



General Assembly

Distr.: General
30 July 2010

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Ninth session
Geneva, 1 – 12 November 2010

**Summary prepared by the Office of the High Commissioner
for Human Rights in accordance with paragraph 15 (c) of the
annex to Human rights Council resolution 5/1**

Andorra*

The present report is a summary of 4 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

* The present document was not edited before being sent to United Nations translation services.

I. Background and framework

A. Scope of international obligations

1. The European Commission against Racism and Intolerance (ECRI) recommended that Andorra ratify the International Covenant on Economic, Social and Cultural Rights, the Framework Convention for the Protection of National Minorities, the Convention relating to the Status of Refugees and the European Charter for Regional or Minority Languages.²

2. ECRI reiterated its recommendation that Andorra ratify Convention No.111 of the International Labour Organization concerning Discrimination in respect of Employment and Occupation and the UNESCO Convention against Discrimination in Education as soon as possible. It recommended that Andorra ratify the Additional Protocol to the revised European Social Charter providing for a system of collective complaints.³

B. Constitutional and legislative framework

3. ECRI informed that Andorra does not have a detailed and comprehensive body of civil and administrative law prohibiting racial discrimination in all areas. Andorran legislation does not yet provide for the burden of proof to be shared in racial discrimination cases, including those concerning employment. Therefore ECRI recommended that Andorra enacts a comprehensive body of civil and administrative laws prohibiting racial discrimination in all aspects of life, either by setting up a specialized body to combat racial discrimination or by specifically broadening the Ombudsman's powers in this area.⁴

C. Policy measures

4. ECRI recommended that Andorra establish a data collection system, which would serve to assess the situation of groups from immigrant backgrounds in areas such as employment and access to public services, and to introduce policies designed to resolve any problems they may encounter in these sectors.⁵

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

N/A

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

5. ECRI has received allegations that a number of non-Andorrans have been victims of police misconduct. Andorra informed ECRI that no judicial proceedings have been initiated against any police officer for racism or racial discrimination. Andorra also informed ECRI that police officers receive initial and ongoing training which includes human rights issues. However, they do not appear to be offered training in issues pertaining to racism and racial

discrimination, nor does their curriculum appear to cover Criminal Code provisions punishing acts of this nature.⁶

6. ECRI recommended that Andorra ensure that independent investigations are conducted into all allegations of police misconduct. It recommended that Andorra set up an independent body to investigate complaints against members of the police force and to punish acts of this kind. It also recommended that Andorra ensure that police officers receive initial and ongoing training in issues concerning racism and racial discrimination, as well as on Criminal Code provisions which prohibit racist acts.⁷

7. The European Committee of Social Rights (ECSR) asked Andorra whether a specific instrument exists in its anti-discrimination framework to protect elderly persons outside the field of employment, or whether it intends to adopt legislation in this field. ECSR asked for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons.⁸

8. ECSR asked Andorra what it does to raise awareness on the need to eradicate elder abuse and neglect, to evaluate the extent of the problem, and if any legislative or other measures have been taken or are envisaged in this area.⁹

9. ECSR asked if any measures are envisaged to promote a variety of home care services or other services for the elderly, and if NGOs are involved to any extent in the provision or modernisation of social services for the elderly. It also asked how the quality of services is monitored and if there is a procedure for complaining about the standard of services.¹⁰

10. In 2009, ECSR noted that foreign nationals legally and effectively resident in Andorra are entitled to social assistance. However, to become eligible, they are required to have resided in the country for three years. ECSR recalled that under Article 13 paragraph 4 equality of treatment of foreign nationals legally resident in the state concerned should be guaranteed in matters such as access to assistance. This provision implies that entitlement to assistance benefits, including income guarantees, is not confined in law to nationals or to certain categories of foreigners, and that additional conditions such as length of residence, or conditions which are harder for foreigners to meet, may not be imposed on them. ECSR observed that the length of prior residence requirement imposed on foreign nationals in Andorra constitutes a breach of the European Social Charter.¹¹

11. ECSR also asked whether lawfully resident foreigners can be repatriated on the sole ground that they are in need of assistance.¹²

12. ECRI recommended that Andorra further ease citizenship legislation by reducing the residence requirement for obtaining Andorran citizenship to ten years, as provided for by the European Convention on Nationality. It also recommended that Andorran legislation provide for the possibility of dual citizenship. ECRI recommended that Andorra conduct information campaigns and initiate public debates on the possibility of acquiring Andorran citizenship.¹³

2. Right to life, liberty and security of the person

13. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted that corporal punishment is lawful in the home. The *Llei qualificada* on adoption and other forms of protection of abandoned minors states that the purpose of parental authority is to protect the child's safety, health and morals, and that parents have a right and duty to care for, watch over, maintain and educate the child (articles 27-28). The Criminal Code (2005, amended 2008) punishes domestic violence and physical ill-treatment, including physical assault which does not cause injury (articles 114 and 476), but there was no

evidence that these provisions are interpreted as prohibiting all corporal punishment in childrearing. The qualified law on education (1993), the law regulating the Andorran educational system (1994), the regulations for private teaching centres (1994), the regulations for safety in schools (2000) and the law guaranteeing the rights of the disabled (2002) provide for the respect of freedom and basic rights, including the dignity of the person. In the penal system, corporal punishment is unlawful as a sentence for crimes but it is not explicitly prohibited as a disciplinary measure in penal institutions or in alternative care settings.¹⁴

14. GIEACPC stressed that in its concluding observations on the state party's initial report in 2002, the Committee on the Rights of the Child expressed concern that corporal punishment is not prohibited in the family and recommended explicit prohibition together with information campaigns to promote non-violent discipline at all relevant levels of society.¹⁵

15. GIEACPC highlighted the importance of prohibiting all corporal punishment of children, including "light" punishment, and strongly recommended that the Government enact and implement legislation to ensure complete prohibition.¹⁶

3. Administration of justice, including impunity, and the rule of law

16. The Department for the Execution of Judgments of the European Court of Human Rights reported on a case where it was impossible for the applicants to enforce a judgment handed down in their favor by the High Court of Justice. The European Court noted that the local authority had taken no measures with a view to enforcing the judgment, and found that the expropriation decision taken after the judgment could not be considered a sufficiently exceptional circumstance to justify the failure to enforce a final judgment. The European Court awarded each of the applicants' satisfaction in respect of all heads of grievance. Information is awaited on measures taken or envisaged to prevent new, similar violations and on the dissemination of the European Court's judgment to the judicial bodies concerned¹⁷.

4. Right to work and to just and favourable conditions of work

17. ECSR noted that applicable health and safety regulations are said to apply to all sectors of activity and all workers indiscriminately. In this context, ECSR asked whether the applicable legislation equally covers the self-employed, home workers and domestic workers¹⁸.

18. ECSR indicated that, in order to improve the efficiency of the Labour inspectorate, inspection visits target those sectors with the highest rate of serious accidents (i.e. almost all inspection visits target the construction sector), as well as businesses with the highest reported number of accidents. ECSR also queried what is undertaken outside of the construction sector.¹⁹

5. Right to social security and to an adequate standard of living

19. ECSR asked whether access to health care is guaranteed equally to Andorran citizens and to foreign nationals residing and working lawfully in Andorra. It also asked for details of the regulations governing hospital services.²⁰

20. ECSR requested that Andorra provide the following information: the level of basic assistance paid to a single person without resources, types and amounts of supplementary benefits, if any, such as for housing and heating; and the poverty threshold, i.e. the monetary cost of the household basket containing the minimum quantity of food and non-food items which is necessary for an individual to maintain a decent living standard and be

in good health. ECSR also asked under what sort of circumstances someone would qualify for social assistance.²¹

6. Right to education

21. ECRI encouraged Andorra to continue to provide mother-tongue and Catalan lessons in the country's three school systems and recommended that Portuguese lessons be offered during school hours. ECRI also encouraged the authorities to continue to provide schooling to seasonal workers' children and recommended that they pay special attention to these children.²²

22. ECRI recommended that Andorra ensure that the curricula in the three public school systems contain modules on teaching human rights in general, and issues concerning the fight against racism and racial discrimination in particular. On this matter, it recommended that they draw inspiration from ECRI's General Policy Recommendation No.10 on combating racism and racial discrimination in and through school education. ECRI recommended that Andorra ensure that teaching staff in all school systems receive initial and ongoing training in issues of racism and racial discrimination.²³

7. Migrants, refugees and asylum-seekers

23. ECRI recommended that seasonal workers, some of whom sometimes work in Andorra for several years, be entitled to family reunification. ECRI also called on Andorra to ensure that the immigration law, which entered into force on 2 July 2008, does not contain any provisions that might make it more difficult for non-citizens to integrate into Andorran society.²⁴ ECRI recommended that the authorities involve NGOs, representatives of groups of immigrant origin and other stakeholders while legislating on these matters.²⁵

III. Achievements, best practices, challenges and constraints

N/A

IV. Specific recommendations for follow-up

N/A

V. Capacity-building and technical assistance

N/A

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

ECRI - European Commission against Racism and Intolerance

GIEACPC-The Global Initiative to End All Corporal Punishment of Children

ECSR-European Committee of Social Rights

The Department for the Execution of Judgments of the European Court of Human Rights

² Third report of the European Commission against Racism and Intolerance (ECRI) page 6

³ Third report of the European Commission against Racism and Intolerance (ECRI) page 8

⁴ Third report of the European Commission against Racism and Intolerance (ECRI) page 6

- ⁵ Third report of the European Commission against Racism and Intolerance (ECRI) page 6
 - ⁶ Third report of the European Commission against Racism and Intolerance (ECRI) page 21
 - ⁷ Third report of the European Commission against Racism and Intolerance (ECRI) page 25
 - ⁸ European Committee of Social Rights Conclusions 2009, page 32
 - ⁹ European Committee of Social Rights Conclusions 2009, page 33
 - ¹⁰ European Committee of Social Rights Conclusions 2009, page 33
 - ¹¹ European Committee of Social Rights Conclusions 2009, page 26
 - ¹² European Committee of Social Rights Conclusions 2009, page 26
 - ¹³ Third report of the European Commission against Racism and Intolerance (ECRI) page 25
 - ¹⁴ The Global Initiative to End All Corporal Punishment of Children, page2
 - ¹⁵ The Global Initiative to End All Corporal Punishment of Children, page2
 - ¹⁶ The Global Initiative to End All Corporal Punishment of Children, page1
 - ¹⁷ Department for the Execution of Judgments of the European Court of Human Rights, page 3
 - ¹⁸ European Committee of Social Rights Conclusions 2009, page 7
 - ¹⁹ European Committee of Social Rights Conclusions 2009, page 8
 - ²⁰ European Committee of Social Rights Conclusions 2009, page 12
 - ²¹ European Committee of Social Rights Conclusions 2009, page 25
 - ²² Third report of the European Commission against Racism and Intolerance (ECRI), page 16
 - ²³ Third report of the European Commission against Racism and Intolerance (ECRI), page 15
 - ²⁴ Third report of the European Commission against Racism and Intolerance (ECRI), page 6
 - ²⁵ Third report of the European Commission against Racism and Intolerance (ECRI), page 25
-