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Andorra

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

I. Introduction

1. The Government of Andorra set up an inter-ministerial working group, coordinated by the Ministry of Foreign Affairs and Institutional Relations, to prepare the national report under the universal periodic review process. In order to carry out a thorough review of human rights, Andorra used the Universal Declaration of Human Rights as a framework, adding information on the implementation of “third-generation” rights such as the right to a healthy environment.

2. The text was sent to the *Comuns* (parish councils) and the *Consell General* (Parliament), which provided additional material that has been included in the final version of the report.

3. The Government held a meeting on 24 November 2009 for non-governmental organizations, associations and trade unions to inform them about the universal periodic review process. The meeting was attended by 16 organizations. The Government published an announcement in the Official Gazette of the Principality of Andorra to inform civil society of the existence and methods of operation of the human rights review mechanism.

II. General information

4. Andorra is a State covering an area of 468 km² in the Pyrenees, between Spain and France. Its first constitutional texts, the *Pariatges*, date from 1278 and 1288. They were signed by the Bishop of Urgell and the Count of Foix, thus creating the Principality of Andorra. The current institutional system is still based on this regime.

5. In 2009, the population was 84,082 (40,296 women and 43,786 men). The population increased 12-fold during the second half of the twentieth century, mostly as a result of immigration, which has helped shape the characteristics of the population, being a key factor in demographic growth and a boost to economic development. In all, over 100 nationalities live together in Andorra. The largest communities are Andorran, Spanish, Portuguese and French.

Table 1
Population (2009), disaggregated by sex

<i>Population</i>	<i>2009</i>		<i>Men</i>	<i>Women</i>
Andorrans	32 085	(38.16%)	16 486	15 599
Spanish	26 662	(31.71%)	13 569	13 093
French	5 099	(6.06%)	2 811	2 288
Portuguese	13 362	(15.89%)	7 458	5 904
Other	6 874	(8.18%)	3 462	3 417
Total	84 082	(100%)	43 786	40 296

Source: Department of Statistics.

6. The small size of the population and the general climate of safety in the country mean that politicians can be very near to the people. One consequence of this was the high participation rate in the latest parliamentary and local elections, which was over 75 per cent. One of the fundamental features of the country is that it has no army. Andorra has been at peace for over 700 years and has remained distanced from international conflicts.

Throughout its history, Andorra has succeeded in resolving internal conflicts peacefully, without resorting to violence.

A. Institutional structure

1. The Co-Princes

7. Andorra's political system is that of a parliamentary co-principality, and the official language is Catalan. The Co-Princes are the joint and indivisible heads of State. The current Co-Princes are the Bishop of Urgell, Monsignor Joan Enric Vives Sicilia, and the President of France, Mr. Nicolas Sarkozy.

2. The *Consell General* (Parliament)

8. The *Consell de la Terra*, the forerunner of the *Consell General*,¹ was founded in 1419. The *Consell General* is the main body representing the people, consisting of a single chamber. Its 28 members are elected for a term of four years by Andorran citizens through direct universal suffrage. The *Consell General* approves the State budget and monitors the political actions of the Government.

3. The Government

9. Executive power is vested in the Government, which has a four-year mandate. The Government consists of the Head of Government (elected by Parliament and appointed by the Co-Princes) and ministers (appointed by the Head of Government).

4. The justice system

10. Justice is dispensed in the name of the Andorran people by *batlles*² and independent judges. It is organized pursuant to the *lleï qualificada* on justice of 3 September 1993 (a *lleï qualificada* is a law enacted by qualified majority). The Superior Council of Justice is the self-governing institutional body which represents the judicial power. It consists of five members nominated by the Co-Princes, the Head of Government, the *Sindic General*,³ 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.

5. The *Comuns*⁴

11. The territory is divided into seven parishes.⁵ The *Comuns* are the representative and administrative bodies of the parishes. They are public corporations with legal status and with local regulatory powers. Their governing bodies are democratically elected from

¹ A single-chamber mixed parliament (proportional representation nationally plus representation of local authorities).

² Trial judges.

³ Leader of Parliament.

⁴ Self-governing bodies that represent and administer the parishes.

⁵ Territorial administrative division of Andorra.

members of the public for a period of four years. The *Comuns* decide on public policy in their area of competence and implement it on their own territory.

B. Legal framework for human rights

12. The Constitution was approved by referendum on 14 March 1993. The Constitution proclaims equality and the defence of human rights (art. 1.2) to be among the guiding principles of the State and recalls that all persons are equal before the law, thus prohibiting any form of discrimination (art. 6). It emphasizes, in article 5, that the Universal Declaration of Human Rights is self-executing in Andorra. Under title II, it guarantees the rights and freedoms of the person. Chapter III (arts. 8–23) is devoted to fundamental rights, chapter IV (arts. 24–26) deals with political rights, and chapter V (arts. 27–36) focuses on economic, social and cultural rights and principles. Article 3.4 states that international treaties are incorporated into domestic legislation as soon as they are published in the Official Gazette. They may not be amended or overridden by domestic laws. Thus, international conventions take precedence over domestic legislation and may be directly invoked before the Andorran courts.

13. A large body of laws exists to develop and promote human rights. The Legislative Decree of 17 December 2008 amending the Criminal Code and the Legislative Decree of 17 December 2008 amending the Code of Criminal Procedure incorporated into the criminal law the concepts required for the ratification and entry into force of international treaties in order to adapt Andorran legislation to comply with them.

14. Since the adoption of the Constitution, Andorra has ratified over 200 conventions and become a member of 23 international organizations. This was a considerable task for a foreign ministry set up only in 1993. Andorra has signed and ratified 40 international conventions for the defence and protection of human rights. Andorra acceded to some of these conventions as part of a general international trend, including the fight against terrorism, the adoption of bilateral agreements on exchange of fiscal information and accession to conventions which are almost universal in their application, in an effort to reconcile its own laws with international standards.

15. Andorra has submitted national follow-up reports in respect of human rights conventions, including its second periodic report on the implementation of the Convention on the Rights of the Child (2009), its initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2006), its second periodic report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (2010), and annual follow-up reports on the European Social Charter (revised) (since 2007).

16. Andorra regularly collaborates with representatives of international organizations visiting the country to evaluate the implementation of conventions on the national territory. It was visited by experts from the Group of States against Corruption (GRECO) in 2006 and the European Commission against Racism and Intolerance (ECRI) in 2007. GRECO experts will visit Andorra in September 2010, and representatives of ECRI and the European Committee on the Prevention of Torture will visit in 2011.

17. Five cases have been brought against Andorra at the European Court of Human Rights, of which one was resolved amicably. The Court found against Andorra in two cases, and the remaining two are still at the investigation stage.

C. Human rights institutions

18. The Andorran courts are the main guardians of human rights. In addition to the courts, the independent institution of the Ombudsman (*Raonador del Ciutadà*) was created in 1998 to ensure that the actions of the Administration were consistent with the fundamental principles of defence and protection of the rights and freedoms laid down in the Constitution. The Act on the Establishment and Work of the Ombudsman of 4 June 1998 states that complaints or claims may be lodged by any physical or legal person who can cite a legitimate interest, regardless of their nationality, age, status or residence. The Ombudsman presents an annual activity report to Parliament.

19. In December 2003, Parliament adopted by qualified majority Act No. 15/2003 on personal data protection. Pursuant to this law, the Andorran Data Protection Agency was established as an independent institution to consider infringements of the right to privacy, whether identified by itself or brought to its attention, and to undertake verification and investigation measures involving all potential actors, both public and private. It can impose penalties and issue opinions and recommendations for the improvement of national legislation.

III. Promotion and protection of human rights

A. Right to equality and non-discrimination and holders of specific rights (arts. 1, 2 and 7)

20. All forms of discrimination based on origin, nationality or ethnicity, sex, religion, philosophical or political opinion, trade union membership, physical or mental incapacity, lifestyle, and habits or sexual orientation are considered an offence under the Criminal Code. Article 338 defines as an offence the refusal of an official or authority to provide a specific service. Article 339 deals with a certain kind of discrimination, more specifically offending a religious, ethnic or political group or trade union. Article 5.1.a of the qualified-majority Police Act (No. 8/2004) of 27 May 2004 refers to the prohibition of all forms of discrimination on the grounds of race, religion, political opinion, sex, language, place of residence, place of birth or any other personal or social status or circumstance. The Civil Service Act of 15 December 2000 states in article 71 that any discriminatory conduct on the grounds of politics, religion, race, sex or any other personal or social status or circumstance is considered a very serious misdemeanour. Finally, other laws refer to the principle of non-discrimination, including the Prison Service Act (No. 3/2007) of 22 March 2007, the Higher Education Act (No. 12/2008) of 12 June 2008, Act No. 35/2008 of 18 December 2008 on the Labour Relations Code, and the Forestry Officials Act (No. 32/2008) of 18 December 2008.

1. Children

21. Following Andorra's accession to the Convention on the Rights of the Child in 1996, various laws and regulations have been adopted which take account of the best interests of the child, including the qualified-majority Act on Adoption and Other Forms of Protection for Abandoned Children of 21 March 1996 and the regulations thereto. There are various child welfare programmes designed to guarantee all aspects of care for vulnerable children. These are described below.

22. The Child Protection Team takes preventive action and identifies at-risk children. In 2009, it intervened on behalf of 257 minors and produced 187 case files. The Government has recorded a 13.37 per cent increase in cases compared with 2008.

23. Foster families include families which take in a child from their own family and those which take in children from other families.

24. Children's refuge: this protection centre, with 20 beds, is intended for children who have to be separated from their families.

2. National and international adoption service

25. The qualified-majority Juvenile Justice Act of 22 April 1999, the Criminal Code and the qualified-majority Justice Act guarantee the minor's enjoyment of all the rights recognized in the Constitution and the Andorran legal system. Article 16 of the qualified-majority Juvenile Justice Act guarantees the services of a lawyer acting on behalf of the minor in any criminal case as soon as the police take the first statement from the accused. If the trial judge considers it useful, he or she may solicit the opinion of a minor aged 10 years or over in a civil case. The opinion of a minor aged 12 or above may influence the outcome of the adoption process.

3. Women

26. The Convention on the Elimination of All Forms of Discrimination against Women entered into force on 14 February 1997. In December 2006, the Government set up the Interdisciplinary Team on Gender Violence (EAID), which offers psychological, social, educational and legal assistance to women and children who have suffered from domestic violence. The team consists of social workers, educators, psychologists and lawyers and is the sole representative of women when dealing with all the institutions involved. It provides women with information, guidance, assistance, legal advice and psychological care, and enables them to access refuges, reintegration and vocational training services and welfare benefits. Since 25 November 2009, it has no longer been necessary to have been resident for six months in Andorra in order to receive welfare benefits. The team has set up a three-digit free hotline number and administers two types of emergency shelter arrangements, with carer families or in refuges.

Table 2

Interventions by the Interdisciplinary Team on Gender Violence

2008	2009
118	182

27. The Labour Relations Code expands on the constitutional principles of equality and non-discrimination and lays down specific measures to guarantee the principle of equality and avoid direct or indirect discrimination. Article 87 of the Code provides for the introduction of an "equality mark" for companies with a policy to promote effective equality at work between men and women. Specific legislative measures are planned to encourage social change relating to an equitable distribution of tasks within the family:

- Spouses are granted 70 days of maternity/paternity leave, dating from the sixth week after delivery, and adoption leave for the whole or part of that period
- The father is granted 15 days' leave on the birth or adoption of a child
- Spouses may request leave without pay for the birth or adoption of a child or when they take a child in to live with them
- Either spouse may claim "paid authorized time-off for feeding an infant" of two hours per day

4. Elderly people

28. Policies for elderly people are consistent with the principles laid down in United Nations General Assembly resolution 46/91 of 16 December 1991 on implementation of the International Plan of Action on Ageing and related activities. Active ageing and social participation programmes are currently being implemented. These are run according to the principle of equal rights and duties for elderly people and avoid age-based discrimination. The National Social Care Plan, adopted on 16 June 2008, was drawn up with the collaboration of civic bodies representing various communities (women, children, persons with disabilities and elderly people). The main elements of the plan are prevention, local provision of services, remaining active, and social and health aspects. It is based on the principles of solidarity, co-responsibility, participation, subsidiarity, optimization of resources, broader-based funding, the right to welfare benefits and a gender perspective.

5. Persons with disabilities

29. In 2002, Andorra adopted the Act Guaranteeing the Rights of Persons with Disabilities, a law consistent with the Convention on the Rights of Persons with Disabilities, which it signed on 27 April 2007. On 6 April 1995, the Accessibility Act was adopted, based on the principle that accessibility and the guarantee of access to the environment and public spaces were rights which should not be the subject of discrimination and that individuals should be afforded real and effective equality and freedom. This law was further developed by the Accessibility Regulations of 31 May 1995, which established the Commission for the Promotion of Accessibility. The Act Guaranteeing the Rights of Persons with Disabilities provided for the creation of a number of mechanisms which guarantee equality in the exercise of rights and responsibilities by disabled people. It provided for the establishment of the National Council of Persons with Disabilities, a consultative and participatory body responsible for follow-up, coordination and collaboration in government decision-making on disability-related issues. The Council is made up of representatives of disabled people's associations, the Government, local authorities and the Andorran Social Security Fund. Pursuant to article 28, the National Evaluation Commission was set up and began operations on 10 June 2004; it has both technical and public functions as well as competence in the diagnosis and evaluation of dysfunction and disability. Its aim is to provide guidance for and determine access to programmes, services, benefits and other action in favour of persons with disabilities.

6. Young people

30. Act No. 11/2007 establishing the National Youth Forum of Andorra was adopted on 17 May 2007. The forum is an independent body which seeks to harness the free participation of young people in the political, social, economic and cultural life of the country. On 17 September 2008, Andorra adopted the Decree establishing a Youth Round Table, an inter-institutional body consisting of four working groups:

- (a) A permanent round table, consisting of political representatives from the central and local administrations, responsible for youth services;
- (b) A mixed round table, consisting of political representatives from public administrations responsible for youth services, as well as representatives of the National Youth Forum of Andorra;
- (c) A technical group, consisting of experts from public administrations and members of the Youth Forum;
- (d) Committees established for a limited period to deal with specific issues.

31. The Inter-ministerial Youth Commission, established on 20 October 2009, promotes lateral cooperation and coordination within the Government. It includes representatives of the departments of youth, education, higher education and research, culture, housing, health, employment, internal affairs, social welfare, foreign affairs and statistics. Other institutions work to promote equality and non-discrimination among young people. The parish councils also devise their own policies and activities for young people. The UNICEF National Committee for Andorra organizes training on children's rights in Andorran associations and schools.

7. Persons deprived of their liberty

32. In order to safeguard the rights of persons held in police custody, the police have installed security cameras in the interrogation rooms of the central police station. The recordings are used only in the case of complaints by the detained person against the official who conducted the interrogation.

33. Following the visit of the Council of Europe's Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 3 February 2004, and the Committee's recommendations, the Government closed the prison. A new prison, fully compliant with international standards and designed to remedy the deficiencies identified, opened in 2005.

34. On 27 March 2007, the Andorran Parliament adopted by qualified majority the Prisons Act (No. 4/2007), which guarantees the rights of persons deprived of their liberty. Prisoners may not be subjected to discrimination on the grounds of race, political opinions, religious beliefs, social status, nationality or any other personal circumstance. The law lays down these non-discrimination obligations and provides for administrative and criminal penalties in case of discrimination. Moreover, prisoners may not be subjected to torture, ill-treatment, harassment, forced labour or degrading treatment. They have the right to access to health care, education, welfare services, cultural and recreational activities and work within the prison system throughout their period of detention, depending on the possibilities available at the prison centre. The prison administration encourages access to paid employment in conditions which safeguard the prisoners' dignity and social protection. The prison regime separates prisoners according to sex, age and other personal circumstances. Convicted prisoners are held separately depending on their sentence, and are also separated from accused persons. Prisoners with physical or mental diseases or those convicted of crimes of negligence are accorded special treatment. The Department [of Penitentiary Institutions] offers access to detoxification programmes.

8. Migrants

35. Qualified-majority Act No. 27/2007 of 22 November 2007, amending the qualified-majority Immigration Act, guarantees foreigners' basic freedoms and integration, and precludes any possibility of arbitrary decisions being adopted. Accordingly, the conditions and criteria for the granting, renewal and withdrawal of permits for migrants are decided specifically in each situation.

36. This law guarantees the rights and freedoms of foreigners residing in Andorra, pursuant to article 39.2 of the Constitution, which states: "Aliens legally resident in Andorra can freely exercise the rights and freedoms recognized in chapter III of this title."

B. Right to life and prohibition of torture (arts. 3 and 5)

37. The Constitution proclaims the right to life (art. 8.1) and prohibits the death penalty (art. 8.2). The Criminal Code devotes a number of articles to crimes against independent

human life and human life before birth (arts. 102–109). It recognizes the offence of torture or degrading treatment by an authority or official (arts. 110–112) who, in an abuse of their functions and in an effort to extract a confession or information, intimidates an individual or submits the individual to conditions or procedures which could cause serious physical or mental suffering. The Code also imposes penalties on an authority or official who fails to use all available means to prevent torture being conducted by a subordinate, or who does not prevent or report acts of torture of which they are directly aware.

38. The qualified-majority Police Act also refers to defence of the right to life. This law includes very detailed provisions about situations in which weapons may be used. It reminds police officers that they must safeguard, inter alia, the lives of persons in police custody. Another very serious offence is the infliction of torture or ill-treatment, encouraging others to commit such acts or collaborating in or tolerating them, as well as any abusive, arbitrary or discriminatory act which involves physical or mental abuse (art. 97.d). Subparagraph (n) states that violation of the rights of prisoners or persons in police custody, or supplying them with drugs, is a very serious offence. In order to prevent any act of torture by a police officer, the Code of Criminal Procedure lays down the right of any person in custody to be examined by a police surgeon.

39. Human rights training is provided when police cadets join the service. During their basic training, cadets are taught that deliberate ill-treatment during interrogation, degrading treatment or any form of humiliation are offences and a violation of human rights.

C. Right to due process and a fair trial (arts. 6, 7, 8, 9, 10 and 11)

40. The rights and freedoms recognized in the Constitution are self-executing and immediately binding on the authorities. Their content may not be limited by the law. The courts protect them “through a priority urgent procedure established by law which, in all cases, shall include two courts”, through an action to establish State liability or the “abnormal functioning of the administration of justice”, and, in exceptional cases, through the Constitutional Court by means of an *empara* procedure.⁶ In order to apply for the remedy of *empara* before the Constitutional Court, the applicant must first have exhausted the entire safeguard procedure before the regular courts. This remedy is a priority urgent remedy and always requires two courts. Since May 1999, a defendant has been able to claim the protection of the Constitutional Court directly, without going through the prosecutor’s office. The Constitutional Court decides on the viability of the appeal by declaring it admissible or not. In the case of a non-admissibility decision, a further remedy, *súplica*, is available.⁷

41. Article 10.2 of the Constitution guarantees that “all persons shall have the right to counsel and the assistance of a lawyer, to trial within a reasonable time, to the presumption of innocence ...”

42. The laws which apply this article have established two different procedures. One is a general procedure relating to a violation of rights and freedoms, called the “priority urgent procedure”, and the other is a specific procedure relating to a violation of the right to a trial laid down in article 10 of the Constitution, the so-called “motion of nullity”.

43. Article 10 of the qualified-majority Justice Act of 3 September 1993 provides for actions for damages against the State for “damage caused by judicial error or a miscarriage

⁶ Exceptional procedure of recourse to the Constitutional Court.

⁷ Urgent recourse procedure, without the possibility of appeal, in respect of notifications and decrees of the Andorran courts.

of justice ... without prejudice to the personal liability of those who caused [the damage]”. The action for damages must be referred to the full High Court. A 2008 judgement of the full High Court recognizes the principle of material responsibility of the State and states that “appellants have the right to compensation for the damage they have suffered”.

44. Pursuant to the recommendations of ECRI and GRECO on training for justice officials, the High Council of Justice has signed collaboration agreements with the French National College of Magistrates and the Spanish General Council of the Judiciary. Trial judges, other judges, prosecutors and judicial secretaries have received in-service training in fundamental rights, with a focus on children’s rights. The University of Andorra holds a training course every two years on children’s rights (in collaboration with the UNICEF National Committee for Andorra) and on fundamental rights. Court officials undertake this training.

45. The police enforce article 9.3 of the Constitution, and in particular the urgent procedure of habeas corpus. A system of legal assistance for persons held in police custody for more than 24 hours had not previously been provided, but was introduced on the entry into force of the Code of Criminal Procedure (arts. 24.d and 25.1). The prosecutor’s office, judges, magistrates and representatives of the interior ministry regularly visit the facilities run by the Prisons Department. The Code of Civil Procedure requires the President of the trial judges to visit judicial institutions once a month and the prosecutor’s office once every three months in order to inspect and monitor places of detention.

46. The principle of the best interests of the child is regularly invoked before judicial bodies. This principle is embodied in the qualified-majority Marriage Act of 30 June 1995 (in its application to visitation rights and alimony in the case of marriage breakdown) and in the qualified-majority Act on Adoption and Other Forms of Protection for Abandoned Children, which employs this principle in both domestic and international adoptions. In the case of abandoned children, it is always the principle of the child’s best interests which will determine the type of protection used. In the case of judicial procedures where a minor is the victim of a violation of rights, the prosecutor’s office is obliged to intervene and becomes the defender of the minor’s rights and interests.

D. Right to privacy (art. 12)

47. The Criminal Code defines as offences a range of actions directly associated with the privacy of the individual: the discovery and revelation of secrets (art. 182.s), the revelation of professional secrets or violation of professional secrecy (arts. 190 and 191), violation of the home or correspondence, whether postal or electronic (art. 349), and illegal wiretapping by an official (art. 350).

48. Article 71 of the Civil Service Act states that a lack of discretion and reserve in respect of subjects familiar to officials by virtue of their place of work is considered as very serious misconduct when it is the cause of serious damage to the Administration or to citizens.

49. The Code of Civil Procedure requires authorization from the courts before a person’s residence can be searched (art. 26.1). Such an authorization is also required before an audio-visual recording is made. The judicial authorization, with appropriate justification and obtained in advance if consent has been denied or not expressly granted, is required where the evidence might affect the integrity or privacy of the person under investigation (art. 26.2) and at the stage of preliminary enquiries (art. 40). Where an offence has been committed, permission to obtain evidence which might affect the integrity or privacy of the persons under investigation, without their consent or against their will, must be granted by a reasoned and specific court decision. Under no circumstances will permission be granted to

carry out tests which involve a risk to health or cruel, inhuman or degrading treatment (art. 87.5).

50. The promulgation of qualified-majority Act No. 15/2003 on personal data protection guarantees, in particular, the right to privacy in respect of the handling of personal data, within a framework of transparency, fairness and respect for human dignity. The Andorran system prohibits the creation of files intended exclusively to “collect and process personal data which indicate, directly or indirectly, the racial or ethnic origin, political, philosophical or religious opinions or trade union membership of the persons concerned, or data relating to their health or sex life”. This law is applicable to personal data which can be processed and to any subsequent use of these data under the control of an independent body, the Andorran Data Protection Agency. Public awareness and information campaigns are conducted every year. In 2007, the Agency concluded a cooperation agreement with the Ministry of Education to carry out awareness and information activities with schoolchildren and teachers on the issues and risks involved in the use of new technologies. In 2008, the Andorran Data Protection Agency participated actively in the partnership for children’s rights between the International Organization of la Francophonie and French-speaking institutional networks marking the twentieth anniversary of the adoption of the Convention on the Rights of the Child, concentrating on aspects related to privacy and the protection of children’s data and distributing 10 videos. It also created a new link on its website with a great deal of information on the protection of minors on the Internet. On 18 March 2008, the Andorran Data Protection Agency signed a partnership agreement with the Ombudsman to promote human rights and fundamental freedoms, particularly the right to privacy in relation to the handling of personal data.

51. On 6 May 2008, Andorra ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the Additional Protocol to the Convention, No. 108, regarding supervisory authorities and transborder data flows.

52. The State has a legitimate duty to intervene in all situations where health, security, morality and the upbringing of a child are or may be at stake. In such interventions, social workers fully respect the individual’s fundamental rights and are bound to maintain professional confidentiality.

Table 3

Interventions by the Andorran Data Protection Agency, 2005–2009

Request for or refusal of access rights	24%
Health data	25%
Social networks and Internet	24%
Infringement of children’s privacy	7%
Other	20%

E. Freedom of thought, conscience and religion, expression, assembly and association (arts. 18, 19 and 20)

53. Article 11 of the Constitution guarantees freedom of opinion, religion and worship. No one can be forced to reveal or manifest their opinions, religion or beliefs. There are 10 religious communities in Andorra, which are well integrated into society. They are the Roman Catholic Church, the Seventh-Day Adventist Church, the Jewish community, the Muslim community, the Baha’i community, the Unification Church, the New Apostolic Church, the Christian community, the Hindu community and the Anglican Church. These 10 communities make up the Interfaith Dialogue Group. The Andorran National

Commission for UNESCO collaborates with the group, which deals with issues of religious traditions, beliefs and convictions. In 2005, the group joined the network of the Catalan Parliament of Religions. On 26 January 2008, the National Commission for UNESCO held a concert for peace, in which each religious community was represented by different artists. This event was an excellent opportunity to show the different faiths existing in Andorra to an audience of over 300 people, while showing that it is possible to live together even if people have different beliefs.

54. Article 12 of the Constitution recognizes the freedoms of expression, communication and information. The law regulates the right of reply, the right of correction and professional secrecy. Prior censorship and all ideological control by the public authorities are prohibited. Article 2 of the Act on Public Broadcasting and Television and the Incorporation of the Public Company Ràdio i Televisió d'Andorra SA of 13 April 2000 states that public radio and television channels must observe cultural pluralism, equality, non-discrimination and other principles in their schedules and programmes. In 2003, the Andorran Radio and Television Company (RTVSA) adopted a document entitled "RTVSA style guide for news editing". This code of journalistic ethics, revised in 2005 to reflect the new Criminal Code, prohibits racism and Holocaust denial, inter alia. In July 2010, the first Association of Communications Professionals of Andorra (APCA) was established to promote the right to freedom of information and expression guaranteed by the Constitution and to oversee professional ethics. In addition, all media are regulated by a style guide and a code of professional ethics which defends the freedom and independence of news outlets. Most Andorran journalists are trained in Spain or France, but on their arrival in Andorra they receive training in the Constitution, the 2000 broadcasting law and the principles enshrined in the RTVSA style guide for news editing. There is no independent mechanism, besides the courts, to consider complaints about the media.

55. Articles 16, 17 and 18 of the Constitution recognize the right of assembly, peaceful demonstration and association, and the right to establish and run employers', professional and trade-union organizations. Article 4 of the qualified-majority Associations Act of 29 December 2000 states that all persons of Andorran nationality, persons of other nationalities residing legally in Andorra and legal persons established in accordance with Andorran legislation may set up an association. The same article states that the founder of the association must be an adult, except in the case of a youth association established under article 33 of the law. Finally, Act No. 33/2008 on trade union freedom elaborates on article 18 of the Constitution, which recognizes the right to establish democratic trade unions.

F. Right to participate in public life and right to vote (art. 21)

1. Law on nationality

56. Article 7 of the Constitution states that the status of an Andorran national is acquired, retained and lost in accordance with the principles established by the law. The acquisition and retention of a nationality other than Andorran implies the loss of Andorran nationality, pursuant to the qualified-majority Nationality Act, as amended by the Legislative Decree of 21 February 2007. The ways of acquiring Andorran nationality are by birth, by adoption, by naturalization or by marriage. In order to obtain nationality by naturalization, applicants must prove that they had their main permanent residence in Andorra for the 20 years preceding the application, or have had their main permanent residence in Andorra for the 10 years preceding the application and have completed the full period of compulsory education in Andorra. If nationality is obtained by marriage, applicants must have had their main permanent residence in Andorra for at least three years before or since the marriage. Finally, article 25 states that any person who has obtained or regained Andorran nationality while also having another nationality, or has obtained

another nationality without losing Andorran nationality, must be able to prove within five years that they no longer have the other nationality or nationalities.

2. Electoral law

57. Article 24 of the Constitution states that all adult Andorrans who are in full possession of their rights shall have the right to vote. The qualified-majority Act on Elections and Referendums of 3 September 1993 and the latest amendments thereto regulate questions relating to suffrage. Article 1 states that suffrage shall be universal, free, equal, direct and secret. Persons deprived of their liberty are guaranteed the right to vote, unless a court judgement has forbidden them to exercise this right. On 31 December 2009, the Inter-Parliamentary Union published the World Classification of Women in Parliaments, in which Andorra occupied fourteenth place. Of the 28 seats in the Andorran Parliament, 10 are occupied by women.

G. The right to work (art. 23)

58. The Employment Contracts Act (No. 35/2008) adapts Andorran legislation to international standards and lays down the minimal conditions required for the development of an employment relationship.

59. The right to collective bargaining and the right to organize of the employees of an enterprise, collective employment conventions and agreements and collective enterprise conventions and agreements are regulated for the first time, which will enable Andorra to follow the trends in employment regulation prevailing in neighbouring countries. In view of the impossibility of regulating the details of each economic activity, the legislative branch preferred to adopt a general set of regulations which establishes compulsory minimum rules while allowing the social partners (employers and employees) the room for manoeuvre and participation required for negotiations on improvements in working conditions.

60. The Act establishing the Labour Inspectorate of 24 July 1984 regulates the operation and area of competence of the Inspectorate and expressly authorizes labour inspectors to order work to cease immediately if they consider there is grave or imminent danger. The Government, through the Inspectorate, monitors the application of the prevailing labour regulations. Article 4 of the law specifies that “both the head of the enterprise and the employee must avoid discrimination on the grounds of birth, race, sex, sexual orientation, origin, religion ...”. The law also states that any clauses which amount to a discriminatory act are null and void. Articles 74 and 75 state that the enterprise shall, at all times, respect the principle of equality and non-discrimination. Offences which involve discrimination are considered very serious and incur a fine ranging from €3,001 to €24,000. The creation of an occupational adaptation and integration programme is divided into three stages: adaptation, occupational integration, recruitment and continuing training in the enterprise.

61. The Government has begun to tackle unemployment by concentrating on two aspects.

62. The economic aspect, with the introduction of unemployment benefits for the first time in 2009.

63. The vocational aspect, with the introduction of training measures intended mainly for people out of work, organized jointly by the departments of employment and education.

1. Women

64. Article 87 of the Labour Relations Code, on equality and the work-life balance, states that an “equality mark” shall be introduced for enterprises with policies designed to

promote effective equality in the workplace between men and women. The article lays down the criteria for the award of the equality mark, including a balance between the numbers of men and women in senior management positions, equal pay and equal working conditions for men and women, and the use of non-sexist advertising by the enterprise. The legislative branch, conscious of the problems involved in assuring equality of opportunity on the labour market, has put specific legislation in place to promote social change for an equitable distribution of those responsibilities within the family which are usually assumed by women and which could constitute a type of indirect discrimination if they affect women's professional advancement.

65. The Economic Regeneration Act (No. 31/2008) of 18 December 2008 created an income support system for elderly people, which was regulated by the Decree of 18 February 2009. Although this support is not confined to women, it is mainly women who receive it. Income support, which is equal to the minimum retirement pension, namely €10 per month, was granted to 388 persons in 2009, of whom 64 per cent were women.

2. Young people

66. The Employment Contracts Act (No. 8/2003) successfully consolidated measures for the protection of young people. This law reproduces the content of European Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work. The law regulates the official apprenticeship contract, by which the employer undertakes to teach a trade or job to a youngster, paying particular attention to the apprentice's safety. The employer is obliged to appoint a safety officer to teach the apprentice to identify the risks inherent in the work and to adopt the necessary safety measures (arts. 83 and 86.c and d), in addition to the knowledge required to practise the trade or profession in question. It also regulates in detail the obligations of the employer towards the apprentice in order to ensure that apprenticeships are not used for unlawful purposes.

67. The enterprise and the young person's legal representative must draw up contracts on the official forms authorized by the Labour Inspectorate (arts. 81 and 85). The official forms relating to different types of contract will show whether the agreed conditions of work comply with the legislation. The Labour Inspectorate is also responsible for monitoring the legislation relating to minors and apprenticeships: it may act ex officio or at the suggestion of another party (art. 100). Andorran legislation forbids children under 16 years of age from working full-time. Young people aged between 16 and 29 years work in 46 different jobs. The wage paid for 42 of these 46 jobs ranges from €1,000 to €2,000. In the case of two jobs, the wage is less than €1,000.

3. Persons with disabilities

68. Chapter 9 of Act No. 8/2003 regulates the provisions required for all disabled persons to enjoy an appropriate level of social security coverage and social protection. Local and national administrations are currently implementing programmes for the empowerment of disabled people.

4. Migrants

69. The qualified-majority Immigration Act, as amended and reproduced in the Legislative Decree of 25 June 2008, applies restrictions which are indispensable in the particular situation prevailing in our country, and which should in no way be considered an infringement of the principle of equality. Andorra grants immigration permits mostly to nationals of the two neighbouring States and other European Union and European Economic Area States, and imposes restrictions on citizens of non-European Union States, who are granted an immigration permit only if they fulfil certain conditions (art. 40.2). The Immigration Service has information materials for migrants on the legislation and the

various types of immigration permit (residence and employment, seasonal, residence, frontier or “passive” (non-working) residence). The Labour Inspectorate also provides information about employment issues through the Employment Service.

H. Right to an adequate standard of living (arts. 16, 22, 24 and 25)

1. Right to social welfare and health

70. Article 30 of the Constitution recognizes the right to health protection and the right to receive welfare benefits to meet other needs. Accordingly, the State guarantees a system of social security in which the public health services provided are universal in nature and are aimed at the entire population without distinction of any kind.

71. The Andorran Social Security Fund (CASS) was founded following the promulgation of a Parliamentary Order on 7 November 1967. The order created an Andorran social security regime, which all residents who were engaged in voluntary work, provided their own health insurance or were unwaged would be obliged to join.

72. The Social Security Act (No. 17/2008) of 3 October 2008 is the result of a radical reform of the social security system, inspired by the social principles of protection and solidarity which prevail in the majority of the most modern European social security systems. This law has the following main objectives: to guarantee an adequate retirement income; and to improve benefits overall and increase the efficiency of the system by rationalizing its structure and reorganizing its resources and management. It provides for increases in orphan’s and widow’s pensions, a minimum retirement pension, the creation of a family benefits system, compulsory membership of the social security system for all members of the working population, the opportunity for housewives to contribute to a retirement pension, 100 per cent cover for the most disadvantaged groups, extension of periods of health coverage and Government funding for the non-contributory element of the various financial benefits.

73. The social security system consists of the health insurance branch, which covers medical treatment, sick leave, disability benefits and death grants, and the pensions branch, which covers old-age pensions and widow’s and orphan’s pensions.

74. Article 7 of Act No. 1/2009 of 23 January 2009, amending the Health Act of 20 March 1989, states that “all Andorrans and foreign nationals with legal and effective residence are guaranteed the right to health protection and the right to benefit from public health activities and programmes and receive health care”. The health system is a “mixed system” combining public and private bodies performing tasks connected with hygiene, public health, and individual and collective medical assistance. The State guarantees public health services and the services necessary for health promotion, disease prevention, diagnosis and treatment. The health system comprises the Government (development and planning in all areas related to health and the performance of hygiene and public health-related tasks), the Andorran Social Security Fund (collection of contributions from insured parties and payment for services received by beneficiaries and provided by Andorran service-providers or providers in neighbouring regions who have negotiated agreements with the Andorran Social Security Fund), and the Andorran Health Service (SAAS) (management of public health services – hospitals, primary care centres, medical transport, mental health facilities, health centres).

75. Environmental health and the safety of food, drinking water, medicines and health products are also monitored.

76. The Government regulates the activities of independent health professionals and plans some care services, such as primary care, which involves coordinating action by

health and non-health professionals in order to bring an interdisciplinary dimension to health care. Since 2003, social workers and nurses have worked together in primary health-care centres.

77. The Strategic Health Plan, issued in April 2009, specifies a series of actions, to be completed by 2012, to improve health-care and public-health services and which place the individual at the heart of the system so as to ensure the effective delivery of high-quality services and products.

78. On the subject of the right to health in prisons, in 2009 Andorra welcomed experts from the World Health Organization who prepared a report on the quality of services provided by the Andorran prison centre to persons deprived of their liberty. Andorra is not affected by prison overcrowding, probably because of one of the country's great advantages – its extremely high level of public safety.

2. Family reunification of migrants

79. Qualified-majority Act No. 27/2007 of 22 November 2007, amending the qualified-majority Immigration Act, introduced a number of changes, particularly in respect of family reunification. It imposes new conditions for family reunification, in particular relating to the degree of kinship, financial solvency and the need for adequate housing. Family reunification may be requested by any Andorran or any foreigner holding an immigrant's residence and work permit who has been legally resident in Andorra throughout the previous year. Applicants may be reunited with their spouse, minor children or the minor children of their spouse who are in the spouse's custody, dependent relatives in the ascendant line and any other dependent person or person under the protection of the applicant (as defined in Andorran law).

I. Right to education (art. 26)

80. 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.

81. The Andorran system of education is defined in article 5 of the qualified-majority Education Act of 3 September 1993. 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 country concerned. Education is compulsory and free up to the age of 16. There was a total of 10,837 pupils in the three education systems in the school year 2009/10, ranging from nursery school to general or vocational high schools. In each of the three education systems, the learning of foreign languages occupies a very important place in the curriculum. The education enrolment rate in Andorra is of the order of 100 per cent.

82. Teachers' work schemes 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.

83. Five schools are members of the UNESCO Associated Schools Project Network and participate in the commemoration of international human rights days. Andorra has participated in the Council of Europe's "Education for democratic citizenship and human rights" programme since 2001 and participates in the United Nations "World Programme for Human Rights Education".

84. On 22 April 2008, Andorra ratified the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, drawn up by the Council of Europe and UNESCO in Lisbon. Andorra is a member of the European Higher Education Area.

85. The mission of the Ministry of Education is to promote educational projects which will encourage the development of cultures and practices of inclusion in schools, while facilitating all initiatives designed to reduce barriers to learning and encourage participation by vulnerable and disadvantaged groups by means of targeted programmes. Immigration is a significant phenomenon in Andorra, and the Government, aware that schools are a major element in integration, pays particular attention to school attendance by the children of seasonal and frontier workers and ensures that they attend school. Special reception classes are provided for new arrivals in the various education systems. Andorra has considerable experience of educating disabled children and young people in mainstream schools, whatever their age or the cause of their disability. Children and young people who cannot attend a mainstream school full-time are enrolled free of charge in a special school, which collaborates closely with mainstream schools to ensure effective integration.

86. The prison centre has two aims related to the social reintegration of persons deprived of their liberty: to offer formal training and education leading to the school-leaving qualification, and to offer non-formal education.

J. Right to a healthy environment

87. Andorra reiterates its commitment to environmental issues and considers it a fundamental right of citizens to live in a healthy environment. Andorra ratified the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal in 1999, the Convention on the Conservation of European Wildlife and Natural Habitats in 2000, and the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer in 2009. As for domestic legislation, Andorra has adopted laws to regulate atmospheric and noise pollution, waste management, environmental impacts and water management.

88. The main projects and programmes implemented by the Department of the Environment include the National Energy Plan, adopted in 2007, which provides for measures to encourage renewable energy sources and increase energy efficiency, the Water Treatment Plan, the National Waste Management Plan and the Surveillance, Communication and Environmental Protection Strategy.

89. The Andorran Centre for Sustainable Development increases public awareness of sustainable development, especially in the education sector, and enables an exchange of views to take place with civil society.

IV. Good practices, initiatives and areas for improvement

90. In the light of the above analysis, Andorra intends to take the following action.

A. State Secretariat for Equality and Welfare

91. On 14 April 2010, the Government set up the State Secretariat for Equality and Welfare, which established the National Equality Commission. This commission met for the first time on 10 June. It is chaired by the Head of Government, and the vice-chairperson is the Minister of Health, Welfare and Employment. Its members are representatives of the

departments of health, welfare, employment, internal affairs and youth, the Public Prosecutor's Office and a trial judge. A member of each group represented in Parliament and the Ombudsman are also invited to participate. The commission's task is to facilitate cross-sectoral activities between all ministries, bodies and institutions, to create a space for reflection and debate on infringements of the principles of equality and non-discrimination and to implement policies of equality in respect of the most vulnerable groups. Its aims are: (1) to identify violations and shortcomings related to the principle of equality; (2) to identify other forms of inequality; (3) to encourage and promote change in the various institutions and bodies in relation to equality and non-discrimination; (4) to propose and define policies to guarantee the principle of equality and non-discrimination.

92. The Government has also set up a number of working groups made up of representatives of civil society and associations. These groups work with the Centre for Sociological Research of the Institute for Andorran Studies, and aim to create an objective system of assessment for specific subjects such as childhood, gender, ageing, disability and immigration. The National Action Plan for Equality (PANI) is scheduled to be adopted and published in the fourth quarter of 2010.

B. Data protection

93. In the near future, the Andorran Data Protection Agency intends to focus on the following issues:

(a) Informing the public about the risks and rights associated with protection of personal data and, in particular, increasing the awareness of young people about the use of personal data in social networking and on the Internet;

(b) Conducting information campaigns in enterprises and the public administration to promote good practices and the development of a better data protection environment;

(c) Issuing thematic and sector-specific recommendations on data protection;

(d) Promoting cooperation and exchanges of information between data protection authorities.

94. On 1 December 2009, the Working Party on the Protection of Individuals with regard to the Processing of Personal Data, established pursuant to article 29 of Directive 95/46/EC, issued its Opinion 7/2009 on the protection of personal data. The Opinion states that Andorra ensures an adequate level of protection within the meaning of article 25 (6) of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The Working Party requested that the Andorran authorities take Opinion 7/2009 into account when drafting the implementation regulations for qualified-majority Act No. 15/2003 on personal data protection.

C. Environment

95. Andorra is taking the necessary steps to accede to the United Nations Framework Convention on Climate Change, the European Landscape Convention, the Convention on Wetlands of International Importance and the Convention on Biological Diversity.

D. International conventions

96. On 21 July 2010, the Government approved the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings and transmitted the text to Parliament for adoption. The Government is working towards the ratification of other conventions, particularly the United Nations Convention against Transnational Organized Crime of 2000, signed by Andorra on 29 September 2003, and the Civil Law Convention on Corruption of the Council of Europe, signed on 8 November 2001.

97. Andorra is aware of the delay in submission of its follow-up reports in respect of international conventions, particularly the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. The Government has very limited human resources, which makes it impossible to submit its follow-up reports in the time allowed by the international organizations. Andorra has made considerable efforts in this area, and undertakes to continue to do so.

E. Law on nationality

98. The Government has submitted a bill fixing the residence period required to obtain Andorran nationality at 15 years, in order to integrate legal residents more quickly and with a view to reducing the residence period to 10 years at some point in the future, as provided for in the European Convention on Nationality.

F. The prison centre

99. The prison centre is working to incorporate the European Prison Rules into its internal operating regulations, although many of these rules are already applied. It is planned to increase the size of the juvenile detention area and the open-prison area in October 2010.

G. The Ombudsman (*Raonador del Ciutadà*)

100. The parliamentary commission is preparing an amendment to the Act on the Establishment and Work of the Ombudsman which will enable minors to lodge a complaint without the intervention of their legal guardians. The Ombudsman will thus take on the function of a children's advocate. A member of the Ombudsman's team has received specific training in the defence of children's rights.

H. The problem of associations

101. Many youth-related projects have been hampered by a lack of participation of this group. One of the priorities of the State Secretariat for Youth and Voluntary Work is to promote a culture in which young people are involved in the work of associations. The aim is to subsidize youth projects run by youth associations. As the network of associations expands, the Government will be able to revive the National Youth Forum of Andorra, which is not very active at present. The Department for Youth and Voluntary Work wishes to draw up a regulatory framework to standardize action on youth issues.

I. Education

102. The Government has a national network of virtual campuses and, being aware of the importance of training for State officials, organizes regular training sessions for teachers to help them to deal more effectively with problems of racism and violence in schools. All schools, observing the principles enshrined in the Convention on the Rights of the Child, accept enrolment applications from all children. The Government places particular emphasis on the situation of the children of seasonal workers. The aim is that these children should attend school on the same basis as all other pupils.

J. Request for the creation of a register of religious communities

103. The Interfaith Dialogue Group has communicated to the highest authorities in the country its concern about the legal vacuum surrounding the recognition in law of the religious communities of Andorra. Parliament is considering its request in order to respond to that concern.

K. Right to health

104. An interdisciplinary group has the task of establishing a bioethics committee and drawing up a statement of the rights and duties of patients.

L. Right of persons in custody to the services of a lawyer

105. In accordance with the judgements of the European Court of Human Rights, the Government is drawing up a bill on legal assistance, starting from the initial police questioning of the detainee.

M. Immigration

106. The Government is preparing an amendment to the regulations governing medical examinations for immigrants which prevent them from obtaining a residence and work permit, in order to make the regulations compatible with World Health Organization rules.

V. National priorities

107. The Government's priorities for the next few years in relation to fundamental rights are set out below.

A. Immigration

108. Study a proposal to introduce the right to family reunification from the very first day to those nationalities which do not already have it.

B. Social security

109. Continue to improve social security benefits.

C. Dependants

110. Create a comprehensive care plan for dependent persons and promote home-based care to address the care needs of dependent persons (elderly, disabled and chronically ill people, etc.).

D. Workers

111. As stated in the European Social Charter, develop the body of regulations on the collective rights of workers. As part of the review of Act No. 33/2008 on trade union freedom and Act No. 35/2008 on the Labour Relations Code, consider the problem of layoffs, measures to encourage a healthy work-life balance and the possible adoption of laws to regulate the right to strike, which is enshrined in the Constitution.
