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## **Draft report of the Working Group on the Universal Periodic Review\***

### **Andorra**

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## Contents

|  | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| Introduction.....  | 1–4               | 3           |
| I. Summary of the proceedings of the review process.....             | 5–82              | 3           |
| A. Presentation by the State under review.....                       | 6–22              | 3           |
| B. Interactive dialogue and responses by the State under review..... | 23–82             | 5           |
| II. Conclusions and/or recommendations .....                         | 83–86             | 14          |
| Annex  |                   |             |
| Composition of the delegation .....                                  |                   | 19          |

## Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1, held its ninth session from 1 to 12 November 2010. The review of Andorra was held at the 6th meeting, on 3 November 2010. The delegation of Andorra was headed by the Minister for Foreign Affairs and Institutional Relations, Xavier Espot. At its 10th meeting, held on 5 November 2010, the Working Group adopted the report on Andorra.
2. On 21 June 2010, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Andorra: Djibouti, Saudi Arabia and Slovakia.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Andorra:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/9/AND/1);
  - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/9/AND/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/9/AND/3).
4. A list of questions prepared in advance by the United Kingdom of Great Britain and Northern Ireland, the Czech Republic, Germany, Latvia, the Netherlands, Slovenia, Sweden and Monaco was transmitted to Andorra through the troika. Those questions are available on the extranet of the universal periodic review.

## I. Summary of the proceedings of the review process

5. During the interactive dialogue, statements were made by 22 delegations. Many delegations commended Andorra for its national report, its presentation and its high-level participation in the review. Delegations also thanked Andorra for the answers provided to the advance questions. Recommendations made during the dialogue are found in section II of the present report.

### A. Presentation by the State under review

6. The Minister for Foreign Affairs and Institutional Relations of Andorra began by making two remarks concerning the document distributed by the Secretariat of the Human Rights Council based on information compiled by United Nations organs. Firstly, the ratification of the Rome Statute had taken effect on 1 July 2002. Secondly, further to the recommendation of the Committee on the Rights of the Child, the Government of Andorra on 1 March 2006 had withdrawn the declaration it had made at the time of the ratification of the Convention on the Rights of the Child. A mistake had also been made in the report handed in by Andorra on 20 August in paragraph 58, where the phrase “The Employment Contracts Act (No. 35/2008)” should read “The Labour Relations Code Act (No. 35/2008)”.
7. He said that the Government of Andorra had 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 had 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.

8. He said that the Constitution of 14 March 1993, and in particular article 5, had incorporated the text of the Universal Declaration of Human Rights in the Andorran legal system. On 28 July 1993 the Principality of Andorra had become a member of the United Nations. Since that date, Andorra had ratified over 200 international treaties and had become a member of 23 international organizations.

9. Over the preceding 10 years the Ministry of Foreign Affairs and Institutional Relations had attached particular importance to Andorra’s accession to almost 40 conventions on human rights and fundamental freedoms and on the fight against terrorism.

10. Thanks to its commitment, the country had been able to overcome the inevitable difficulties which it had come up against. A State as small as the Principality of Andorra had to make the most of the limited economic and human resources at its disposal.

11. With a population of 80,000 inhabitants, the Andorran community coexisted with over 100 other nationalities, the most numerous of which were, apart from Andorran, Spanish, Portuguese and French. The nationality and immigration laws had been constantly reviewed and adapted to the new social challenges. On 20 September 2010 the Government had brought a bill before Parliament amending the Nationality Act in order to reduce from 20 to 15 years the period of residence required for the acquisition of Andorran nationality. According to statistics, that amendment could concern up to 6 per cent of the country’s current population.

12. The treaties which the justice system had recently signed with equivalent institutions in neighbouring countries had facilitated the training and preparation of judges and magistrates in the protection of human rights. The statistical data of the Public Prosecutor’s Office confirmed that the citizens and representatives of justice were aware of the mechanisms of judicial protection and that the fundamental rights enshrined in the Constitution were rarely infringed. Thus the conduct of gender violence cases again showed how effective the justice system was when dealing with the problems that affected Andorra’s constantly changing society.

13. It was thanks to the reports of the international organizations on the situation of human rights in Andorra and their recommendations that the process of transformation and adaptation of Andorran social structures to the new European models had been successful.

14. The Commissioner for Human Rights and the members of the Committee for the Prevention of Torture of the Council of Europe had visited Andorra on several occasions and it was thanks to their encouragement that Andorra had built its new prison, which complied with the strictest international standards.

15. The Ministry of Foreign Affairs and Institutional Relations currently devoted 23 per cent of its annual ministerial budget to development cooperation. In Andorra cooperation was regulated by the development aid plan, and the Millennium Development Goals were established as sectoral priorities of cooperation activities. In order to highlight those goals, the Government placed the emphasis on projects concerning all aspects of water and those addressing the problems of the most vulnerable groups, such as women, children, older persons and persons with disabilities.

16. Among the most significant advances mentioned in the report, he said that priority had been given to introducing unemployment benefits. Those benefits should in the not too distant future form the basis of social rights for Andorran workers. Andorra was also introducing substantial changes in the law on freedom of association and was working to improve the Immigration Act in order to bring it into line with international standards.

17. In the area of human rights, the State Secretariat for Equality and Welfare had been established and had led to the creation of the National Equality Commission. The commission had already met four times since it had been set up in April 2010 and was currently preparing a National Action Plan for Equality, which set out guidelines for action and short-, medium-term and long-term priorities.

18. Since the submission of the report on 20 August 2010, the Constitutional Court had ruled (7 September 2010) that all detained persons must be assisted by a lawyer from the time of their arrest. That ruling, which had been influenced by the European Court of Human Rights, had marked a significant step forward. It had also received the backing of the Government, which had already begun introducing the necessary changes to allow for the implementation of that fundamental right.

19. In the area of mental health, the Government was currently taking steps to ensure that the benefits of the Andorran social security system included consultations with psychologists, in response to the recommendation issued by the Committee on the Rights of the Child in its 2002 report.

20. In addition, the Andorran Parliament had recently strengthened the role of the Ombudsman, the *Raonador del Ciutadà*, by extending his field of competence to the Convention on the Rights of the Child. In accordance with recommendation 1121 (1990) of the Parliamentary Assembly of the Council of Europe, the Andorran Parliament on 25 October 2010 had approved the bill amending the Act on the Establishment and Work of the Ombudsman. That bill had been tabled by the three political parties that made up the Parliament. It allowed the Ombudsman to inform and guide minors with respect to their rights and liberties as recognized by the Convention on the Rights of the Child.

21. The Council of Europe Convention on Action against Trafficking in Human Beings had been approved on 14 October 2010 by the Andorran Parliament and would shortly be ratified.

22. Before the end of the year, the Government would be submitting its second periodic report on the Convention on the Elimination of All Forms of Discrimination against Women.

## **B. Interactive dialogue and responses by the State under review**

23. Algeria stated that it was pleased with the efforts made by Andorra in combating various forms of discrimination, the promotion of the rights of the child and access to health and education. It noted that those efforts had placed Andorra among the top 30 countries on the human development index. Algeria stated that Andorra had ratified 200 international conventions over the course of the past 17 years, 40 of which were in the area of human rights. In this regard, it indicated that it was aware of the challenges related to the obligation of periodic reporting, especially for a country with limited resources. Algeria expressed appreciation for the existence of the interreligious dialogue group. It made recommendations.

24. Mexico thanked Andorra for the preparation and presentation of the national report, and acknowledged the significant advances made by Andorra towards the fulfilment of its human rights obligations. Mexico noted Andorra's commitment to continuing to monitor the human rights situation, and made recommendations.

25. Morocco stated that it greatly respected Andorra's actions in ratifying more than 200 conventions and acceding to 23 in a relatively short period of time. It paid tribute to Andorra for its efforts in the area of women's rights. Morocco noted, inter alia, the establishment of a Comprehensive Care Team for women victims of violence; the results of

the social national action plan for women, persons with disabilities and the elderly, based on the principles of solidarity and shared responsibility; and the efforts to combat corruption and racism. Morocco welcomed, inter alia, the efforts to establish laws and regulations for children and abandoned minors, the national plan for youth, the establishment of an inter-ministerial youth commission and a labour relations code, and the efforts to ensure freedom of opinion, religion, expression, association and peaceful demonstration. It made a recommendation.

26. Azerbaijan expressed appreciation for the informative and substantive presentation of the report. It noted that human rights treaties were directly applicable to Andorra's national legal system. Azerbaijan commended the cooperation of the Government with various United Nations treaty bodies and regional organizations in the field of the promotion and protection of human rights. Azerbaijan made recommendations.

27. Canada welcomed Andorra's ongoing efforts to ratify international conventions related to the protection of human rights, with the country having signed and ratified 40 such conventions since 1993, thereby aligning its national laws with international standards. It took note of recent reports alleging police misconduct towards non-Andorrans. Canada applauded Andorra's continuing efforts to bolster the protection of human rights through domestic legislation, including the 2007 Prison Act, which guaranteed the rights of imprisoned persons. While recognizing the efforts made by Andorra to address gender inequalities since the entry into force of the Convention on the Elimination of All Forms of Discrimination against Women in 1997, Canada encouraged the country to take strong and consistent measures to promote the implementation of its obligations in that regard and made recommendations.

28. The Netherlands welcomed the fact that Andorra was a party to nearly all core human rights instruments, commended the Government for its efforts to promote the rights of women, and expressed appreciation for the decision to establish the Interdisciplinary Team on Gender Violence. However, the Netherlands expressed its concern about the observations of the Committee on the Elimination of Discrimination against Women that patriarchal patterns of behaviour continued to exist in Andorra and about the negative effects that criminalizing abortion had had on the health and safety of women. The Netherlands noted with appreciation that the Government had strengthened the rights of children by mandating the Ombudsman to receive individual complaints by children. The Netherlands made recommendations.

29. Germany stated that in 2006, the Committee on the Rights of the Child had recommended that Andorra continue its efforts to amend the Criminal Code in order to prohibit the trafficking and sale of children for all purposes and to extend criminal liability to legal persons. In that regard, Germany wished to learn about Andorra's follow-up to the recommendations of the Committee on the Rights of the Child. Germany referred to the Committee's concerns regarding the existence of negative stereotypes relating to the roles of women and men in the home, the workplace and society. It requested further information about the work of the *Secretariat Egalité et Bien Etre*, as referred to by the delegation. Germany made a recommendation.

30. Hungary welcomed the fact that Andorra had widely consulted with civil society, as well as its cooperation with the United Nations human rights mechanisms. Hungary deemed very useful the introduction of the "equality mark" for enterprises to promote equality in the workplace between men and women, and noted with satisfaction the establishment of an Interdisciplinary Team on Gender Violence. Hungary also welcomed the plan to mandate the Ombudsman to serve as a children's advocate and to provide specific training on protecting children's rights for a member of the Ombudsman's team. Hungary asked clarification whether the relevant provisions of the Criminal Code (articles 114 and 476)

were interpreted as prohibiting all corporal punishment in child-rearing. Hungary made recommendations.

31. Brazil stated that it welcomed the important steps taken by Andorra in its commitment to the realization of human rights, and noted with interest the measures taken to face human rights challenges. Brazil acknowledged that Andorra guaranteed a system of social security under which the public health system was aimed at the entire population, without distinction of any kind. It stated that it had nevertheless learned that restrictions were imposed on foreigners residing in Andorra under irregular conditions. Brazil asked what the obstacles were for the children of seasonal workers residing irregularly in Andorra in terms of access to health and education services. Brazil made recommendations.

32. The United Kingdom welcomed the attention given to human rights by the successive Governments of Andorra since the Constitution of 1993 and noted that Andorra had signed and ratified 40 international human rights conventions. It noted that Andorra had established a number of national bodies to promote human rights, which included the Association of Communications Professionals of Andorra, to promote the right to freedom of information and expression, and the State Secretariat for Equality and Welfare. The United Kingdom would watch with interest for concrete improvements generated by those bodies. It hoped that overdue responses to reports by treaty bodies would appear without much more delay, which would help to address civil society concerns about how allegations of police misconduct were handled and the concerns of the Committee on the Elimination of Discrimination against Women about gender discrimination. The United Kingdom asked Andorra about the steps taken to address the Committee's concerns. It made recommendations.

33. The Minister for Foreign Affairs and Institutional Relations, replying to the question of whether the Andorran Government intended to set up an independent body, in accordance with the recommendation of the European Commission against Racism and Intolerance, in order to allow investigations into complaints against police misconduct, said that any person was entitled and was given the real opportunity to report facts directly to the Andorran courts without going through the police. The duty court was open round the clock 365 days a year. According to statistics from 2006 onwards, no complaint had been lodged for any misconduct by an Andorran police officer. It would appear, therefore, that such a body would not serve much purpose for the time being. There was an internal affairs department within the police service that was responsible for investigating police misconduct and police corruption. Once they had successfully passed the technical and physical tests required for entry to the service, members of the Andorran police force attended training in the Spanish and French police academies. Courses specialized in human rights, with an emphasis on racism and ethnic discrimination. Lastly, the UNICEF National Committee for Andorra and the Ministry of the Interior were jointly working on training programmes for all special units to create awareness of children's rights. The Government of Andorra was pleased to maintain an open invitation to the special procedures of the Human Rights Council.

34. Regarding the possibility of creating a number of independent bodies to protect human rights, he wanted to point out that the main guarantors of human rights in Andorra were the courts of law. Owing to Andorra's size and structure, any undue proliferation of national bodies would inevitably lead to considerable expenditure of human and budgetary resources. The Office of the Ombudsman had been established under the Act of 4 June 1998. Its main function, according to article 1, was to defend and ensure the fulfilment and implementation of all the rights and liberties enshrined in the Constitution. The Ombudsman was empowered to take in complaints from all citizens, and submitted an activities report each year to Parliament. In 2009, the Office had received 266 complaints, including 184 simple enquiries and 37 formal complaints concerning disputes between

landlords and tenants, or concerning benefits received from the Andorran Social Security Fund. Lastly there had been 45 complaints that concerned delays in procedures for the enforcement of court judgements, which had given rise to a request by the Ombudsman for the services of a court registrar. The Government would give the request consideration. Nevertheless, violations of human rights were exceptional in Andorra.

35. On 25 October the Parliament had approved a bill to amend the Act on the Establishment and Work of the Ombudsman, of 4 June 1998, which stipulated that the Ombudsman should inform and guide minors with respect to their rights and liberties recognized by the Convention on the Rights of the Child, accept complaints and claims by minors and initiate proceedings where necessary, subject to informing the Public Prosecutor.

36. The minimum inter-occupational wage in Andorra currently stood at €915.20. The Government — regularly and at least once a year — had to fix the amount in compliance with article 78.2 of the Labour Relations Code. Every year the Government revalued the amount of the minimum wage in line with the Annual Consumer Price Index. The fact that there was no income tax in Andorra implied that the minimum wage was a net wage. Schooling for Andorran children was free of charge. The Government, moreover, offered a vast range of social benefits to low-income families, including housing allowances, study grants and nursery grants. The new Social Security Act, which had entered into force one year earlier, provided family benefits as soon as a child was born.

37. Regarding the possibility of allowing foreigners to vote in local elections, he explained that Andorra's territorial division into seven *comuns*, which represented and administered the parishes, did not correspond to the usual notion of local government. The town halls were comparable in terms of powers to the Autonomous Communities, the Regions or the Länder. Andorra had recently signed the Charter of Local Self-Government.

38. Andorra extended an open invitation to the special procedures of the Human Rights Council.

39. Ms. Magda Mata Font, State Secretary for Equality and Welfare, replied to questions related to the National Action Plan for Equality, a concern of the Committee on the Elimination of Discrimination against Women, the segregation of women and stereotypes in Andorran society. She referred to concrete measures to allow women to improve their standard of living thanks to training courses run in conjunction with the Ministry of Education, which focused on personal services. In the school year 2008/09, six women had completed the training successfully and were currently employed on the labour market on a fully independent basis.

40. The dissemination and publication of the Convention on the Elimination of All Forms of Discrimination against Women, the optional protocols, the Committee's observations and the Beijing Declaration and Platform for Action had created awareness among and informed the population of Andorra. In the belief that change could only be achieved through education, several projects had been undertaken jointly with the Ministry of Education.

41. The State Secretariat for Equality and Welfare was responsible, inter alia, for combating all forms of discrimination against women by mainstreaming a gender perspective at the launch of all new policies. One significant area of improvement would be increasing the representation of women in public life and positions of authority in the years ahead.

42. It was also important to take steps to reconcile life at work and in the family from the point of view of ensuring equality between men and women, while continuing joint



efforts with the Ministry of Education to promote workshops for young people to consider such subjects as gender equality, gender stereotypes and violence.

43. With regard to article 87 of the Labour Relations Code, the “equality label” for companies, when approved by the Government in the near future, would provide a way of recognizing companies that applied real and effective policies to promote equality at work between men and women and to help reconcile life at work and in the family. Companies wishing to qualify for the distinction had to submit a report on the measures they had taken, the results they had obtained and a policy plan.

44. Gender violence was of great concern to the Governments of most countries insofar as it constituted a serious violation of human rights. Since it had signed the Convention on the Elimination of All Forms of Discrimination against Women, Andorra had given priority to combating violence against women (also para. 23).

45. Since the current report had been submitted, the State Secretariat for Equality and Welfare had been working on a plan to institute assisted accommodation, which should be operational before the end of the year. Women who had been subjected to domestic violence, under current arrangements, were allowed access to temporary shelter facilities, either in host families for 15 days or in a temporary home for not more than a month. The two types of arrangement, while satisfactory, were insufficient, insofar as some women needed more time to stand on their own feet, as well as longer-term assistance by the team in charge of comprehensive care for women victims of violence. In response, a plan had been launched for assisted accommodation that offered women medium-term care for six months, renewable if necessary.

46. In view of the concerns expressed by the Committee on the Elimination of Discrimination against Women in its 2001 report about the punitive legislation against abortion, which was thought to encourage the practice of clandestine abortions in poor conditions of hygiene, it was worth referring back to Andorra’s own historic and institutional background, since the right to life was fully protected at all its stages, as spelled out in the Constitution in article 8 concerning the fundamental rights of persons. The Committee’s concern, which established a link between insecurity, clandestinity and anti-abortion legislation, needed to be seen in context. In the first place, given the size and structure of Andorra it was unlikely that clandestine abortions could be practised without the institutions responsible being informed, and secondly, while the medical watch unit regularly received all records of hospital admissions and emergencies, no case of clandestine abortion had ever been detected.

47. It was worth noting, moreover, that the Andorran courts had never in the course of their proceedings dealt with the offences defined in articles 107, 108 and 109 of the Criminal Code, such as offences against prenatal life, and no court action had ever been initiated in that respect.

48. Ms. Canòlic Mingorance, an investigating judge working with the Andorran courts, replied to questions touching on her sphere of competence. Under article 108 of the Code of Criminal Procedure, pretrial detention was limited to four months and was permitted only in the circumstances set out in article 103 of the Code. That period could be extended for another four months for minor offences, and a second time in the case of major offences. In any event, the prolongation of pretrial detention had to be the subject of a court ruling, giving reasons for the investigation proceedings and for extending them while maintaining the pretrial detention. Furthermore, the period of pretrial detention could never exceed half the sentence applicable to the offence in question.

49. Corporal punishment and deliberate humiliation inflicted on minors within the family were punishable under articles 476, 113 and 114 of the Criminal Code, which laid down penalties for domestic violence (understood to include gender violence and violence

against minors in the home). Ill-treatment was punishable as a misdemeanour in the absence of injury and as a major or minor offence according to the seriousness of any injury inflicted. Ill-treatment committed in the home was considered an aggravated offence.

50. In the Andorran courts, according to judicial statistics for 2009, 19 criminal proceedings had been initiated for corporal punishment or deliberate humiliations inflicted on minors within the home.

51. Ms. Maria Ubach, Director of Multilateral Affairs and Cooperation at the Ministry of Foreign Affairs and Institutional Relations, referring to the international instruments that Andorra had not yet ratified, said that the country's modest human resources had to be borne in mind, since they meant that new accession procedures could be undertaken only gradually.

52. Andorra had not yet ratified the International Covenant on Economic, Social and Cultural Rights. The question on discrimination on grounds of national origin in the exercise of economic rights and the question on the right to strike needed careful consideration. The right to strike was recognized in article 19 of the Constitution, which laid down the right of workers and employers to defend their economic and social interests. The implementing provisions of the right to strike were to be embodied in a law, which the Government was intending to promulgate at the same time as it acceded to the Covenant, as stipulated in article 24 of the qualified majority Act (*llei qualificada*) regulating State activity in the matter of treaties.

53. Spain stated that Andorra had ratified most of the international human rights instruments and, since the approval of the Constitution in 1993, had established a legal framework to ensure the protection of human rights. Spain welcomed the abolition of the death penalty under the Constitution, the broad definition of motives for penalizing discrimination, and Andorra's cooperation with international human rights mechanisms. It also welcomed the announcement by the delegation of Andorra's intention to issue an open and permanent invitation to the special procedures of the Human Rights Council. Spain asked whether Andorra intended to develop its national human rights institution, known as *Raonador al Ciutadà*, in accordance with the Paris Principles. It made recommendations.

54. The Republic of Moldova expressed its appreciation for the detailed presentation of the national report and congratulated the delegation on Andorra's systematic and focused approach to human rights, mentioning as examples the initiative to establish objective indicators on specific topics such as childhood, gender, disabilities, immigration and the National Action Plan for Equality. The Republic of Moldova highlighted as a good practice the adoption by Parliament of the Penitentiary Law to guarantee the rights of people deprived of liberty. It noted with satisfaction the ratification of the Council of Europe Convention against Human Trafficking. The Republic of Moldova asked whether the authorities intended to draft a national human rights action plan and to establish a national independent institution for the promotion and protection of human rights. It made recommendations.

55. Turkey stated that, since the adoption of its Constitution, Andorra had ratified more than 200 conventions and had signed and ratified 40 conventions for the protection of human rights, which was very encouraging. It stated that it was convinced that Andorra would persist in its commitment to promoting and protecting human rights. Turkey welcomed the establishment in 2006 of an integrated support team for women victims of violence and their minor children. It highlighted the proposal for family reunification for nationalities that had not benefited from such reunification. It requested further information about Andorra's plan of action for dependent persons and about the 2002 juvenile justice reform. Turkey made a recommendation.

56. Sweden was grateful for the report presented. Sweden echoed the concern expressed by the Committee on the Rights of the Child as to whether some of the principles of the Convention on the Rights of the Child were fully reflected in Andorra's legislation and administrative and judicial decisions, as well as in child-related policies and programmes at the national and local levels. Sweden also stated that corporal punishment remained lawful in Andorra, which, according to the Committee on the Rights of the Child, contradicted the Convention on the Rights of the Child. Sweden inquired about the measures taken by Andorra to implement the Convention, and specifically the measures to ensure that children were free from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. Sweden welcomed Andorra's ratification of the Convention on the Elimination of All Forms of Racial Discrimination and asked the country to elaborate on additional measures to ensure the enjoyment of human rights by non-citizens, such as allowing foreign residents to vote in local elections. Sweden made recommendations.

57. Argentina praised Andorra for its international and bilateral technical cooperation to prevent the participation of children in armed conflicts. In accordance with the recommendations of the Committee on the Rights of the Child, Argentina inquired about measures that had been adopted to eliminate abuse and domestic violence. Argentina made recommendations.

58. Chile noted Andorra's comprehensive national legal framework for the protection of human rights, as well as its ratification of several important instruments. Chile stated that human rights treaties were directly applicable to Andorra's national legal framework. It referred to the measures adopted to promote the Optional Protocol on the sale of children, child prostitution and child pornography. Acknowledging the progress made in juvenile justice, Chile requested further information about Andorra's good practices in international cooperation with respect to children. Chile made recommendations.

59. China thanked Andorra for the detailed presentation and appreciated the serious and responsible attitude adopted towards the review. China noted that, since the adoption of the Constitution of 1993, Andorra had ratified many international human rights instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child. China noted the large proportion of immigrants in Andorra and wished to learn about measures adopted to promote participation by the representatives of immigrant groups and other stakeholders in the formulation of relevant policies. China made recommendations.

60. France warmly welcomed Andorra as a friendly neighbouring country and thanked the delegation for the clear and exhaustive report and the clear answers given to the questions already asked. It noted the obstacles that were impeding Andorra's ratification of the International Convention on Economic, Social and Cultural Rights. It took note of the fact that the Convention could be ratified once the issue of the right to strike had been settled. France made recommendations.

61. Slovenia noted with appreciation Andorra's achievements as highlighted by the Committee on the Rights of the Child, namely, its international cooperation on issues pertaining to children. Slovenia welcomed Andorra's international and bilateral technical activities to prevent the involvement of children in armed conflicts. It requested Andorra to elaborate on those best practices and to share them with the Working Group. Slovenia also congratulated Andorra on being among the initial sponsors of the resolutions on the World Programme for Human Rights Education. Slovenia made recommendations.

62. Portugal welcomed the thorough process undertaken in the preparation of the national report, as well as the timely involvement of civil society. It stated that in 2001, the Committee on the Elimination of Discrimination against Women had recommended the

adoption of legislation prohibiting discrimination in employment and guaranteeing equal pay for work of equal value. In this regard, Portugal noted the policy of introducing an “equality mark” for companies that promoted equality at work, and requested information about the impact of that measure. Portugal inquired about Andorra’s intention to follow up on the recommendation of the European Commission against Racism and Intolerance that Portuguese-language lessons be offered during school hours. It made recommendations.

63. Latvia noted with satisfaction Andorra’s firm commitment to protecting and promoting human rights and its generally good human rights record. It was pleased to learn, as a result of the delegation’s presentation, that Andorra was prepared to extend a standing invitation to special procedures of the Human Rights Council. It made a recommendation.

64. The United States of America expressed appreciation for the presentation of the Andorran report and for Andorra’s deep commitment to human rights. The United States observed that, in order to strengthen its human rights record, Andorra must address the rights of those individuals detained while awaiting trial, in particular foreigners, whose cases often experienced prolonged delays. The United States noted the difficulties faced by workers in forming and joining unions and by the difficulties experienced by unions in exercising their right to bargain collectively and to strike. The United States made recommendations.

65. The Minister for Foreign Affairs and Institutional Relations said that on 20 October 2010 the Andorran Government had adopted the regulations on the performance of medical tests prior to the issuance of residence permits. The aim was to offer a personalized, flexible and transparent service that guaranteed not only the rights and freedoms of the individual but also the rights to work, health and decent housing, while also protecting the health of the public at large, in line with the recommendations of the World Health Organization (WHO). Now that the regulations had been adopted, the Government would refuse residence permits only to individuals with an illness defined in the WHO International Health Regulations when they posed a risk to public health or when the illness was incompatible with the job they were applying for. By adopting the regulations, the Government had ended a practice that raised questions about the observance of immigrants’ basic rights.

66. Since 1996, Andorra had closely followed the work of the first Special Representative of the Secretary-General for children and armed conflict, Mr. Olara Otunnu. Andorra had participated in the exhibition on guns organized by the office of the Special Representative, the Department for Disarmament Affairs and UNICEF. Andorra’s commitment was apparent from its voluntary contributions since 2002 to the Programme for Children and Armed Conflict and from its signing, in 2008, of the Principles and Guidelines on Children associated with Armed Forces or Armed Groups (the Paris Principles).

67. The Andorran Government was currently negotiating a protocol to amend its agreement on cooperation in education with Portugal, which would provide for two hours a week of Portuguese lessons in primary school and three hours a week in secondary school, and for Portuguese to be an option for the baccalaureate.

68. Ms. Mata, State Secretary for Equality and Welfare, said that corporal punishment of children was banned in the home. Article 114 of the 2008 Criminal Code, entitled “Ill-treatment in the family” — in other words, domestic violence — protected spouses, children, parents and grandparents by providing for prison sentences of between 3 months and 3 years. The reform of the Criminal Code thus enabled the courts to intervene if a child was abused.

69. In addition, a procedure to be followed in cases where children were at risk had been drawn up by the Ministry of Health, Welfare and Employment. The aim was to protect

children from any risky situation, to establish the channels for action and to match the specialists and types of intervention to the seriousness of the situation. The procedure had been drawn up with the various social actors concerned to ensure that intervention was flexible and effective, safeguarded the best interests of the child and avoided the double victimization of the child.

70. Since empowerment, or re-empowerment, must take account of individual characteristics such as competence, awareness and social motivation, as well as characteristics related to environmental action, the Government's programmes were designed to foster integration, inclusiveness and autonomy.

71. The Accessibility Act, passed on 6 April 1995, was based on the principle that accessibility and guaranteed access to the environment and public spaces were rights in respect of which no discrimination was permissible. In keeping with the Constitution, the act proposed the establishment of conditions conducive to real and effective equality and liberty of individuals. The Accessibility Regulations of 31 May 1995 went further, by establishing the Commission for the Promotion of Accessibility.

72. The Act Guaranteeing the Rights of Persons with Disabilities, adopted on 17 October 2002, did not deal specifically with disabled persons as a group, which could be taken as a form of discrimination, but rather introduced a number of measures to guarantee that persons with disabilities could exercise their rights and duties on a basis of equality.

73. The act had established the National Council of Persons with Disabilities, an advisory and participatory body responsible for follow-up, coordination and collaboration in government decision-making on disability-related issues. The Council was made up of representatives of disabled people's associations, the Government, local authorities and the Andorran Social Security Fund.

74. Pursuant to article 28, the National Evaluation Commission had been set up by governmental decree on 10 June 2004 as a national body with both technical and public functions and responsibilities in the diagnosis and evaluation of dysfunction and disability. Its aim was to provide guidance and determine access to programmes, services, benefits and other measures to help persons with disabilities.

75. Access to education, for example, was expressly recognized for children, young people and adults with disabilities. Education was compulsory and free of charge for disabled children aged 6–16; if parents so requested, it could begin at the age of 3 and carry on until the age of 18. Pupils with disabilities were taught in mainstream schools, and special education was seen as a form of educational support to be provided in ordinary schools. The educational goals for children with disabilities were the same as for other pupils, although they were entitled to follow personalized courses adapted to their needs. There was also a programme called Integra, which included children with disabilities in the activities of leisure centres, and a programme called Agentas, which, among other things, helped people with disabilities to find work.

76. Andorra had signed the Convention on the Rights of Persons with Disabilities on 27 April 2007 and had taken into account and incorporated some of its provisions in the 2002 Act Guaranteeing the Rights of Persons with Disabilities. Realizing that the needs of old people and dependants were the concern of society as a whole, the Ministry of Health, Welfare and Employment was currently working on various arrangements to introduce social and health-related care in the home.

77. Ms. Mingorance, an investigating judge working with the Andorran courts, replied to the questions on the changes to the Criminal Code adopted on 17 February 2008 in response to concerns expressed by the Committee on the Rights of the Child.

78. With regard to the Committee's concern about the enlistment of minors — a situation that was difficult to envisage in Andorra, although an Andorran might enlist children in a foreign country — article 8 of the Criminal Code stipulated that Andorran criminal law was applicable to offences committed abroad by an Andorran if they were defined as offences in the Andorran Criminal Code or an international treaty. The system provided an open-ended list that would cover the enlistment of child soldiers. Such an approach was in line with the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which Andorra had signed on 7 September 2000.

79. Ms. Ubach, Director of Multilateral Affairs and Cooperation, replied to the last questions raised, regarding the Andorran Government's preference for regularly involving NGOs in the drafting of reports to the treaty-monitoring bodies. It had even invited representatives of one NGO to take part in the presentation of such reports to, for example, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women. The Ministry of Foreign Affairs had organized a briefing for Andorran NGOs on the universal periodic review procedure and had invited them to send their reports to the Office of the United Nations High Commissioner for Human Rights. The Government planned to make the recommendations resulting from its first universal periodic review available to NGOs to ensure effective follow-up.

80. Andorra had been a contributor to the United Nations Voluntary Fund on Disability since 2008.

81. Andorra had never faced the kinds of situation envisaged in the International Convention for the Protection of All Persons from Enforced Disappearance. The Government gave priority to the ratification of other international conventions that had a direct impact on Andorra. Nevertheless, Andorra regularly co-sponsored resolutions on that convention.

82. To conclude, the Government of Andorra reaffirmed its commitment to the defence of human rights and took careful note of all the recommendations, which would be forwarded to the Council of Ministers for a reply in the next few months.

## II. Conclusions and/or recommendations

83. **The recommendations formulated during the interactive dialogue/listed below have been examined by Andorra and enjoy its support:**

**83.1 Carefully monitor the impact of legislation, policies and programmes to eliminate inequality between women and men, and take steps to ensure that equal rights are enjoyed de facto (Azerbaijan);**

**83.2 Enact and implement legislation that unambiguously prohibits all corporal punishment in the home (Netherlands);**

**83.3 Consider withdrawing its declaration made upon ratification of the Convention on the Rights of the Child, and continue and complete its review of legislation to ensure full compliance with the Convention (Brazil);**

**83.4 Continue to develop legislation and policies to ensure effective gender equality and to combat gender violence (Spain);**

**83.5 Take the gender perspective into consideration in the design of future policies and programmes (Hungary);**

- 83.6 Take steps to improve cooperation with non-governmental organizations active in the protection of children at the national and international levels (Hungary);
- 83.7 Take all necessary measures to fully implement the Convention on the Rights of the Child, including by prohibiting corporal punishment of children in all settings (Sweden);
- 83.8 Step up efforts to implement the resolutions on the World Programme for Human Rights Education, including through the preparation of a national plan and reports (Slovenia);
- 83.9 Intensify cooperation between the Inter-Religious Dialogue Group and the National Andorra Commission for the United Nations Educational, Scientific and Cultural Organization (Algeria);
- 83.10 Continue to develop measures against domestic violence, maltreatment and abuse, including sexual abuse, and, as recommended by the Committee on the Rights of the Child, explicitly prohibit corporal punishment, not only in schools, but also in the family (Spain);
- 83.11 Consider conducting studies on domestic violence, maltreatment and abuse within the family as well as intimidation at schools, in accordance with the recommendations made by the Committee on the Rights of the Child (Chile);
- 83.12 Continue considering the incorporation of a gender perspective into policies and programmes, in accordance with what was recommended by the Committee on the Elimination of Discrimination against Women (Chile);
- 83.13 Continue efforts in the submission of periodic reports, including by utilizing the potential offered by international cooperation and technical assistance (Algeria);
- 83.14 Extend a standing invitation to all special procedures of the Human Rights Council (Brazil, Chile, Latvia and United Kingdom) to facilitate possible future visits by mandate holders (Hungary);
- 83.15 Step up efforts to respond to questionnaires sent by special procedures mandate holders, and report to the United Nations treaty bodies in a more timely manner in order to thus fulfil its international obligations (Slovenia);
- 83.16 Consistent with article 87 of the Labour Code, proceed with the creation of a distinctive equality mark that encourages enterprises to promote a policy of equal pay for men and women (Mexico);
- 83.17 Take measures to eradicate traditional stereotypes of women, especially through educational programmes, and apply a gender perspective in the design of future policies and programmes (Netherlands);
- 83.18 Share the experiences of the special tool for gender equality, the “equality mark”, with other countries (Hungary);
- 83.19 Strengthen educational measures and intensify cooperation with civil society organizations and the media, with a view to eradicating traditional stereotypes that perpetuate discrimination and violence against women (Argentina);

83.20 Adapt labour legislation and improve existing practices with a view to ensuring equal pay for women and overcoming any pay inequalities (Argentina);

83.21 Institute mechanisms to ensure that a gender perspective is incorporated into its future policies and programmes (Canada);

83.22 Introduce practical measures, such as alternative means, to shorten periods of imprisonment (Hungary);

83.23 Take measures to lower the number of pre-trial detainees through more liberal bail provisions, especially for those accused of less serious crimes (United States);

83.24 Encode in law the right to organize and bargain collectively (United States).

84. The following recommendations will be examined by Andorra, which will provide responses in due course, but no later than the 16<sup>th</sup> session of the Human Rights Council, in March 2011:

84.1 Consider the ratification of the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Mexico);

84.2 Sign and ratify the Convention on Economic, Social and Cultural Rights (France, Netherlands) as well as the Optional Protocols thereto (Portugal);

84.3 Become a party to the Optional Protocol to the Convention against Torture (United Kingdom);

84.4 Become a party to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol thereto; the Optional Protocol to the Convention against Torture; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto; and the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);

84.5 Ratify, as soon as possible, the International Covenant on Economic, Social and Cultural Rights (China);

84.6 Ratify outstanding core international human rights instruments (Slovenia);

84.7 Pursue its commitment to the ratification of international conventions by ratifying fundamental instruments, in particular the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of All Migrant Workers and Members of Their Families, and the Convention on the Rights of Persons with Disabilities (Algeria);

84.8 Accede to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, and ensure effective protection of refugees in line with international standards (Canada);

84.9 Consider ratifying the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture, and the 1951 Refugee Convention and the 1967 Protocol thereto (Brazil);



- 84.10 **Ratify the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol thereto, the Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention for the Protection of All Persons from Enforced Disappearance (Spain);**
- 84.11 **Accede to the United Nations Convention relating to the Status of Stateless Persons of 1954 and to the Convention on the Reduction of Statelessness of 1961 (Germany);**
- 84.12 **Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, thereby recognizing its competence, pursuant to articles 31 and 32 of that instrument (France);**
- 84.13 **Sign and ratify Convention No. 111 of the International Labour Organization (ILO), concerning discrimination in respect of employment and occupation (Portugal);**
- 84.14 **Consider joining ILO and ratifying its core Conventions (Brazil);**
- 84.15 **Implement the Additional Protocol to the United Nations Convention on Organized Transnational Crime to prevent, prosecute and punish human trafficking, particularly the trafficking of women and children (Republic of Moldova);**
- 84.16 **Sign the Council of Europe Convention for the protection of children against exploitation and sexual abuse (Republic of Moldova);**
- 84.17 **Consider reviewing existing legislation, including the Marriage Law, to comply with the Convention on the Elimination of All forms of Discrimination against Women (Azerbaijan);**
- 84.18 **Amend legislation in order to decriminalize abortion under certain circumstances, such as pregnancies that are the result of rape (Netherlands);**
- 84.19 **Establish a national human rights institution in accordance with the Paris Principles (Azerbaijan);**
- 84.20 **Set up a national human rights institution accredited by the International Criminal Court (United Kingdom);**
- 84.21 **Examine the possibility of setting up a national human rights institution accredited by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (Algeria);**
- 84.22 **Put in place an independent national human rights institution in line with the United Nations Paris Principles (Portugal);**
- 84.23 **Promote the right of temporary workers to family reunification in accordance with the European Commission's recommendation against racism and intolerance, particularly in the light of the Immigration Law which entered into force in July 2008 (Mexico);**
- 84.24 **Submit and present pending reports to the treaty bodies of which Andorra is a member, with a view to gaining an updated picture of the situation of human rights in the country (Mexico);**
- 84.25 **Ensure effective protection of the rights of foreigners residing in the country, and actively promote anti-discrimination policies, including in law enforcement practices (Canada);**

84.26 Conduct independent investigations into allegations of police misconduct, and create an independent body to investigate complaints against members of the police force (United Kingdom);

84.27 Review existing legislation, including the Marriage Law, to comply with the Convention on the Elimination of All Forms of Discrimination against Women (Canada);

84.28 Regulate and guarantee the rights of workers in accordance with the standards of the European Social Charter, by means of a dialogue with social agents and social stakeholders, and by seeking maximum parliamentary consensus (Spain);

84.29 Establish a system of data collection which would allow a stock-taking of the situation of immigrant problems in areas such as employment and access to public office, and take measures to solve these problems (Turkey);

84.30 Establish a system for data collection to better evaluate the situation of migrants, and consolidate efforts to ensure that their rights are respected (Morocco).

85. The recommendations below did not enjoy the support of Andorra:

85.1 Allow foreign residents to vote in local elections, and take all necessary measures to ensure the enjoyment by non-citizens of human rights in general (Sweden);

85.2 Consider taking necessary steps to guarantee access to fundamental social human rights, such as health care and education, for foreign residents, including their children, regardless of their migratory status (Brazil).

86. All conclusions and/or recommendations contained in the present report reflect the positions of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.

## Annex

### Composition of the delegation

The delegation of Andorra was headed by His Excellency Xavier Espot and was composed of the following members:

- His Excellency Xavier Espot, Minister for Foreign Affairs and Institutional Relations, head of the delegation
  - His Excellency Lluís Viu, Ambassador Plenipotentiary and Permanent Representative of the Permanent Mission of Andorra in Geneva
  - Mrs. Magda Mata, Secretary of State of Equality and Welfare, Ministry of Health, Labour and Social Affairs
  - Mrs. Canòlic Mingorance, Judge of the Tribunal of Andorra
  - Mrs. Maria Ubach, Director of Multilateral and Cooperation Affairs, Ministry of Foreign Affairs and Institutional Relations
  - Mrs. Montserrat Gessé, First Secretary of the Permanent Mission of Andorra in Geneva
  - Mr. Manuel Marcu, Administrative Officer of the Permanent Mission of Andorra in Geneva
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