



Convention on the Rights of the Child

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Summary record of the 1734th meeting

Held at the Palais des Nations, Geneva, on Friday, 21 September 2012, at 10 a.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

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

1. *At the invitation of the Chairperson, the delegation of Andorra took places at the Committee table.*
2. **Mr. Villaverde** (Andorra) said that the current economic crisis had had a direct impact on the most vulnerable groups in the country, particularly children. Many European countries had experienced both an increase in the number of persons requiring social assistance and severe budget constraints in recent years, and Andorra was no exception. Confronted with such challenges, the Government had more than doubled the number of professionals working with children at risk, from 5 in 2009 to 11 in 2012, including social workers and psychologists, and had made no budget cuts to date for items devoted to children. After a period of political instability in the country, the National Children's Commission, established in 2005, had finally, with the support of the current Government, begun to fulfil the mandate of improving children's lives by coordinating all policies relating to children and action to follow up on the recommendations of the Committee.
3. With regard to the Committee's recommendation that Andorra should establish a database on children, he said that the Ministry of Health and Welfare had recently signed a memorandum of understanding with the Julià Reig Foundation to undertake an independent study on the state of children and adolescents in Andorra. The study would be used to develop a relevant database, and its results would help the Ministry to make further progress in formulating preventive policies and setting priorities. The Ministry was also currently working on a social history project with the objective of establishing a national database that would cover such sectors as health, welfare, education and the economy, and collect data in a single place. In addition, it was currently preparing a bill aimed at a more effective and coordinated restructuring of social services.
4. The fact that no specific legislation on children existed in Andorra did not mean that children were neglected or ignored under the law. Apart from the Convention and its Optional Protocol as well as other international instruments to which Andorra was a party, there were indeed many domestic laws, such as the Qualified Act on Adoption and Other Forms of Protection for Abandoned Children, that enabled the Government to respond to the needs of children and young people at risk. The fact that the country was small, with a population of less than 80,000 inhabitants, helped the Government to address problems facing children promptly and effectively, since there was little red tape, and to work closely with professionals who dealt with children, including psychologists, social workers, teachers, prosecutors, judges and others. Such persons in turn were able to work in a targeted manner to resolve urgent cases involving problems such as homelessness or child abuse. While Andorra confronted the same problems affecting children as larger countries, statistics produced by the Public Prosecutor's Office, which had been distributed to Committee members, showed that such problems existed in Andorra on a smaller scale.
5. His Government had recently submitted to Parliament draft legislation to amend the Criminal Code to bring it into line with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Once the bill was passed, the Government would take steps to ratify the Optional Protocol before the end of 2012. He was pleased to inform the Committee that the Government had decided just two days previously that the Prime Minister should sign the Optional Protocol to the Convention on the Rights of the Child on a communications procedure when he attended the sixty-seventh session of the General Assembly. The

Government had also recently signed the United Nations Children's Fund (UNICEF) pledge entitled "Committing to Child Survival: A Promise Renewed".

6. Lastly, he wished to state that the late submission of the State party's periodic report had been due largely to the constant reshuffling of the technical staff involved in its preparation, given that a small staff needed to take on many functions. The Government had nevertheless striven to involve as many persons working with children's issues and to collect as much relevant and current data as possible. It wished to propose to the Committee that it should submit a combined third to fifth periodic report in early 2018, which would allow it to meet its reporting obligations under the Convention in a timely manner.

7. **Mr. Cardona Llorens** (Country Rapporteur) commended the State party for its decision to sign the Optional Protocol and its efforts to follow up on the Committee's recommendations to protect the rights of children, including children with disabilities. He wondered which Government actors had been involved in drafting the report and whether civil society had played a role. He noted with satisfaction the many initiatives taken since the submission of the previous report, including improved data collection, despite numerous challenges such as the limited number of professional staff and problems of coordination. He wished to know what steps were being taken to promote greater coordination of policies among the various departments concerned. One of the Committee's previous recommendations had been that the State party should develop a comprehensive strategy or national plan of action for children, which would help to further such coordination. He would be grateful to have information on whether provision had been made for any such strategy or plan.

8. Although he was pleased to hear that no budget cuts had been made in the area of child protection notwithstanding the current crisis, he noted with concern the qualification "to date" that had been made in the introductory statement. He therefore wished to know what measures had been taken to provide sustainable basic social services and ensure that no reductions would be required in future. Furthermore, it was not clear whether the Government earmarked specific sections of the budget for children. If so, he would appreciate further details of those budget items.

9. He wondered why no complaints of violations had been lodged by children with the Office of the Ombudsman, despite activities to promote public awareness of the Convention. Were children aware of their rights? He noted with concern that the minimum age for marriage remained at 16 and that persons in Andorra could marry with the authorization of a judge as early as 14 years of age, which was an inappropriate age for marriage. He asked why that age had not been raised to 18. He would also appreciate information on the measures taken to promote equality between boys and girls and to eradicate stereotypes. He also asked whether any studies on such stereotypes had been conducted and, if so, what steps had been taken to redress those patterns.

10. Given that there was no specific law covering the rights of the child, it was not clear how the important principle of the best interests of the child was incorporated in all relevant legislation. He would be grateful to hear about any judicial ruling in which the best interests of the child had been cited. Furthermore, clarification was needed of the criteria used to assess the best interests of the child under the law; had any such criteria been specified, or was the principle left to the discretion of the judicial authority making a decision?

11. He asked what measures had been taken to protect children's privacy and prevent their exposure to harmful content on the Internet. It was not clear whether any body existed to deal specifically with offences involving violations of children's privacy. He also noted with concern that there was no specific law to cover all forms of corporal punishment. Lastly, he expressed concern at the rise in cases of domestic violence in the light of the current economic situation, as the crisis was not likely to end soon and children from low

income families were at particular risk. It would therefore be useful to have a clearer idea of the number of social workers and child psychologists working in the parishes throughout the country.

12. **Ms. Nores de García** asked what measures had been taken to guarantee universal and equal access to all public services such as health care and education, including by the children of seasonal workers in Andorra. She wondered what the State party was doing to combat persistent discrimination against girls and to promote acceptance of other cultures, languages and customs. She would like to know whether the National Equality Commission enjoyed adequate human and financial resources. It would be useful to learn about any activities to raise awareness about the harmful effects of corporal punishment. Lastly, she would appreciate information on the forms of protection provided to children, given the adverse effects of the current crisis on vulnerable children in particular.

13. **Mr. Guráñ**, noting that Andorra had yet to establish a national human rights institution, requested information on the number of complaints received by the Ombudsman and the resolution of such complaints. How was the public made aware of the opportunity to file a complaint with the Ombudsman? He would also like to know whether there was a children's parliament in Andorra and the extent to which children participated in decision-making at the school and parish level.

14. **Mr. Koompraphant** said that despite the existence of extensive legislation concerning children in Andorra, there was no specific law on the protection of children against domestic violence. He wished to know what safeguards were in place to prevent child abuse in the home and what early intervention steps, such as warnings, court orders and education programmes were provided for under the law for parents, legal guardians or other persons with custodial responsibility who abused children.

15. **Mr. Pollar** commended the State party on its compliance with article 6 of the Convention concerning the right to life, including the abolition of the death penalty in the country; nevertheless, he was concerned that children continued to die in Andorra before they reached the age of 5 years, for the death of even one child was a matter of grave concern to the Committee. Noting the statistics provided in paragraph 212 of the report for the period 2002–2006, he asked what steps had been taken to prevent children from being killed in road traffic accidents or from committing suicide.

16. Turning to article 14 of the Convention, concerning freedom of thought, conscience and religion, he noted that one of the Heads of State of Andorra was a bishop; he thus wondered whether the State party had had to grapple with any conflicts with article 14 in the daily lives of its citizens. He would appreciate information on the teaching of religion in schools, in particular whether religious studies were a compulsory subject, whether religious education received public funding and, if so, whether some religions were favoured over others, whether a child's privacy was protected in the event that he or she decided to opt out of religious instruction and, lastly, whether religion was indicated in school-leaving certificates.

17. **Mr. Kotrane** welcomed the coverage in the report of a wide range of sectors but noted that some issues had been given scant attention – namely the protection of children, which encompassed such important areas as the juvenile justice system, child labour, sexual exploitation and sexual violence and trafficking. He was struck by the fact that those areas had been dealt with in a single page in a report that comprised over 100 pages. Noting that Andorra had adopted a monist approach to the law, he asked whether there had been any cases in which the Convention had been applied by judges. He also sought clarification of the State party's relationship to the International Labour Organization (ILO) and whether that organization's conventions or normative instruments applied in Andorra, despite its not being a member.

18. **Ms. Sandberg** said that the State party's reluctance to raise the minimum marriageable age to 18 seemed to indicate a lack of understanding of the concept of childhood and the rights enshrined in the Convention. It would be useful to know whether the State party had taken that into consideration, or whether there were underlying reasons for not raising the age limit.

19. **Mr. Gastaud** asked whether the social observatory responsible for compiling data on children and the family mentioned in paragraph 121 of the report was currently operational and, if so, whether it had published any findings. He would welcome information on any judicial or administrative remedies available to children who had not been heard in proceedings affecting them. The Committee would also appreciate additional information on the functions and authority of the General Youth Council: had it worked in conjunction with State entities to date?

20. **Ms. Wijemanne** asked whether children could bring complaints before the Ombudsman and, if so, whether they were aware of that right. It would be useful to know whether there were any other complaint mechanisms available to children. The Committee would welcome additional information on the National Children's Commission, particularly its independence. She asked whether the Commission was coordinated by the Ministry of Health and how it functioned. It would be interesting to have any data on gender-based violence affecting girls in the State party. She asked what assistance was provided to girls who became pregnant as a result of rape.

21. **Ms. Varmah** asked whether the State party had any records of children who had been born in Andorra but whose births had not been registered. She wished to know what action was taken if a child's birth was not registered within the statutory period.

22. **The Chairperson** urged the State party to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse as soon as possible and to consider ratifying the Council of Europe Convention on Cybercrime.

The meeting was suspended at 11.05 a.m. and resumed at 11.35 a.m.

23. **Mr. Villaverde** (Andorra) said that while civil society had not participated in the preparation of the periodic report, efforts had been made to consult NGOs and social partners during the preparation of previous reports. Nevertheless, it was true that the Government needed to find mechanisms to overcome civil society's reticence in coming forward with opinions and the Government's tendency to consult only among ministries and parish councils.

24. The National Children's Commission was the key coordinating body for all efforts to promote and protect children's rights in Andorra. It was intended to set priorities, ensure communication with NGOs and take the lead role in follow-up to the Committee's concluding observations. The Technical Commission for Assistance to Minors did indeed exist, but its mandate was much narrower than that of the National Children's Commission. It was hoped that the Commission would be fully functional by the end of 2012.

25. **The Chairperson** asked what authority the Commission would have and what financial resources would be allocated to it.

26. **Ms. Gesse** (Andorra), replying to questions raised with regard to child protection, said that the specialist child protection team intervened in situations in which children and young people were at risk or lacked protection. Since the number of staff had more than doubled, the team had also been working on ways of increasing the well-being of all children and young people, regardless of their situation. A subcommission was carrying out activities in schools to raise awareness among pupils and teachers of potential dangers to children's well-being. In cases of suspected child abuse or physical ill-treatment, teams intervened within 24 hours; within 48 hours the courts and the police took action, and in the

longer term, work was undertaken with the child's family in an effort to stop the abuse and ensure the child could remain safely in the family environment. Psychologists on the team were responsible for ascertaining the level of risk faced by a child and whether he or she should be removed from the family. If necessary, the courts issued protection orders and the child was taken into care.

27. **Mr. Cardona Llorens** said that the Committee would welcome additional information on the authority of the National Children's Commission to instruct the ministries and parish councils on action they should take. He asked whether the Commission included representatives of all Government departments and parish councils.

28. **Mr. Villaverde** (Andorra) said that the Commission would be composed of representatives of all sectors active in the area of children's rights, including the health, education, social assistance, police, justice and culture sectors, the General Youth Council and possibly the media. The Commission would be allocated its own budget in 2013.

29. **Mr. Forner** (Andorra) said that the Government was aware of the need to amend the law on the minimum age for marriage. The fact that it had been set below 18 did not indicate a lack of understanding of the concept of childhood. The relevant piece of legislation was anachronistic and would definitely be amended in the future. It had originally been introduced in order to ensure that girls under the age of 18 who gave birth could not be considered guilty of an offence.

30. There had been no reports of discrimination against the children of seasonal workers by police officers in Andorra. No reference had been made in the periodic report to the implementation of the Optional Protocols to the Convention because separate reports on the implementation of those instruments had been submitted and considered by the Committee in 2006. His Government had signed some 20 Council of Europe conventions, including the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It planned to ratify that instrument before the end of 2012. Since becoming an independent State in 1994, Andorra had ratified some 246 human rights instruments, which represented a huge amount of work in terms of implementation and reporting.

31. Andorra had not joined the ILO owing simply to a lack of resources. The authorities did, however, monitor ILO conventions and recommendations and incorporated many of the provisions they contained into domestic legislation. Several pieces of domestic legislation contained provisions that aimed to prevent gender inequality and eliminate stereotypes. The laws concerning marriage and labour relations stipulated that both parents had equal responsibility for bringing up children. After the sixth week of maternity leave, it was up to each couple to decide whether the mother or the father would take the remainder of the parental leave available.

32. **Mr. Cardona Llorens** asked what steps had been taken to evaluate the results of the Government's laudable efforts to improve gender equality in the State party.

33. **Ms. Aidoo** asked whether the National Equality Commission was operational and had sufficient resources to implement the National Action Plan for Equality. It would be useful to know whether the Commission had developed strategies to target inequalities faced by girls and women, and by other groups.

34. **Mr. Villaverde** (Andorra) said that the Government had made significant progress in its efforts to collect data and analyse the results of all its social programmes and strategies. It would inform the Committee about the results of those efforts in its next periodic report.

35. The legislation on seasonal workers did not recognize the right to family reunification. Accordingly, if people who went to Andorra to work during the ski season took their children with them, the children did not have a direct right to health care and

education. In practice, however, the best interests of the child always prevailed in such cases, so that all children were guaranteed enjoyment of those rights. The Government hoped to amend the relevant legislation in the future.

36. **The Chairperson** said that he failed to understand why the State party's legislation did not recognize the right to health care and education for the children of seasonal workers, since those rights were respected in practice.

37. **Mr. Forner** (Andorra) said that temporary workers, the majority of whom remained in Andorra for six months or less, did not have the right to family reunification. However, articles 20 and 30 of the Constitution guaranteed access to education and health care.

38. **The Chairperson** said that the State party needed to resolve the issue of family reunification, as all children, irrespective of their parents' circumstances or legal status, needed to have access to health and education.

39. **Ms. Nores**, noting that three years of residency were required for the child of a migrant worker to acquire the right to schooling, said that if temporary workers did bring their children with them, there should be no discrimination against those children on the basis of their parents' circumstances.

40. **Mr. Forner** (Andorra) said that Andorra experienced a massive influx of migrant workers during the ski season each year. Restrictive legislation was necessary, as the country would not otherwise be able to cope with the temporary population surge and the related costs. The State party could not ask its taxpayers to shoulder the financial burden of paying for migrants' access to services. Although the regime appeared restrictive, the rights of children were nevertheless protected under the provisions of the Constitution.

41. **Ms. Mingorance** (Andorra) said that physical or psychological violence or any other humiliating treatment were prohibited in Andorra under the Criminal Code. Such crimes were punishable by up to 3 years in prison, with additional sanctions imposed in the case of physical or psychological abuse of a child, the child's age constituting an aggravating factor.

42. **Ms. Nores** asked what awareness-raising or social mobilization programmes existed to inform communities, children, families, and civil society about the damaging impact of corporal punishment and to promote positive behaviour.

43. **The Chairperson**, noting that corporal punishment was not explicitly prohibited under Andorran legislation, and recalling recommendations that had been made in connection with the European Social Charter, said that that practice covered not only physical discipline but also the use of force, threats or humiliation to discipline a child.

44. **Mr. Cardona Llorens** said that he was not suggesting that violence against children was a pervasive problem in Andorra. Nevertheless, while he understood that general provisions existed to prevent violence against children, the Committee wished to know whether such violence was explicitly prohibited in all areas of national legislation and policy through provisions aimed at preventing all types of violence, including corporal punishment, as well as campaigns to eliminate stereotypes and measures to raise awareness and change existing attitudes in schools, families and all areas of life.

45. **Ms. Mingorance** (Andorra) said that national legislative provisions covered all types of violence against and humiliating treatment of children. There was a body of case law in that field which included statistics on the outcomes of cases involving violence against children. Although the Criminal Code contained no explicit prohibition of corporal punishment, the principle was certainly applied in practice. While cases were often referred to the courts by a family doctor, children could also file complaints by calling a helpline or contacting the police. The delegation could provide the Committee with statistics on cases

and the corresponding court judgements. Different protection measures existed in cases of abuse in a family setting, depending on the nature of the abuse. For example, the authorities could withdraw custody, whereupon a juvenile court judge decided what measures should be taken, including the provision of psychological support. The Child Welfare Department was then contacted, which had access to the resources necessary to protect the child in question.

46. There were measures in place to protect the child's best interests in judicial proceedings. Judges assessed each case on an individual basis, taking into account such information as a psychological evaluation of the child and the results of interviews with the child and persons close to them. Court decisions could be appealed, including on the grounds that the best interests of the child had not been fully respected.

47. **Mr. Cardona Llorens** asked whether, rather than general procedural guarantees, there existed in Andorra legally established criteria relating to the best interests of the child that were in line with the guidelines set out by the Council of Europe and which judges were obliged to take into account, or whether judges determined themselves where the child's best interests lay.

48. **Ms. Mingorance** (Andorra) said that judges had to justify their decisions after assessing all aspects of a case. Those decisions, and the reasoning behind them, could be subject to appeal or review.

49. **Mr. Cardona Llorens**, referring to the situation of children separated from their families, drew attention to reports of problems relating to the care provided in homes and other institutions and asked what measures had been taken to address the needs of such children. He wished to know whether the State party provided funding for organizations which supported them.

50. He welcomed the State party's efforts to promote the social inclusion of disabled children but expressed concern about the impact of the economic crisis. He asked what measures had been taken to maintain the relevant budget levels, especially with regard to education, the provision of support staff and leisure activities.

51. While he applauded the State party's efforts to deal with child labour, he was concerned about legislative provisions that permitted children to undertake "light" work for up to six hours a day. He sought clarification of the definition of "light work".

52. On the subject of juvenile justice, he asked whether special proceedings for juvenile cases had been introduced and requested information regarding alternative measures. Noting that concerns had been raised concerning a child who had been detained in an adult centre, albeit accompanied by an adult, he asked whether the State party planned to establish a special detention centre for children. How did the State party handle the issue of children in the prison system? Was there an agreement with Spain regarding the care of children deprived of their liberty?

53. **Mr. Pollar** drew attention to article 11 of the Convention and asked what steps had been taken to establish an authority to implement the Convention and, if such an authority had been established, whether it had become operational. He wondered whether the State party had any data on children returned under that provision of the Convention, and whether any complaints had been lodged under the Convention in that regard by foreigners or Andorran citizens. What was the situation regarding visiting rights?

54. The State party normally needed to submit follow-up information on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. In its previous concluding observations, the Committee had requested that Andorra should criminalize the recruitment of child soldiers, and he wished to know whether that recommendation had been implemented.

55. Praising the State party's support for the Optional Protocol, he asked what new initiatives had been undertaken that could serve as examples of best practice for other States parties. In the concluding observations it had issued following its consideration of Andorra's initial report under the Optional Protocol (CRC/C/OPAC/AND/CO/1), the Committee had asked the State party to provide information on refugee children in Andorra who might have been involved in hostilities in their countries of origin (para. 8) and had requested that the report, the Committee's concluding observations and the written replies to the list of issues should be disseminated to the public (para. 10). He requested information on progress made in that regard and asked whether Andorra was a member of the group of countries campaigning to prohibit the recruitment of child soldiers.

56. **Ms. Maurás Pérez**, speaking on the issue of child labour, especially in the tourist industry, said that concerns remained with regard to the traditional participation of children in certain kinds of work. Although she understood that the situation was now better regulated, the fact that children were permitted to work up to six hours a day meant that they lacked adequate access to education and lost out on play and leisure time. What was the State party doing to effectively monitor children's activities, and was children's involvement in the tourist industry regulated by the State? She wished to know whether a code of conduct existed and requested information regarding the legal framework in place in that area.

57. **Ms. Sandberg** wished to know whether, in view of recent reports indicating that child protection services were understaffed and overburdened, the State party felt that the sector had an adequate number of staff. It was crucial to have the necessary manpower to handle cases and provide the required standard of care. Was it compulsory for schools, medical staff or other services to report cases of abuse or neglect to the child protection services? She also wished to know what provisions — for example, special interview techniques — were in place to protect child witnesses and victims in judicial settings.

58. **Mr. Koompraphant**, speaking on the issue of alternative care arrangements, asked whether fostering was an option for children separated from their families. He requested information on how the Government recruited suitable volunteer families with the necessary parenting skills, the professional support and training offered to the families, the staff recruited for that task and the preparatory support that children received before joining a foster family. Were efforts made to work with the family to provide the best possible care? He also requested information regarding measures to prevent stress at home and in school, and asked whether children had access to counselling and mental health services. He asked whether psychological counselling was available for children in conflict with the law and whether the courts had access to information regarding access to such services.

59. **Mr. Gastaud** said that the age of criminal responsibility in the State party, which was currently set at 12 years, needed to be raised. He wished to know whether children under 12 enjoyed total impunity. Given that the presiding magistrates would be the same in cases involving both children and adults, he wished to know whether different sanctions applied in cases involving children in conflict with the law.

60. **Ms. Aidoo** asked whether the curriculum in primary and secondary schools included the teaching of human rights, and particularly on the rights of the child, with reference to the Convention and national legislation in the field. Noting that the State party had an active programme of in-service training for teachers, she asked whether teachers received training in children's rights and human rights in general.

61. **Mr. Kotrane** said that in its concluding observations concerning Andorra's initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict the Committee had asked the State party to explicitly criminalize all the acts defined in the Protocol, incorporating its provisions into

national legislation (CRC/C/OPAC/AND/CO/1, para. 7). As it was usual for the State party to provide information on follow-up measures, he requested further information on progress made in connection with that recommendation, particularly with regard to the competence of courts in cases involving extradition and dual criminality.

62. **The Chairperson** asked whether adolescents had access to confidential advice and contraception, and what measures were in place to limit access to alcohol or other addictive substances. As abortion was not authorized in Andorra, he wished to know what measures the State party was taking to tackle problems such as illegal abortions or medical tourism linked to abortion services. Drawing attention to the recommendations made by the Committee on the Elimination of Discrimination against Women and those stemming from the country's universal periodic review to the effect that the State party needed to amend its legislation in that area, he asked whether the situation had changed in recent years.

The meeting rose at 1 p.m.