



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2714th meeting

Held at the Palais des Nations, Geneva, on Thursday, 25 April 2019, at 10 a.m.

Chair: Mr. Amir
later: Mr. Murillo Martínez
later: Mr. Amir

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The meeting was called to order at 10.10 a.m.

Organizational and other matters

1. **The Chair** said that he wished to announce that the Committee had approved the nomination by Spain of Ms. María Teresa Verdugo Moreno to replace Mr. Marugán, who had resigned prior to the opening of the current session. Ms. Verdugo Moreno would serve on the Committee for the remainder of Mr. Marugán's term.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined initial and second to sixth periodic reports of Andorra (continued)
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2. *At the invitation of the Chair, the delegation of Andorra took places at the Committee table.*

3. **Mr. Forner** (Andorra) said that Andorran civil society was mainly composed of cultural associations, not associations working in the field of human rights. Nonetheless, civil society associations had contributed to the preparation of the Equality and Non-Discrimination Act, which would be translated into French and made available to the Committee as soon as possible.

4. **Ms. Porras** (Andorra) said that the Equality Service had been established to assist persons who had faced or were facing discrimination by providing social assistance and legal advice, as well as psychological support where requested by the person concerned. The Service had so far received no cases but was ready to provide assistance as and when necessary. It also undertook preventive activities and conducted awareness-raising campaigns, which had recently focused on human trafficking and refugees. There were plans to conduct further campaigns to disseminate information on the right to equality and the work of the Equality Service.

5. The white paper on equality had been completed in June 2017. It focused on the situation of specific vulnerable groups, including immigrants, women, children and young people, older persons, persons with disabilities and lesbian, gay, bisexual, transgender and intersex persons. Its preparation had been a collaborative effort between the Government, civil society, external consultants, the Institute for Andorran Studies and members of the public. The areas of study had included equality legislation, programmes and services promoting equality, and the work of civil society associations representing vulnerable groups. One of the conclusions drawn from the preparation of the white paper was that, while Andorra had many civil society associations representing foreign nationals, they primarily focused on cultural promotion, and there was no coordinating structure in place to defend the rights of the persons they represented.

6. Members of the public had contributed to the white paper by way of a questionnaire, in which they had been asked to suggest short- and long-term priorities for tackling inequality. Just under two thirds of the 266 respondents claimed to have experienced some form of discrimination, the majority of respondents were not actively participating in any equality movement or group, and over two thirds had benefited from programmes or services promoting equality of opportunities.

7. Ten priorities had been identified on the basis of the white paper. They included setting up an observatory on equality to collect data relating to discrimination and to evaluate anti-discrimination programmes; establishing an equality and non-discrimination programme and a national platform to facilitate coordination between civil society organizations and the Government; conducting awareness-raising campaigns and organizing training to promote equality; and establishing a programme promoting the inclusion of immigrants in Andorran society. The conclusions of the white paper had informed the preparation of the Equality and Non-Discrimination Act, which would serve as the legal framework for the promotion of equal treatment and non-discrimination. The Act established a series of sanctions for non-compliance.

8. **Ms. Quillacq** (Andorra) said that Act No. 31/2018 regulated all aspects of labour relations, including contracts, the obligations of employers and employees, child labour, leave, salaries, grounds for dismissal, labour inspections and collective bargaining. Article 3 of the Act established a normative hierarchy. It provided that the rights and obligations arising from labour relations were governed first and foremost by the Constitution, then by the international treaties and agreements in force in Andorra, domestic law and regulations, and collective agreements, in that order. While Andorra was not a member of the International Labour Organization (ILO), article 4 (e) of the Act established that the provisions of ILO conventions were applicable in relation to matters of health and safety in the workplace that were not regulated by domestic legislation. The director of the Labour Inspectorate had reported that the Inspectorate had never received a complaint of racial discrimination within the context of an inspection. Concerning the harmonization of domestic legislation with the Convention, article 4 (1) of Act No. 31/2018 provided that both employers and employees must avoid discrimination on the basis of birth, race, sex, disability, religion, race or nationality.

9. With regard to the investigation of cases of human trafficking, the parliament had adopted Act No. 9/2017 on Measures to Combat Human Trafficking and Protect Victims pursuant to a recommendation from the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe. The Group had conducted its second evaluation visit to Andorra in June 2018 to monitor the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. Its report would be published on its website in due course.

10. The Government did not keep statistics on ethnicity, religion or sexual orientation, as it considered that the compilation of such data might lead to discrimination. However, it did have some figures, disaggregated by nationality, on the number of persons who were present in Andorra and who had requested legal assistance from the Ministry of Justice.

11. *Mr. Murillo Martínez, Vice-Chair, took the Chair.*

12. **Ms. Mingorance** (Andorra) said that in recent years the authorities had only detected one case of suspected trafficking in persons, which had involved the alleged exploitation of Ukrainian nationals for purposes of prostitution. Although a criminal investigation had been opened, arrests had been made and the Ministry of Social Affairs, Justice and the Interior had been informed, it appeared that trafficking had not in fact taken place, since the persons concerned were sex workers who had been fully aware of the purpose of their travel to Andorra.

13. **Ms. Porrás** (Andorra) said that the Department for Equality Policies had a section that provided support for victims of human trafficking. Act No. 9/2017, on measures to combat trafficking in persons and to protect victims, envisaged the drafting of a national protocol to detect and respond to trafficking cases, detailing the steps that should be taken by the police, customs, the labour inspectorate, social workers, the Ministry of Health and other authorities in order to provide support for victims and to meet their basic needs. Any cases that arose would be referred to the Ministry of Social Affairs, Justice and the Interior, which would address them through a multidisciplinary team that provided social, psychological and medical assistance and access to shelters, social security and economic benefits and legal advice. A free emergency helpline, operated by experts on trafficking in persons, was available 24 hours a day, 365 days a year. The Government also recognized the importance of prevention and awareness-raising and therefore had produced and disseminated electronic and printed materials to explain the scourge of trafficking and to highlight available services; it planned to undertake such activities annually.

14. **Ms. Aleix** (Andorra) said that no Roma – which the Government took to mean vulnerable groups of nomadic tradition – resided in Andorra, nor had any Roma groups been observed passing through the country in recent years, possibly because they preferred to remain in the Schengen area and avoid Andorran border controls. A small group of persons of Spanish *gitano* origin had been settled in Andorra for over 20 years and had either taken Andorran nationality or were classed as Spanish nationals. They were sedentary, fully integrated into society and, unlike their counterparts in Spain, had never identified

themselves as *gitanos* or formed a *gitano* association. For those reasons, the Government did not consider them to be particularly vulnerable.

15. The table in paragraph 6 of the report had been provided as the only available information on the religious composition of the population. As the paragraph made clear, questions on religious beliefs had been asked in the context of a family budget survey, which had been conducted with a small number of respondents. The statistics provided in the table related to the years up to and including 2015, and therefore no longer necessarily reflected the religious beliefs of the Andorran population. The Department of Statistics had not conducted any specific surveys on religion.

16. **Ms. Quillacq** (Andorra) said that the law governing civil society was set forth in the Associations Act, which gave effect to article 17 of the Constitution, on the right to associate. Andorran citizens and legal residents had the right to establish associations, while foreign non-residents could belong to them but could not serve on their governing bodies. Andorra had many cultural associations, their rights were recognized and a legal framework was in place for their activities.

17. The immigration system was based on quotas for different types of immigrants. For example, there was a quota for seasonal workers for the ski tourism sector, who were generally skilled workers and were well paid; many of them came from Argentina. Any person who secured a permanent employment contract and wished to settle in the country could initially apply for a one-year residence permit, which could then be renewed for two years and subsequently for a further seven years. Persons who had completed their compulsory schooling in the country's educational institutions were eligible to apply for naturalization after 10 years' residence. Legal residents had the same rights as Andorran citizens, with the exception of citizens of non-neighbouring countries who were offered contracts in specific sectors of the economy and were not permitted to work in other sectors during the first year of residence.

18. Andorran nationality could be acquired through birth, marriage or residence. The number of years of residence required for an ordinary application for naturalization was 20, although nationality might be acquired by a person who married an Andorran national and resided in the country for three years. In all cases, applicants for naturalization would be interviewed by the Nationality Commission, which would determine whether or not they had attained a sufficient level of integration. There were only two technical grounds for refusal of an application for naturalization: namely, not having sufficient knowledge of Catalan to be able to hold a normal conversation, and not having sufficient knowledge of the institutions, history and geography of Andorra. On the basis of those objective criteria, in 2016 the Commission had rejected 24 out of 238 applications; in 2017, 43 out of 241 applications; and in 2018, 61 out of 269 applications. The competent authority had reported that, while the number of persons seeking naturalization had risen, their level of linguistic and cultural knowledge was generally lower than in previous years.

19. Andorra recognized the right of asylum, but had not yet enshrined it in specific legislation. The Government had taken the first step towards doing so by passing a law to take in refugees from Syria. However, the fact that Andorra had no ports or airports meant that asylum seekers were more likely to arrive and submit their applications in neighbouring countries.

20. **Mr. Forner** (Andorra) said that Andorra had never conferred upon legal residents the right to vote in local elections – a right enjoyed by foreign residents of some other countries – because for many years Andorran nationals had been in the minority and thus had been somewhat protective of their rights. Nevertheless, society was changing and it was probable that progress in other citizen-led legislative initiatives, such as those on same-sex marriage and abortion, would eventually be mirrored in the sphere of political participation.

21. Deprivation of a person's right to liberty and security was possible only in accordance with the grounds and procedures established in the Constitution and by law. One such procedure was set forth in article 42 of the Constitution, concerning states of alarm and emergency. A state of alarm could be declared by the Government in the event of a natural disaster, whereas a state of emergency required the authorization of the parliament.

22. Regarding the harmonization of laws with the Convention, all laws adopted by the legislature took the concept of discrimination into account. The Government had decided not to implement a recommendation received during the universal periodic review process that it should establish a national human rights institution in accordance with the Paris Principles because it was of the view that, as a small country Andorra did not have the capacity required to create such an institution. However, it had accepted the need to strengthen the institution of the Ombudsman so that it might assume greater responsibilities and so that the public would become more aware of its existence and activities. In that regard, it was positive that the current Ombudsman was a well-known personality who had previously served as a minister and as a member of the European Commission of Human Rights.

23. *Mr. Amir resumed the Chair.*

24. **Ms. Mingorance** (Andorra) said that article 25 of Act No. 13/2019 on Equal Treatment and Non-Discrimination provided for reversal of the burden of proof in administrative and civil cases. Accordingly, accused persons would have to prove their innocence if there was any reasonable evidence that discrimination had taken place. There was no reversal of the burden of proof in criminal proceedings. However, given that such cases often occurred in private settings and that physical evidence was often lacking, judges took account of changes in personal circumstances of the alleged victim, such as behavioural changes, when deciding what constituted reasonable evidence.

25. She wished to provide updated statistics on the prison population. Fifty-five people were currently imprisoned in Andorra, including remand prisoners, convicted prisoners and women prisoners; 19 were Andorrans, 14 were Spanish, 9 were Portuguese and 13 were of other nationalities. The prison population thus broadly reflected the composition of the general population.

26. **Mr. Forner** (Andorra), responding to questions regarding his Government's international cooperation, said that in 2018 Andorra had assumed the pro tempore secretariat of the Ibero-American Summit of Heads of State and Government and now faced the formidable logistical and security challenge of organizing the twenty-seventh Summit, which would take place in November 2020. The Government had selected sustainable development as the theme of the event. Regarding cooperation policy, as the budget available for international cooperation was relatively small, the Government preferred to concentrate its efforts and resources in specific areas with a view to effecting real change. To that end, it participated in various United Nations programmes, especially in Africa.

27. **Ms. Aleix** (Andorra) said that her Government's development cooperation plan incorporated the Sustainable Development Goals. Each year a specific area of focus was selected. One programme funded recently had been an initiative of the United Nations Children's Fund (UNICEF) to promote the rights of indigenous groups in the Lékoumou region of the Congo.

28. Activity with respect to persons of African descent in Andorra was limited, although there was one Andorran association, Africand, that brought together persons of African descent in the country – the majority of whom were of Senegalese origin – and held an annual diversity week to promote knowledge of African cultures. In addition, support had been provided to one Andorran non-governmental organization (NGO) that worked in Guatemala in an area with a large population of persons of African descent. Development cooperation activities also included awareness-raising aimed at promoting multiculturalism and respect for diversity, which was a key area of work for the Ministry of Foreign Affairs. Funding was provided from a specific budget allocation to NGOs that worked to raise awareness of different cultures in order to build a society that was open to diversity.

29. **Mr. Forner** (Andorra) said that written responses would be provided to the remainder of the questions raised by Mr. Diaby. With respect to adoption, he was the adoptive father of two children from other regions. Most adoptive families in Andorra were not concerned about a child's race or colour, but rather about the experience of being a parent. Such adoptions provided families for children that would not be adopted in their countries of origin.

30. While fluency in Catalan was a requirement for a number of jobs, such as government jobs, and an advantage in other positions, there were many workers – particularly in the

seasonal ski industry – who did not speak Catalan. While the Ministry of Culture, Youth and Sport provided Catalan lessons free of charge to all who were interested, given the importance of the tourist industry and the need for migrant labour, it was recognized that not all workers would speak Catalan.

31. **Ms. Porrás** (Andorra) said that the main aim of Act No. 4/2018, on temporary protection for humanitarian reasons, had been to provide a means for refugees to enter and settle temporarily in the country and to ensure their integration by providing for their basic rights and needs. A memorandum of understanding had been signed with the Community of Sant'Egidio organization to create a humanitarian corridor that would ensure safe passage to Andorra for Syrian refugees from settlements in Lebanon. The Ministry of Foreign Affairs had produced a short video to help refugees decide whether to settle in Andorra.

32. In 2018, a refugee assistance centre had been established to provide cross-cutting services to refugees. Two Syrian families had arrived in the country in October 2018 and had been provided with accommodation and access to language programmes, education, childcare, social security and employment assistance. Refugee awareness-raising programmes were carried out in government departments and public awareness-raising events were held on World Refugee Day with a view to facilitating the integration of refugees.

33. **Ms. Pagès** (Andorra) said that the democratic citizenship programme was taught in all three education systems in order to encourage a culture of democracy, multiculturalism and respect for human rights among future adult citizens. The Government had launched a Council of Europe initiative to establish a framework of competences for democratic citizenship during the Andorran Chairmanship of the Committee of Ministers of the Council of Europe from 2012 to 2013. Twenty competences had been identified, grouped under four categories: values, knowledge and critical understanding, attitudes and skills.

34. The primary and secondary school curriculums included mandatory training on democratic citizenship. The training focused on two key cross-cutting skills – cooperation with others and active participation in society – and was taught across the curriculum in a variety of ways, including through group activities, participation in student governance activities and community service projects. To develop democratic citizenship competences, schools had set up mediation services to resolve conflicts between students, with students acting as mediators. Schools also organized celebrations of multiculturalism. For the past six years, democratic citizenship skills had been included in teacher training at the bachelor's level, and a module on democratic citizenship would be introduced in September 2019 for students enrolled in teacher training programmes at the master's level and for existing teaching staff.

35. **Mr. Calí Tzay** said that he would appreciate further clarification of the provision in the Constitution regarding deprivation of the right to security. The delegation had alluded to emergency situations and natural disasters, but surely it was especially important to guarantee the right to security in such situations. Clarification of the procedure whereby a foreign citizen could obtain Andorran nationality would also be appreciated.

36. **Ms. Izsák-Ndiaye** said that the State party might wish to reconsider its approach to the International Decade for People of African Descent for the remaining half of the decade. The aims of the decade went beyond the protection and promotion of the rights of persons of African descent to encompass educating the public on the heritage, diversity and contribution of African societies. Cooperation with the Africand association and the organization of multicultural events in schools would allow students and members of the community to learn about African culture. Similarly, although there was no Roma population in Andorra, efforts should be made to combat misconceptions about Roma by raising awareness of their history and culture, their contribution to the development of European culture and the Roma holocaust.

37. **Mr. Forner** (Andorra) said that the suggestions made by Ms. Izsák-Ndiaye were welcome and would be taken into consideration, although the Government was wary of working on too many issues at the same time, which might mean that some did not receive the attention they deserved. The Government had a responsibility to work with NGOs with a view to expanding their activities, which were currently limited mostly to organizing

festivals. While education – such as the democratic citizenship programme – was the basis of most activities to foster openness to diversity, it was important also to implement initiatives for population groups other than students.

38. **Ms. Quillacq** (Andorra) said that any person could apply for Andorran citizenship after 20 years of legal residence in the country. Applications could be denied solely on the grounds of inadequate mastery of basic Catalan or insufficient knowledge of Andorran institutions, geography and history. Thus, the possible grounds for denial of citizenship were technical criteria that conferred no advantage or disadvantage on any particular group.

39. The phrase in the Constitution referring to deprivation of the right to liberty and security used wording taken directly from article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The right to liberty and security applied to all persons in the territory of Andorra, including tourists and temporary residents.

40. **Ms. Mingorance** (Andorra) said that the Constitution could never be used to justify the deprivation of an individual's security. However, freedom of movement could be curtailed during a state of emergency and individuals could be deprived of their liberty for committing a criminal offence. Individuals who had been deprived of their liberty remained entitled to their right to security; indeed, the State bore an even greater responsibility to ensure the security of such individuals, since they were in its custody.

41. **Mr. Forner** (Andorra) said that the parliament had rejected a proposal to reduce to 15 years the required residency period to apply for Andorran nationality. However, Andorra would most likely have to amend its nationality laws once it had negotiated an association agreement with the European Union.

42. **Mr. Murillo Martínez** said that it would be interesting to hear more about the implementation and impact of the education for democratic citizenship initiative in other European States. The Government could perhaps consider contributing its experience with its policy on education for democratic citizenship to the deliberations on the declaration relating to the International Decade for People of African Descent. With regard to the survey conducted to measure individuals' perceptions of inequality, he noted that some 60 per cent of the respondents had stated that they had experienced some form of discrimination, which he found curious, given the very small number of reported cases of discrimination. He would like to know what steps the Government was taking in response to the survey results.

43. **Mr. Avtonomov** said that he would like to underscore the importance of participation by the whole international community in the International Decade for People of African Descent. The Committee would be grateful for any information the delegation could provide on the occurrence of multiple forms of discrimination against vulnerable groups and what measures Andorra had taken to combat such discrimination. It would also like to know the State party's position on the amendment to article 8 (6) of the Convention.

44. **The Chair** said that he would like to know whether international law took precedence over constitutional law in Andorra. If not, had the provisions of the Convention been incorporated into Andorran constitutional law? He also wondered whether a definition of racial discrimination had been incorporated into the State party's criminal law. In addition, he would like to hear the delegation's views on the rise of populism and racial hatred across Europe and the influence of that trend not only in Andorra but more generally.

45. **Mr. Forner** (Andorra) said that the provisions of any international treaty ratified by Andorra were immediately incorporated into its national legislation. The provisions of article 4 of the Convention had thus been incorporated into its Criminal Code. The State was taking a prudent and vigilant approach towards growing populism, which was concerning for all European countries, although it was not a serious problem in Andorra at present. It had put in place a mechanism to prevent hate speech, and took part in discussions on the subject within the United Nations and the Council of Europe. The Government had made a careful choice to support education for democratic citizenship, which was seen as an effective means of combating racism in the long term.

46. **Ms. Pagès** (Andorra) said that the Pestalozzi Programme run by Council of Europe aimed to promote democracy. The Programme was directed at both teachers and education policymakers. One of its objectives was to empower students to take control of their own

learning and to foster interaction between schools and the wider community. Examples of training materials, best practice and States' experiences of the Programme and related education initiatives could be found on the website of the Council of Europe. By way of example, Albanian school pupils had recently been involved in an anti-bullying campaign.

47. **Ms. Quillacq** (Andorra) said that all individuals, including foreign nationals, had access to a free legal advice service. In 2017 and 2018, legal advice had mostly been sought in relation to separation and divorce. Other enquiries had concerned family, administrative and employment matters. Relatively few enquiries had concerned immigration law and residency permit procedures: there had been four such enquiries in 2017 and six in 2018. There had been no enquiries relating specifically to discrimination.

48. **Ms. Porrás** (Andorra) said that the survey question relating to respondents' experience of discrimination had referred to a whole range of forms of discrimination, not only discrimination on the basis of race or religion, but also on the basis of sex, age or health status.

49. **Mr. Diaby** (Country Rapporteur) said that he appreciated the delegation's openness during the dialogue and would like to commend Andorra for being one of the few States parties to have made the declaration under article 14 of the Convention. The Committee would look forward to receiving further information in writing.

50. **Mr. Forner** (Andorra) said that it was unfortunate that no Andorran NGOs had attended the informal meeting with the Committee held the previous day. The Government would encourage national NGOs to take part in such meetings in the future. If organizations were unable to send representatives to attend in person, other ways of involving them might be explored, for instance by means of conference calls. His delegation was grateful for the frank and open dialogue with the Committee, which it had found very useful.

The meeting rose at 12.50 p.m.