situations, the mandate of the Head of the Government ends with that of the parliament, and he or she cannot serve more than two consecutive full terms.

D. The judiciary

21. Justice is dispensed in the name of the Andorran people by trial judges (*batlles*) and independent judges. It is organized pursuant to the Qualified Act of 3 September 1993 on Justice. The High Council of Justice is the self-governing institutional body which represents the judiciary. It consists of five members nominated by the Co-Princes, the Head of Government, the Leader of Parliament (*Sindic General*), the trial judges and other judges. Their term of office is six years, renewable once. The High Council of Justice imposes discipline, ensures the independence and smooth operation of the justice system — although it does not itself exercise judicial functions — and appoints the members of the Public Prosecutor's Office, as nominated by the Government. The judicial system is divided into five categories: civil, criminal, investigative, administrative and youth justice. For each of these, there is provision for two hearings: one by a court of first instance and a second by a court of appeal.

E. The Co-Princes

22. In accordance with the institutional tradition of Andorra, the two Co-Princes jointly and indivisibly constitute the Head of State, and its highest authority. They are the symbols and guarantors of the permanence and continuity of Andorra as well as of its independence and the enduring tradition of parity and stability with its neighbour States. The Co-Princes also give the agreement of the State in international undertakings and oversee and moderate the operations of the Government and institutions. They are kept regularly informed of State affairs but are not responsible for measures adopted by the Andorran Government.

F. Local authorities: parish councils

23. The parish councils (*Comuns*) represent and administer the parishes. They are public authorities with the legal status and authority to issue local regulations, subject to the law. The parish councils exercise their authority in accordance with the Constitution, the law and tradition, and they function according to the principle of self-government, recognized and guaranteed by the Constitution. They represent the interests of the parishes, approve and implement the parish budgets, determine and implement local policies in their spheres of competence, and manage and administer all parish property, whether public, private or part of the national heritage. Certain parishes are also subdivided into *quarts* and *veïnats*, whose competence derives from the councils and from the traditions and customs of Andorra.

III. General framework for the protection and promotion of human rights

A. Constitutional rights and freedoms

Constitutional rights

24. The Constitution of the Principality of Andorra was approved in a popular referendum on 14 March 1993. It is the supreme law in the domestic legal order and is binding on all public authorities and on the people (art. 3).

25. The Andorran State acts on the basis of the following principles: respect for and the promotion of liberty, equality, justice, tolerance, the defence of human rights and human dignity (art. 1 (2)). It should be noted that the universally recognized principles of public international law are acknowledged in the Constitution (art. 3 (3)). Moreover, the treaties and international agreements adopted by Andorra are incorporated into the domestic legal order, as of their publication in the Official Gazette of the Principality of Andorra (art. 3 (4)); the Universal Declaration of Human Rights has been similarly incorporated (art. 5).

26. The Constitution recognizes that human dignity is intangible and therefore guarantees the inviolable and imprescriptible rights of the person, which form the basis of political order, social harmony and justice (art. 4). The Constitution recognizes the right to life and protects it fully at all stages (art. 8 (1)). Every person has the right to physical and mental integrity. No one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment (art. 8 (2)). The death penalty is prohibited (art. 8 (3)).

27. All persons have the right to liberty and security and may be deprived of them only in accordance with the grounds and procedures established in the Constitution and by law. Administrative detention cannot last for longer than the time needed to carry out inquiries in order to shed light on a case and can never exceed 48 hours without the detainee being brought before a court. The law provides for a procedure whereby any detainee may call upon a judicial body to review the legality of his or her detention and whereby the fundamental rights of any detainee are restored in the event of a violation (art. 9).

28. Pursuant to article 39 of the Constitution, the constitutional provisions that establish rights and freedoms are directly applicable and binding upon the public authorities. Those

rights and freedoms cannot be restricted by law and are protected by the courts. They are conferred not only on Andorran nationals but also on all foreign nationals who are legally resident in Andorra.

29. The exercise of rights and freedoms can be regulated only by law; in particular, the rights set forth in chapters II and IV of the Constitution must be regulated by a qualified act (art. 40). Qualified acts must be approved by an absolute majority of the Members of Parliament who were elected at the parish level and an absolute majority of those who were elected at the national level.

Mechanisms for the defence of constitutional rights

30. Article 41 of the Constitution provides that the rights and freedoms established in chapters III and IV thereof, especially those relating to the protection of physical integrity and the prohibition of torture, shall be protected in ordinary courts through urgent, priority proceedings that are regulated by law and that, in all cases, involve court hearings at two levels. The law also provides for exceptional *amparo* proceedings to be brought before the Constitutional Court for violations of those rights by public authorities.

B. Acceptance of international human rights norms

Ratification of the main international human rights instruments

31. When the Principality of Andorra ratified the Convention on 22 September 2006, it submitted the following declaration with respect to article 14 (1) thereof: “Pursuant to paragraph 1 of article 14 of the Convention, the Principality of Andorra declares that it recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation by the Principality of Andorra of any of the rights set forth in the Convention. However, this procedure applies only insofar as the Committee has established that the same matter is not being examined, or has not been examined by another international body of investigation or settlement.”

32. As a member State of various international bodies, Andorra has ratified the following European and international instruments on the promotion and protection of human rights and humanitarian law.

United Nations

- The International Covenant on Civil and Political Rights of 16 December 1966
- The Optional Protocol to the International Covenant on Civil and Political Rights of 16 December 1966 and the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, adopted on 15 December 1989
- The Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948
- The Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women of 6 October 1999
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984
- The Convention on the Rights of the Child of 20 November 1989
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 25 May 2000

- The Optional Protocol to the Convention on the Rights of the Child on a communications procedure of 19 December 2011
- The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, adopted on 13 December 2006
- The Rome Statute of the International Criminal Court of 17 July 1998

United Nations Educational, Scientific and Cultural Organization (UNESCO)

- The Convention against Discrimination in Education of 1960

Council of Europe

- The European Agreement relating to persons participating in proceedings of the European Court of Human Rights of 5 March 1996
- The Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the various protocols thereto
- The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence of 11 May 2011
- The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25 October 2007
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987 and the two Protocols thereto
- The Council of Europe Convention on Action against Trafficking in Human Beings of 16 May 2005

Hague Conference on Private International Law

- The Convention on Protection of Children and Cooperation in respect of Inter-country Adoption
- The Convention on the Civil Aspects of International Child Abduction

Humanitarian law

- The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 1949
- The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 1949
- The Geneva Convention relative to the Treatment of Prisoners of War of 1949
- The Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949

33. On 25 September 2015, the Human Rights Council adopted decision 30/107 on the outcome of the universal periodic review of Andorra. During the second cycle of the universal periodic review, Andorra accepted the following recommendations relating to the ratification of human rights instruments:

- Ratify the Convention on Cybercrime of 23 November 2001. On 16 November 2016, Andorra ratified the Convention and the Additional Protocol thereto, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, adopted on 28 January 2003.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, establishing a system of regular visits by international and national bodies to places of detention, which was adopted on 18 December 2002.

34. Consider ratifying or acceding to other international human rights instruments such as the International Covenant on Economic, Social and Cultural Rights of 1966 and the

Convention against Discrimination in Education of 1960. The parliament approved the ratification by Andorra of the Convention against Discrimination in Education on 20 October 2017. The instruments of ratification are currently being signed by the two Co-Princes. Once they have been signed, they will be deposited with UNESCO and the Convention will enter into force in the Principality of Andorra three months later.

Other related human rights information

35. As a member State of the Council of Europe, Andorra is also subject to monitoring by the European Commission against Racism and Intolerance (ECRI), which is responsible for reviewing the legislation, policies and measures adopted by member States to combat xenophobia, anti-Semitism and intolerance.

36. ECRI published its report on Andorra for the fifth monitoring cycle on 28 February 2017. The report describes the progress made in implementing ECRI recommendations as of 30 June 2016.

37. Andorra invited the Organization for Security and Cooperation in Europe (OSCE) to observe the general elections that took place on 1 March 2015. The Office for Democratic Institutions and Human Rights (ODIHR) visited the country on 27 and 28 January 2015 and issued a report containing conclusions and recommendations on 19 February 2015.

38. In addition, on 3 November 2010, Andorra extended a standing invitation to all Human Rights Council special procedure mandate holders. It has not received any visits thus far.

39. Andorra is not a party to the Convention relating to the Status of Refugees of 28 July 1951 or to the Protocol relating to the Status of Refugees of 31 January 1967. Nevertheless, in order to fulfil the Government's commitment to do all that it could to alleviate the humanitarian crisis that has been caused in part by the Syrian conflict and has forced hundreds of thousands of people to flee that region, on 13 September 2017, the Council of Ministers approved a bill on temporary and transitional protection for humanitarian reasons. That bill, which was submitted to the parliament on 21 September 2017, lays the ground for a more general bill on asylum that would amend Andorran legislation to cover all the legal conditions and characteristics established in the Convention relating to the Status of Refugees.

40. The bill on temporary and transitional protection for humanitarian reasons establishes the necessary framework for hosting refugees by way of a new type of residence permit or residence and work permit. The bill stipulates that, each year, the Government will decide how many refugees can be accommodated, giving priority to those in the most vulnerable situations. One of the main aims of the bill is to ensure that refugees' rights are recognized in Andorra. It establishes their right to obtain access to housing, work and training, social and health services and the education system. The bill is currently before the parliament. The deadline for submitting amendments was 5 December 2017. The text is now being examined by the Legislative Committee on Internal Affairs.

C. Legal framework for the protection of human rights

41. Article 5 of the Constitution establishes that the Universal Declaration of Human Rights is in force in Andorra.

42. Article 3 (4) of the Constitution stipulates that all treaties and international agreements shall be incorporated into the domestic legal order as of their publication in the Official Gazette of the Principality of Andorra. They cannot be amended or repealed by law.

43. Furthermore, article 23 of the Qualified Act of 19 December 1996 on Action by the State in respect of Treaties states that the provisions of treaties and international agreements may be repealed, amended or suspended only in accordance with the terms of the treaty or agreement itself or the general rules of international law. The Principality of Andorra has therefore adopted a system in which treaties take precedence over ordinary laws and are directly applicable in domestic law.

44. On the other hand, since article 3 (1) of the Constitution states that the Constitution is the supreme law in the domestic legal order and article 19 of the Qualified Act of 19 December 1996 on Action by the State in respect of Treaties provides for prior verification of the constitutionality of treaties, the Constitution might be considered to be situated above or at least on the same level as treaties and international agreements in the hierarchy of norms, for a treaty or agreement that is contrary to the Constitution cannot be approved.

45. Article 24 of the Qualified Act of 19 December 1996 on Action by the State in respect of Treaties states: "Treaties in force shall be directly applicable by all judicial and administrative State bodies and shall create rights and obligations for individuals, unless the text of the treaty or the text authorizing its ratification stipulates that its application is conditional on the promulgation of laws or the adoption of regulations." The second paragraph of the article states that if additional legislation is required for the implementation of a treaty, the Government must submit the necessary bill to the parliament as soon as possible. That bill should be transmitted to the parliament at the same time as approval of the treaty is sought if the treaty has already entered into force in other States or if the treaty stipulates that States parties must possess the necessary legislation at the time of its entry into force.

46. The parliament may grant the Government the power to issue the necessary regulations, subject to the limits and conditions set forth in article 59 of the Constitution.

47. The courts of Andorra are the main guarantors of human rights. Article 85 of the Constitution establishes the principle that justice may be administered only by independent judges who cannot be removed from office and who, in the performance of their judicial functions, are subject only to the Constitution and the law. There is a single judiciary. Its structure, composition and functioning and the legal status of its members must be regulated by a qualified act. Special courts are prohibited.

48. Article 2 of the Code of Criminal Procedure states: "The administration of criminal justice, the passing of judgment and the enforcement of judgments passed is the exclusive jurisdiction of the High Court of Justice of Andorra, the Criminal Court (*Tribunal de Corts*) and its president, the Trial Court and the trial judges, without prejudice to the relevant treaties established in accordance with article 65 of the Constitution."

49. All treaty-related matters that fall within the criminal sphere are also governed by article 93 of the Constitution, which states: "The Public Prosecution Service is responsible for ensuring the defence and application of the legal order, as well as the independence of the courts, and promoting the application of the law by the courts in order to safeguard the rights of the people and to defend the public interest." The Public Prosecution Service, which is headed by the Attorney General, acts in accordance with the principles of legality, unity and internal hierarchy.

50. Pursuant to article 65 of the Constitution, legislative, executive or judicial powers may be transferred only to international organizations and by means of a treaty that must be approved by a majority of two thirds of the Members of Parliament.

51. The Act on the Establishment and Work of the Ombudsman was passed on 4 June 1998. The Ombudsman (*Raonador del Ciutadà*) was initially established as an independent institution responsible for monitoring public servants' compliance with the fundamental principles of defence and protection of the rights and freedoms enshrined in the Constitution. The Ombudsman submits an annual report on his or her activities to the parliament.

52. Article 13 of the aforementioned Act states that complaints or claims may be submitted by any natural or legal person with a legitimate interest, irrespective of nationality, age, status or place of residence.

53. Act No. 79/2010, amending the Act on the Establishment and Work of the Ombudsman in the light of the Convention on the Rights of the Child, was passed on 25 October 2010. As a result of this amendment, the Ombudsman's role was extended to include informing and advising children on their rights and freedoms under the Convention (art. 1) and children were given the right to submit complaints or claims to the Ombudsman.

Children under 12 years old and persons without legal capacity can do so through their legal representatives, without the need for special powers to be granted (art. 13 (2)).

54. In response to a recommendation made by ECRI, the Government of Andorra drafted a bill that would, among other things, broaden the Ombudsman's remit to include handling complaints of racial discrimination in both the public and private spheres. Act No. 26/2017 of 23 November 2017, amending the Act on the Establishment and Work of the Ombudsman of 4 June 1998, was passed and entered into force on 24 November 2017.

55. Furthermore, in view of article 33 (2) of the Convention on the Rights of Persons with Disabilities (adopted by the General Assembly of the United Nations on 13 December 2006 and signed and ratified by the Principality of Andorra on 27 April 2007 and 11 March 2014 respectively), which stipulates that States parties should designate one or more independent mechanisms to promote, protect and monitor implementation of the Convention, the Government deemed it appropriate to entrust the Ombudsman with this task. The Ombudsman not only meets the requirement of independence but also operates locally and is accessible to persons with disabilities and their representative organizations as well as to the public at large; for that reason, under the aforementioned Act, it was given the task of informing, assisting and advising persons with disabilities with respect to their rights under the Convention and monitoring the implementation of that instrument.

56. In December 2014, the Judicial Assistance and Mediation Service was set up. This is a free public service run by the central Government, under the joint responsibility of the ministries of justice and social services, with the aim of providing assistance to the general public, especially victims of criminal offences and violations, and offering legal and social guidance to users of the justice system.

D. Framework for the promotion of human rights

Regional parliaments and assemblies

57. On 15 January 2015, the parliament approved an agreement to promote gender equality through parliamentary action. That agreement, which was approved by all parliamentary groups, provides for the preparation of a white paper on equality, with support from the Government of Andorra and in cooperation with the Institute for Andorran Studies and the Ministry of Social Affairs, Justice and the Interior. The aim is to compile information on the real situation as regards equality so as to be able to develop an action plan for the parliament and other public institutions. The agreement also provides for steps to be taken in response to the recommendations set out in the Plan of Action for Gender-sensitive Parliaments of the Inter-Parliamentary Union.

58. The drafting of the white paper began in August 2016 with the definition of working procedures and methods. The various stages of the process included the following: collection and analysis of existing data on the target groups, namely older persons, children and young persons, immigrants, persons with disabilities, women and lesbian, gay, bisexual, transgender and intersex persons; the participation of social entities representing those groups through an in-depth analysis of equal opportunity in the country; and a survey to find out the views of the general population.

59. The outcomes of that work and the priorities that had been identified were submitted on 21 June 2017; emphasis was placed on the need to pass a law on equality and non-discrimination, to set up an observatory on equality, to create a platform for the voluntary sector as a tool for dialogue with the Government and to develop specific strategies to promote equality.

60. The layout of the white paper is being finalized before it is printed and officially submitted.

61. The Department for Equality Policies was established under a decree issued on 23 September 2015 by the Ministry of Health, Social Affairs and Employment. It was subsequently attached to the Department of Social Affairs under a decree issued on 27

January 2016, concerning the organization of the Ministry of Social Affairs, Justice and the Interior. Its responsibilities are as follows:

- Promote and develop cross-cutting programmes and measures to prevent and combat gender-based violence, domestic violence and violence in all settings
- Strengthen and improve efforts to combat the inequalities and discrimination that affect the persons and groups who are most vulnerable in this regard

62. In order to fulfil these responsibilities, an Equality Unit has been set up to pursue the following goals:

- Work together with the parliament to produce the white paper on equality and, subsequently, to draft a law on equality and non-discrimination
- Provide information, support, assistance and legal advice to vulnerable persons and/or groups who have faced or are facing any form of discrimination and/or inequality; groups that are considered vulnerable include children and young persons, older persons, women, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons and immigrants
- Organize public events and dissemination and awareness campaigns on non-discrimination and support for vulnerable groups
- Promote both formal and informal education and awareness-raising initiatives
- Identify and counteract sexism, discrimination and unequal treatment in the media and in the public sphere

63. This department is responsible for dealing with any racial discrimination and inequalities that may be faced by immigrants. Efforts are also made to promote cultural pluralism and equality.

64. On 2 March 2013, the parish of Andorra la Vella joined the Global Network for Age-friendly Cities and Communities, an initiative launched by the World Health Organization (WHO) to build the capacities of and connections between cities that wish to create sustainable, accessible and inclusive urban environments.

National human rights institutions

65. Andorra does not have a national human rights institution. In line with the commitment made on 25 September 2015 during the second cycle of the universal periodic review, Andorra will assess whether it is appropriate to establish a national human rights institution in conformity with the Paris Principles.

66. In 2003, the National Council of Persons with Disabilities was established as a participative, consultative and advisory body to the Government on disability-related issues. Its responsibilities include:

- Preparing and submitting proposals with a view to improving services and benefits for persons with disabilities
- Helping to strengthen and coordinate disability-related action

67. Over the course of the Council's regular meetings in 2016–2017, the initial report of Andorra on the implementation of the Convention on the Rights of Persons with Disabilities was drawn up in collaboration with civil society organizations that represent persons with disabilities; the proposals made by those organizations were also incorporated into the bill on urgent measures for the implementation of the Convention on the Rights of Persons with Disabilities.

68. The National Bioethics Committee of Andorra is an independent advisory body in the field of ethics and bioethics that was established in December 2013; its work concerns the ethical and social implications of the advances made in biological sciences, medicine and life sciences in general.

69. The role of the Committee is to serve as a key forum for debate, fostering discussions among all sectors of Andorran civil society on ethical and social controversies

within its area of competence in such a way as to help professionals, public officials and society in general make decisions on these matters. The Committee helped to draft the bill on the rights and duties of patients and medical records. That bill was passed by the parliament on 27 October 2017; it was published in the Official Gazette of the Principality of Andorra on 22 November 2017 and entered into force the following day.

70. In 2014, a commission for the participation of civil society organizations in the field of social and health services was set up. Its responsibilities are as follows:

- Help to identify, define and address the needs and shortcomings of the social and health services
- Participate in planning, evaluating and monitoring the provision of social and health services, mainly by helping to prepare and track the implementation of the National Social and Health Services Plan
- Draw up periodic reports on the development of the Plan, proposing measures that it considers necessary in order to achieve the goals set forth in the applicable legislation

71. In accordance with article 10 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, a decree containing regulations on the National Commission for the Prevention of Gender-based and Domestic Violence was approved on 9 March 2016. Article 20 of the decree establishes that the Commission is a political and technical collegiate body responsible for formalizing coordination and cooperation between the various ministries and government departments that are involved in preventing and combating gender-based and domestic violence.

72. In addition, on 27 June 2016, the National Social Welfare Commission was set up as a political and technical body for coordination and cooperation between the Government and parish councils on issues of common interest relating to social services.

73. The Commission's first working meeting was an opportunity to address the redistribution of responsibilities in the field of social services, especially home-care services. Various operational measures, designed to avoid duplication, simplify administrative procedures and standardize criteria in order to ensure equality, were proposed and analysed with a view to making the provision of public services as efficient as possible.

Dissemination of human rights instruments

74. All treaties and international agreements signed by Andorra are translated into the official language and published in the Official Gazette of the Principality of Andorra.

75. The official website of the Ministry of Foreign Affairs includes a section on international human rights treaty monitoring mechanisms, which contains information on the stage reached in the submission of reports to the treaty bodies.

Raising human rights awareness among public officials and other professionals

76. Pursuant to the recommendations of ECRI and the Group of States against Corruption (GRECO) on training for members of the judiciary, the High Council of Justice has signed cooperation agreements with the National College of the Judiciary of France and the General Council of the Judiciary of Spain. Trial judges and other judges, prosecutors and court clerks have received in-service training on fundamental rights.

77. The initial training for persons joining the police force covers human rights and constitutional rights. It is made clear that deliberate ill-treatment during an interrogation, degrading treatment and all forms of humiliation constitute criminal offences and violations of human rights.

78. Article 11 of Act No. 1/2015 of 15 January 2015 for the elimination of gender-based violence and domestic violence provides for in-service training programmes for professionals involved in detecting, handling and preventing violence of that kind. Two types of training course have been developed: a basic training course for professionals who

are indirectly involved in dealing with cases of gender-based violence and domestic violence; and a training course for professionals who are directly involved in handling such cases.

79. During his monitoring visit to Andorra on 11 May 2016, the Council of Europe Commissioner for Human Rights, Mr. Nils Muižnieks, delivered training on the rights of women and children to members of the judiciary, law enforcement officers and social workers. He was also able to visit the shelter facilities of the team that supports victims of gender-based and domestic violence, together with the supervisors of those facilities. In addition, he visited the children's shelter, a nursery and Encamp secondary school.

80. Over the course of 2017, training on the Convention on the Rights of Persons with Disabilities was provided to civil servants with the aim of improving government support for differently abled persons and ensuring that it is tailored to each case.

Promotion of human rights awareness through educational programmes and Government-sponsored public information

81. The Ministry of Education and Higher Education has incorporated human rights into the school curriculum, in accordance with the general principles of the World Programme for Human Rights Education.

82. A teacher training course on human rights and the situation in Andorra was held on 21 and 22 February 2014. The course covered the issue of rights in school. It included information on international organizations such as the United Nations and the Council of Europe and the main human rights instruments, reports and monitoring mechanisms.

83. With the aim of promoting education for democratic citizenship, the Ministry of Education and Higher Education reached an agreement with the University of Andorra in January 2017 on a programme for 2017–2019, establishing that the education sciences degree course taught by the University should cover education for democratic citizenship and the defence of human rights.

84. The activities of the Principality of Andorra in the field of human rights also extend to the international sphere. While chairing the Committee of Ministers of the Council of Europe from 9 November 2012 to 16 May 2013, Andorra defined among its priorities education for democratic citizenship and human rights, and the promotion of the Convention for the Protection of Human Rights and Fundamental Freedoms. Those priorities were reflected in various initiatives and activities that were launched during the Andorran chairmanship and continued to be implemented by the Council of Europe beyond that time.

85. On 4 April 2014, Andorra was invited by the Secretary-General of the United Nations to serve as one of the 16 champion countries of the Global Education First Initiative, the aims of which are to put every child in school, improve the quality of learning and foster global citizenship.

86. On 7 December 2016, Andorra presented the "Healthy Way for Human Rights" project at a high-level conference organized by WHO. This project was launched by the Government and the parish councils, with support from economic and social partners. The aim of the initiative was to create a route where people can take regular exercise, while spreading awareness of the Andorran identity, culture and natural environment and fostering social cohesion by promoting and sharing information about human rights. The route stretches for 30 km across the country and symbolizes the 30 articles of the Universal Declaration of Human Rights.

Promotion of human rights awareness through the mass media

87. On 13 April 2016, the Ministry of Education and Higher Education organized a talk by Ms. Caddy Adzuba, a journalist and activist for press freedom and human rights, on the theme of human rights and journalism in a globalized world. This event helped to raise awareness about the importance of press freedom in the defence and promotion of human rights.

88. On 25 September 2015, during the second cycle of the universal periodic review, Andorra accepted the recommendation that it should continue its human rights education efforts and extend them to include journalists and media professionals. In order to fulfil this recommendation and a similar one made by ECRI, the Department of Social Affairs of the Ministry of Social Affairs, Justice and the Interior commissioned Mr. Saïd El Kadaoui Moussaoui, a psychologist, author and expert on issues relating to migration and identity, to deliver a human rights training course that focused on racism and racial discrimination, exclusion and the perception of otherness. This training, which was held on 24 February 2016, was aimed at Andorran journalists, media professionals and government labour inspectors.

Budget allocations and trends

89. There are no disaggregated data on budget allocations for the implementation of human rights. However, it should be noted that €8,578,605.94 was spent on social assistance in 2009. That figure rose to €20,166,529.23 in 2013. Social assistance includes welfare benefits, assistance aimed at women, unemployment benefits, housing support, education support, old-age pensions and non-contributory solidarity pensions.

Development cooperation and assistance

90. The Ministry of Foreign Affairs has an annual budget for international development cooperation and humanitarian assistance, which totalled €786,643.65 in 2015 and €846,610.56 in 2016. This budget is spent in four ways:

- Subsidies for international development cooperation projects run by Andorran non-governmental organizations (NGOs)
- Bilateral or multilateral projects implemented by the Government
- Voluntary contributions to funds and programmes run by organizations to which Andorra belongs
- Humanitarian assistance

91. The Ministry of Foreign Affairs believes that it is essential to pursue a strict and effective international development cooperation policy in order to make a real contribution towards achieving the Sustainable Development Goals. For that reason, Andorran cooperation is based on the principles set forth in the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action.

92. The annual master plan on Andorran international development cooperation sets out geographical and sectoral priorities in the area of international cooperation. The strategic priorities are as follows: education; protection of vulnerable groups, especially children, women and persons with disabilities; and the environment and combating climate change, with a particular focus on the issue of water.

93. The Government has identified various geographical priorities with a view to increasing the impact of Andorran development cooperation. When selecting priority countries, the Government took into account the situation of countries on internationally recognized lists — such as the United Nations Development Programme (UNDP) list and the list of least developed countries drawn up by the United Nations and the World Bank — and gave priority to those most in need. In that regard, consideration is also given to the bilateral relations of Andorra.

94. The Department of Multilateral Affairs and Cooperation of the Ministry of Foreign Affairs uses a portion of its international development cooperation budget to subsidize relevant projects run by Andorran NGOs. Various types of subsidy are granted, including funding for projects that seek to raise awareness within Andorran society. Funding of this kind is granted to projects that promote international solidarity and help to build a more committed and supportive society through cultural exchanges in the educational or cultural sphere. One such project is Andorran diversity week, during which residents of African origin organize activities and workshops, such as dances, cooking workshops, film screenings and concerts, for the rest of society.

95. The Government attaches great importance to awareness-raising and therefore awards a high score for this type of activity when assessing candidates for financial support, in order to encourage NGOs to carry out awareness-raising initiatives.

E. Reporting process

96. The harmonized guidelines on reporting under the international human rights treaties, contained in document HRI/GEN/2/Rev.6 of 3 June 2009, and the guidelines for the treaty-specific document to be submitted under the Convention, set forth in document CERD/C/2007/1 of 13 June 2008, were taken into account in the drafting of the present report.

97. The Department of Multilateral Affairs and Cooperation of the Ministry of Foreign Affairs coordinated the preparation of the present report, in collaboration with the Ministry of Social Affairs, Justice and the Interior, the Ministry of Health, the Ministry of Education and Higher Education, the Ministry of Culture, Youth and Sport and the Ministry of Finance. The report was submitted to the parliament, the parish councils and the Ombudsman in case they wished to make any comments. However, none of these institutions provided any feedback on the report.

98. The report was also presented during the second meeting of the national commission for the participation of civil society organizations in the field of social and health services. Each participant was given a copy and encouraged to submit comments or additional information. Some of the additional information supplied by the representatives of that commission has been included in the present report.

99. The final report was approved by the Council of Ministers at its meeting on 24 January 2018.

Part II Information relating to articles 1 to 7 of the Convention

A. Article 1: Definition of racial discrimination

100. Article 6.1 of the Constitution states as follows: “All persons are equal before the law. No one may be discriminated against on grounds of birth, race, sex, origin, religion, opinions or any other personal or social circumstance or status.” Article 6.2 states that the public authorities must ensure that equality and personal freedom are real and effective.

101. The constitutional definition of discrimination is consistent with the definition of racial discrimination in the Convention, as it makes explicit reference to race, birth, origin, religion and any other personal or social circumstance or status. The principle of equality enshrined in the Constitution of Andorra is respected in all national legislation, in accordance with the principle of the hierarchy of laws.

102. In addition, the principle of equality is explicitly set forth in the country’s main bodies of law, such as labour law and administrative law. The principle of equality is recognized in article 21 of the Administrative Code, for example, which states that all persons are equal before the public administration and that there may be no discrimination on grounds of birth, race, sex, religion, opinions or any other personal or social circumstance or status.

103. Respect for the principle of equality in the country’s laws encompasses both public and private life. Article 338 of the Criminal Code, for instance, states that the authorities or public officials who have committed an offence involving discrimination may be punished by imprisonment and disqualification from public office for up to four years. There is also a penalty of imprisonment of up to 1 year and disqualification of up to three years for the public official or authority who refuses to provide a public service or grant an entitlement or other advantage envisaged by law or who interferes with the granting thereof.

104. Under article 338, paragraph 3, persons in the private sector who, for discriminatory reasons, refuse to sell or lease property, provide services or employ a person, or who create discriminatory conditions of work, are subject to a penalty of confinement and disqualification from the exercise of their profession of up to three years.

Migration policy

105. Article 2 of Act No. 9/2012 amending the Qualified Act on Immigration states that the provisions of Act No. 9/2012 apply to whatever is not envisaged in the relevant treaties and international agreements by which the Principality of Andorra is bound. This policy is compatible with article 1 (2) of the Convention.

106. Priorities for the issuance of residence and other immigration permits are defined in article 40 of the Act. Specifically, the article states that residence and work permits, temporary permits, cross-border work permits, temporary cross-border work permits, residence permits for self-employment, residence permits without work authorization and work permits without residence authorization are to be issued first to nationals of the States with which Andorra has signed and ratified agreements, then to nationals of the States members of the European Union or of the European Economic Area and ultimately to nationals of other States. Andorra has agreements on entry, movement, residence and settlement of persons with Spain and France (2001) and Portugal (2007).

107. Under article 42 of the Act, on the exception for family reunification, it is stated that residence permits for the purpose of family reunification do not depend on a person's nationality and cannot be denied because a quota has been exceeded.

108. In view of ECRI general policy recommendation No. 7, the Government of Andorra is currently working on a bill on equality and non-discrimination that is designed to complement civil and administrative legislation addressing direct and indirect discrimination. The bill should be submitted for adoption by the parliament in 2018.

B. Article 2: Rejection of racial discrimination

109. Andorra condemns racial discrimination, and in accordance with the mandate enshrined in article 6.2 of the Constitution it takes appropriate measures to create real and effective conditions for equality.

Legislative measures

110. The amendments to the Criminal Code contained in Act No. 40/2014 of 11 December 2014 made it possible to broaden the definition of what constituted a discriminatory motive and make new forms of criminal conduct related to discrimination criminal offences in their own right. Article 398 bis, for instance, makes it a criminal offence to possess or produce any material meant for the public that involves a violation of the prohibition of any of the acts of discrimination deemed unlawful under article 338. In addition, article 339 defines the offence of insulting a group with a discriminatory motive. The Act also made it possible to revise the definition of unlawful association to include associations founded for discriminatory purposes. Criminal proceedings will be brought against persons who provide financial or other support to unlawful associations.

111. Also worth keeping in mind are older laws, such as the Sports Act of 30 June 1998, under which it is a very serious infraction for athletes, coaches, referees or judges to participate in competitions or other events organized by countries in which racial discrimination is official policy or which are under sanctions imposed by international, or with athletes representing such countries.

Administrative and other measures

112. In December 2014, the Youth Department of the Ministry of Culture, Youth and Sport began taking part in the Council of Europe's online campaign No Hate Speech. The aim of the campaign is to combat hate speech and help promote and ensure respect for

human rights on the Internet. Similarly, the parliament joined the Council of Europe's No Hate Parliamentary Alliance.

113. When Andorra chaired the Committee of Ministers of the Council of Europe (from November 2012 to May 2013), it chose education for democratic citizenship and the promotion of human rights as priorities. During that period, a number of domestic and international initiatives linked to those priorities were launched and are still ongoing. From 6 to 8 July 2016, for example, Andorra hosted a teacher training programme in human rights and democratic citizenship.

114. To facilitate integration, the Ministry of Culture, Youth and Sport currently has a range of offerings to help the general public learn Catalan, including self-study centres, free classes and a volunteer language programme.

Awareness-raising

115. As a condition of the grants it awards civil society organizations for international development work, the Ministry of Foreign Affairs expects the recipient organizations to include national awareness-raising and outreach campaigns in their activities.

116. In recent years, the municipal council of Andorra la Vella, in collaboration with the Andorran National Commission for UNESCO, has organized a cultural-diversity week during which some 30 social, cultural and sporting associations offer activities that highlight the country's wealth of cultures. In addition, Andorra la Vella was named the Ibero-American capital of culture in 2016. A number of activities to promote Ibero-American culture were organized.

117. Every two years since 2008, the Andorran National Commission for UNESCO has organized Art Camp Andorra, an international art workshop to which painters from countries in conflict or countries of great cultural diversity are invited. The artists are together for 10 days, during which they speak about their cultures and share their experiences. They also take part in activities and presentations relating to their cultures, democratic and intercultural dialogue, respect for diversity, the rejection of discrimination and the dissemination of the values of UNESCO that inspired the event. Two training workshops will be organized for the artists at Art Camp Andorra 2018; one will focus on dialogue for the promotion of peace and human rights and the other on gender equality.

C. Article 3: Condemnation of apartheid

118. There is no apartheid or racial segregation in Andorra. Andorra unreservedly condemns the policies, practices or ideologies that lead to intolerance or racial hatred. Andorra has been a party to the Rome Statute of the International Criminal Court since 30 April 2001 and has specifically included genocide and crimes against humanity in its criminal legislation. See articles 456 to 462 of the Criminal Code (in the annex) in that connection.

119. There is no statute of limitations on the crime of genocide or crimes against humanity.

120. Bearing in mind article 6.2 of the Constitution, which states that the public authorities must ensure that equality and personal freedom are real and effective, the Andorran authorities take the measures necessary to prevent racial segregation or the creation of ghettos.

D. Article 4: Criminalization of racial discrimination

121. The acts of discrimination punishable by law are listed in chapter V of the Criminal Code. Article 338 of the Criminal Code (Act No. 9/2005 of 21 February) was amended by Qualified Act No. 40/2014 of 11 December with a view to addressing new forms of criminal conduct related to discrimination that had until then gone unpunished. Article

338.1, for example, lists the following unlawful acts of discrimination, which are punishable by imprisonment for a term of 3 months to 3 years:

- (a) Incitement to violence, hatred or discrimination against a person or group of persons;
- (b) Public abuse, slander, defamation or threats targeting a person or group of persons;
- (c) Public expression, by any means, of an ideology or doctrine that asserts the superiority of, or demeans or vilifies a group of persons;
- (d) Public dissemination or distribution of any material containing images or other expressions of the acts mentioned above.

122. Public expressions of a discriminatory ideology are punishable not only when they are meant for the general public but also when they occur in a private meeting or on Internet forums.

123. Under article 338 bis, on punishable preparatory acts, the unlawful acts of possessing or producing any material containing images or expressions of the acts envisaged in article 338, paragraph 1 (a), (b) and (c), are punished by imprisonment of up to 1 year, provided that the material is intended for public dissemination.

124. Article 339, on the offence of insulting a group, criminalizes conduct relating to acts or utterances that, committed or made intentionally and in public, are highly offensive to members of a religious, national, ethnic or political group, a trade union or adherents of a particular faith or ideology. The penalty in this case is confinement.

125. As part of the amendments made to the Criminal Code in Act No. 40/2014, associations formed for the purposes of discrimination are defined as unlawful, and persons who provide financial or other support to such associations are liable to be held criminally responsible for their actions. See articles 359 and 360 of the Criminal Code (in the annex).

126. Under article 338.2 of the Criminal Code, any public authority or official who, in his or her official capacity, commits any of the offences listed in article 338.1 is subject to a penalty of disqualification from public office for up to four years.

127. In addition, article 338.4 provides for imprisonment for a term of up to 1 year and disqualification from public office for up to three years for the authority or official who, in his or her official capacity, refuses, with the aim of discriminating, to provide a public service or grant an entitlement or other advantage envisaged by law, who interferes with the granting thereof or who causes the service, entitlement or other advantage to be revoked.

Racial discrimination as an aggravating circumstance

128. Under article 30.6 of the Criminal Code, discriminatory motives are aggravating circumstances applicable to all the offences specified in the Code. In that article, a discriminatory motive is defined as giving consideration to a person's birth, origin, national or ethnic affiliation, colour, sex, philosophical or political opinions, views of trade unions or any other personal or social circumstance, such as physical or mental capacity, way of life, customs, language, age or sexual identity or orientation.

129. Although the definition does not specifically mention race, the courts penalize racial discrimination by penalizing discrimination practised on the basis of a person's origin, national or ethnic affiliation and skin colour.

E. Article 5: Elimination of racial discrimination

General framework for the protection of human rights

130. Rights and freedoms are enshrined in title II of the Constitution. Human dignity (art. 4), respect for the Universal Declaration of Human Rights (art. 5) and equality before the law (art. 6) are recognized in chapter I, on general principles, and article 6.2 states that the

public authorities have a duty to ensure that equality and personal freedom are real and effective.

131. In accordance with article 39.2, foreign nationals legally resident in the country may freely exercise the rights and freedoms enumerated in chapter III of title II. In addition, under article 39.1, the public authorities are bound by the rights and freedoms recognized in chapters III and IV, which constitute directly applicable law. Those rights and freedoms cannot be restricted by law and are protected by the courts.

132. The rights set forth in chapters III and IV are to be regulated by a qualified act (art. 40.1). Moreover, those rights are protected in ordinary courts through urgent, priority proceedings that are regulated by law and that, in all cases, involve court hearings at two levels.

133. The Constitution also provides for the establishment by law of exceptional *amparo* proceedings to be brought before the Constitutional Court for violations of the rights enshrined in chapters III and IV, except in the case provided for in article 22.

134. Chapter III, on fundamental individual rights and public freedoms, recognizes the following rights and freedoms:

- Right to life (art. 8)
- Right to liberty and security of person (art. 9)
- Right to access to justice and legal aid (art. 10)
- Freedom of ideology, religion and worship (art. 11)
- Freedom of opinion, communication and information (art. 12)
- Right to marry (art. 13)
- Right to privacy, honour and one's image (art. 14)
- Right to respect for the sanctity of the home (art. 15)
- Right to assembly and peaceful demonstration (art. 16)
- Right of association (art. 17)
- Right to establish and operate businesses, professional organizations and trade unions (art. 18)
- Right of workers and employers to defend their economic and social interests (art. 19)
- Right to education (art. 20)
- Right to move freely about the country (art. 21)
- Right of any person with a direct interest to submit petitions to the public authorities (art. 23)

135. This panoply of rights is respected in accordance with the principle of the hierarchy of laws. None of the qualified acts regulating the rights set forth in chapter III of the Constitution contains any racially discriminatory provisions.

Political rights

136. Article 7 of the Constitution, on Andorran nationality, states that a person's status as an Andorran national, in addition to the legal consequences thereof, is acquired, retained and lost in accordance with a qualified act. Dual nationality is prohibited in article 7.2 of the Constitution.

137. Under Qualified Act No. 10/2004 amending the Qualified Act on Nationality, the number of years of residence required for an ordinary application for naturalization was lowered from 25 to 20. It was lowered to 10 for young people who have attended the country's educational institutions during their compulsory schooling. The requirements for Andorran nationality are no different for an applicant of one nationality than they are for an

applicant of any other. In addition, the Qualified Act on Nationality provides for the acquisition of Andorran nationality by persons who have married an Andorran national and have resided in the country for three years.

138. In the second cycle of the universal periodic review, Andorra received a recommendation to bring its domestic legislation closer into line with the European Convention on Nationality, which states that naturalization should not require a period of residence exceeding 10 years. That recommendation was taken into consideration. Andorra is currently negotiating an association agreement with the European Union. Once the negotiations are complete, it will consider the advisability of amending its nationality laws.

139. Article 1 of the Qualified Act on the Electoral System and Referendums states that all Andorrans who are of legal age and hold full civil and political rights have the right to vote. Foreign residents do not have the right to vote.

140. Article 89 of the Constitution states that all members of the High Council of Justice must be Andorran nationals. Andorran nationality is also required to serve in other public institutions, such as the Ombudsman. All the High Court and Constitutional Court justices are foreign nationals, however. Three of the five judges on the Criminal Court (*Tribunal de Corts*) are foreign (French and Spanish), and two are Andorran. The Public Service Act of 15 December 2000 makes no mention of any distinction based on nationality for public servants in unspecified posts.

F. Article 6: Guarantee of an effective legal remedy

Guarantee mechanisms

141. The Andorran legal system has mechanisms that ensure judicial decisions can be appealed at various levels. The Criminal Court (*Tribunal de Corts*) is the first court before which it is possible to appeal decisions made by trial judges (*batlles*) concerning deprivation of liberty, including pretrial detention, the dismissal of proceedings or the consideration of complaints. The Criminal Division of the High Court hears appeals against decisions made in criminal cases by the Criminal Court. The Civil Division of the High Court hears appeals against decisions made by the Trial Court (*Battlia*) in civil matters. The Administrative Division of the High Court hears appeals against decisions made by the Trial Court in administrative matters. The Constitutional Court, lastly, is the final arbiter of constitutionality. It considers the constitutionality of laws and international treaties and ensures the protection of fundamental rights. In addition, it resolves conflicts among the constitutional bodies.

142. As noted in paragraph 54, the Government, in response to a recommendation made by ECRI, drafted a bill that would, among other things, broaden the remit of the Ombudsman to include handling complaints of racial discrimination in both the public and private spheres. Act No. 26/2017 of 23 November, which amended the Act of 4 June 1998 on the Establishment and Work of the Ombudsman, was adopted by the parliament on 23 November 2017 and entered into force the following day. The Ombudsman's mission, as the bill is worded, includes combating all forms of discrimination, racism, xenophobia, anti-Semitism and intolerance. The bill also states that the Ombudsman is specifically responsible for ensuring that, in the conduct of their activities, individuals and public and private entities, including the media, treat all people equally and for taking the measures necessary to prevent discrimination of all kinds, direct or indirect, on grounds of a person's birth, race, nationality, national or ethnic origin, colour, sex, religion, philosophical or political opinions, views of trade unions, physical or mental disability, lifestyle, customs, language, age, gender identity, sexual identity or orientation or any other personal or social circumstance. Furthermore, the Ombudsman's mission, as noted, is to combat racist, discriminatory, xenophobic, anti-Semitic and intolerant attitudes.

Free legal aid

143. A number of international instruments signed and ratified by Andorra contain provisions requiring the establishment of multidisciplinary units designed to support

victims and their close relatives and the adoption of the measures necessary to ensure that victims receive adequate and timely information on the support services and legal measures available to them.

144. The Judicial Assistance and Mediation Service, for example, was established by a decree of 17 December 2014, which also regulates the Service's organization and operations. It is a free public service run by the central Government, under the joint responsibility of the Ministry of Justice and the Ministry of Social Affairs, with the aim of providing assistance to the general public, especially victims of criminal offences and violations, and offering legal and social guidance to users of the justice system. The Service provides individualized information on the institutional, professional and legal resources and mechanisms that have been put in place for members of the public to exercise and defend their rights and interests and on the social services available to them. They may also be referred, if appropriate, to the relevant administrative, institutional or professional offices. The Family Mediation Service provides mediation and dispute-resolution services to people involved in marital, intimate-partner or other family disputes, thereby promoting dialogue and achieving satisfactory outcomes for couples, married or not, and children. The Judicial Assistance and Mediation Service has a lawyer, a social worker or educator and a psychologist.

145. The system of free legal aid, which includes the appointment of a lawyer and a court attorney, is fully operational and has had very satisfactory results. The appointments are managed by the professional associations of lawyers and court attorneys and are fully subsidized by the State.

146. The principle of equality set forth in article 10.3 of the Constitution states that the cases in which justice must be provided free of charge are to be regulated by law. In line with this mandate, article 99 of the Qualified Act on Justice of 3 September 1993, recently amended by Qualified Act No. 28/2014 of 24 July, states that to guarantee the right to a defence and the assistance of counsel, a lawyer will be appointed for anyone who requests one. The article also states that defence services and legal aid, paid for out of the general State budget, must be provided free of charge for anyone who requests them and declares before a judge or competent court that he or she is in a disadvantageous economic situation or insolvent. In addition, the Government is directed to establish the terms and conditions for the provision of defence services and other free legal aid.

147. Article 100 of the Transitional Act of 21 December 1993 on Judicial Procedures, as amended by Act No. 16/2014 of 24 July, outlines the procedure that a person must follow to declare a disadvantageous economic situation or insolvency and, with the resulting free legal aid, exercise his or her right to a defence.

148. Any Andorran national or resident who shows that he or she is insolvent or cannot afford a lawyer, be it to initiate new proceedings or to assist in proceedings that are already under way, may apply for free legal aid. Applicants must duly fill out the application, including forms showing their income and expenditures. They must also appear before the courts accompanied by two witnesses who are unrelated to them but are familiar with their economic situation.

149. In addition, Qualified Act No. 17/2014, which resulted in amendments to the Code of Criminal Procedure, expands the right to the assistance of a lawyer. If the events that have occasioned the investigation are criminal offences, if a person's identity is to be ascertained or if his or her house is set to undergo a search, such assistance is made available as soon as the person is questioned by the police as a suspect, regardless of whether he or she has been detained.

Measures to build trust in institutions

150. Andorran legislation provides for measures to ensure that there is no lack of trust in the police or the judicial authorities. Chapter II (Intervention principles), article 5.a, of the Qualified Act No. 8/2004 on the Police includes three intervention principles to be followed by police officers.

151. The first of these principles requires them to comply with and ensure compliance with the Constitution and legislation in force at all times. The second principle states that police officers working in their official capacity must act with absolute political neutrality and impartiality and, consequently, without discrimination on grounds of race, religion, opinion, sex, language, place of residence, place of birth or any other personal or social condition or circumstance. The principle also states that police officers must act with integrity and dignity and always resist any form of corruption. Moreover, in the performance of their duties, they must respect the notions of hierarchy and subordination; in no case may due obedience justify orders that involve the commission of crimes or are unconstitutional or illegal. Lastly, the police force should collaborate with the judicial authorities, providing them with assistance as required by law. The third principle states that in dealing with the community in their official capacity, police officers must avoid any abusive, arbitrary or discriminatory practice involving physical or psychological violence. In addition, the police must at all times act respectfully and conscientiously towards members of the public, whom they should seek to help and protect, as necessary, and to whom they should provide comprehensive information, as extensive as possible, on the reasons for and purpose of their actions.

152. Article 22 of the Code of Criminal Procedure (title 2 (Preparation for trial), chapter I (Preliminary investigation), section 1 (Common rules)) states that when police officers know that a punishable act has been committed, they must report the act to the Public Prosecution Service and conduct an immediate investigation following all necessary procedures.

Training in the area of racial discrimination

153. Since 2012, new cohorts of police officers have received the training they need to ensure that they are sufficiently alert to or aware of the possibility of racial motives for an offence. Similar training was provided for new junior and senior police officers in 2016, and plans have also been made to provide such training to newly appointed officers undergoing training this year.

154. The police also take part in talks for schoolchildren as part of the Crime Prevention Plan developed in the 2009/10 school year. During these talks, information is provided about crimes against honour and how discriminatory motives can aggravate an offence.

155. Another initiative worthy of mention is the presentation given by the coordinating prosecutor Miguel Ángel Aguilar García of the Hate Crimes and Discrimination Service of the Barcelona Province Public Prosecutor's Office on 22 February 2016. Furthermore, a handbook on investigating hate crimes and discrimination has been posted on the intranet of the police force. Plans have also been made for the Spanish National Police to provide training in this subject in 2018 and for a presentation by Pere Pastor Vilanova, a judge of the European Court of Human Rights.

Burden of proof

156. Although Andorran legislation makes no provision for shifting the burden of proof in cases of discrimination on the grounds of race, colour, ethnicity, nationality, religion or language before the civil and administrative courts, case law makes it possible to effect such a shift. As it happens, the Andorran courts apply the principle of sharing or reversing the burden of proof in cases where a petitioner who considers him- or herself a victim of direct or indirect discrimination submits a complaint to the competent authority.

157. As noted, it is through case law that it is possible to ensure that the burden of proof can be reversed. As a rule, victims of discrimination do not have irrefutable proof of the discrimination they have endured because it is uncommon for discriminatory motives to be put in writing. Therefore, when they allege that they have been subjected to discrimination, they can point only to facts that suggest that they have been discriminated against, not to solid evidence, of which there is none.

158. The existence of facts that constitute discriminatory treatment *prima facie* has procedural implications: the respondent is obliged to show that the reasons for his or her actions are completely different from those claimed by the alleged victim. The respondent

is therefore obliged to take a more active role in producing evidence during the trial — in practice, in other words, the respondent rather than the complainant bears the burden of proof. The Andorran courts ensure that decisions involving the reverse onus of proof are harmonized, as the usual lack of objective evidence makes it hard to assess this reversal.

159. A 27 May 2014 decision of the Civil Division of the High Court of Justice of Andorra on a discriminatory dismissal (case TSJC-178/13) shows perfectly that in the absence of an express provision, the Court guarantees the constitutional right to non-discrimination. A copy of the decision can be found in the annex.

160. ECRI adopted its report (fifth monitoring cycle) on Andorra on 6 December 2016. The report mentions two “interim recommendations” accepted by the Government of Andorra, one of which was to “introduce into the law the principle of sharing the burden of proof” where discrimination complaints on grounds of race, colour, ethnic origin, nationality, religion, language, gender identity and sexual orientation are brought before civil or administrative courts.

G. Article 7: Measures in the areas of education, culture and information

Education

161. Education in Andorra, as noted in the first part of the present report, is characterized by the existence of three free public education systems — that is, the Andorran, French and Spanish systems.

162. The Qualified Act on Education of 3 September 1993 lays out the principles and values on which education in Andorra is based. Article 3 (h) of the Act, for example, emphasizes the importance of teaching children and young people respect for diversity and the fundamental rights and freedoms and of giving them an education in tolerance and liberty, within the framework of the democratic principles of coexistence and pluralism.

163. Higher education in Andorra is addressed in Act No. 12/2008 of 12 June on the Organization of Higher Education. Article 38 of the Act, on rights and responsibilities, states that students are entitled to enjoy equality of opportunity and not to be denied access to education because of their personal or social circumstances. The article is applicable to both university and higher vocational education.

164. Higher education is also addressed in article 2 of the Andorran Education System Planning Act, in which the aims of the education system are set out. They include promoting respect for diversity and fundamental rights and freedoms, and encouraging tolerance, in keeping with the democratic principles of coexistence and pluralism, in addition to acknowledging the differences caused by people’s class backgrounds or their economic, cultural, ethnic and geographic circumstances and offsetting possible inequities.

165. The Ministry of Education and Higher Education has included human rights in the school curriculum, in accordance with the general principles of the World Programme for Human Rights Education. It has also set up human rights training for public servants, including judicial and law enforcement officials.

166. An event known as the *Tema de Centre* (Topic in focus) is organized every year in Andorran schools. This event, which lasts a full day and in which all students and teachers take part, involves working on a cross-cutting issue related to the defence of human rights, democracy, citizenship, cultural diversity or the prohibition of discrimination on grounds of gender, race, etc.

167. With the aim of promoting education for democratic citizenship, the Ministry of Education and Higher Education reached an agreement with the University of Andorra in January 2017 on a programme for 2017–2019, establishing that the education sciences degree course taught by the University should cover education for democratic citizenship and the defence of human rights.

168. The Government endorsed the ratification by Andorra of the UNESCO Convention against Discrimination in Education (1960) in July 2017. The parliament approved this

decision on 20 October 2017, and it was published in the Official Gazette on 15 November 2017. The instruments of ratification are currently being signed by the two Co-Princes. Once they have been signed, they will be deposited with UNESCO, and the Convention will enter into force in Andorra three months later.

Civil society

169. Article 3 of Act No. 89/2010 of 16 December on the Andorran Red Cross, which describes the main aims and objectives of the Act, states that as part of its humanitarian work, the Andorran Red Cross must serve all those in need, without any discrimination on grounds of sex, age, race, birth, origin, religion, political or religious views or any other personal or social status or circumstance.

170. Act No. 90/2010 of 16 December on Volunteer Work in Andorra establishes the rights of volunteers and of the people who benefit from the work of volunteers. Article 7 of the Act states that the rights of volunteers include the right to be treated without discrimination and with all due respect for their personal status and their beliefs. The rights of the persons who benefit from volunteer work are listed in article 14, which states that all persons have the right to benefit from such work, with no discrimination on grounds of birth, race, ethnicity, gender, sexual orientation, religion, disability, opinion or any other personal or social status or circumstance.

Culture

171. Catalan is the official language of Andorra, as stated in article 2 of the Constitution, although French, Spanish and Portuguese are commonly used. According to 2014 figures from Centre de Recerca Sociològica (a sociology research centre), Catalan is spoken 47 per cent of the time, Spanish 37.5 per cent of the time, Portuguese 5.4 per cent of the time, French 5.2 per cent of the time and English 2.1 per cent of the time.

172. The Government has provided additional opportunities to learn about Andorran language and culture by expanding the services available from the Basic Adult Education Centre. The courses, which are offered throughout the country from January to September, are designed to help immigrants integrate.

The media

173. Chapter II, article 2, of the Act on Public Broadcasting and Television and the Incorporation of the Public Company Ràdio i Televisió d'Andorra SA (13 April 2000) states that public radio and television broadcasters must ensure that their programming and broadcasts are compatible with certain general principles, including respect for equality and the right not to be subjected to discrimination on grounds of birth, race, sex or any other personal or social circumstance.

174. Item 11.A of the style manual of Ràdio i Televisió d'Andorra, the corporation to which the country's public radio and television broadcasters belong, states that journalists must take the utmost care to respect the rights of the weakest persons and those facing discrimination. They should thus be particularly careful with news or opinions that are possibly discriminatory or are likely to lead to violence or degrading practices.

175. Item 11 also states that journalists must refrain from referring to a person in derogatory or prejudiced fashion because of the person's race, colour, religion, social background, sex or any physical or mental illness or disability he or she may have. Expressions or statements that are offensive for the reasons listed in item 11.A must also be avoided.

Part III

Concluding remarks

176. In recent decades, Andorra has been receiving immigrants, mostly from neighbouring countries. Andorra is a small country that has managed to preserve its own identity in the midst of the diversity of cultures that currently coexist within it. It is a

multilingual State endowed with three free educational systems, from among which it is possible to choose freely. The three systems play host to a wealth of nationalities and cultures, thereby promoting a rich and diverse whole. This coexistence of cultures and communities has clearly contributed to integration and to Andorran society's respect for diversity.

177. The Government is wagering that education — education for democratic citizenship in particular — can serve as the foundation of cohesion and harmony in Andorra. At the same time, it is aware of the challenges that must be faced and the progress that must be made in respect of equality, not least in combating stereotypes among young people and the general public. The aim is to address those challenges with the help of the bill on equality and non-discrimination.
