

European Commission  
against Racism and Intolerance

**ECRI**  
Commission européenne  
contre le racisme et l'intolérance

COUNCIL OF EUROPE



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**ECRI CONCLUSIONS  
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS  
IN RESPECT OF ANDORRA  
SUBJECT TO INTERIM FOLLOW-UP**

*Adopted on 10 December 2019<sup>1</sup>*

*Published on 19 March 2020*

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<sup>1</sup> Unless otherwise indicated, any developments which occurred after 1 March 2019, the date on which the response of the authorities of Andorra to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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## FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012<sup>1</sup>, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim follow-up recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

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<sup>1</sup> CM/Del/Dec(2012)1154/4.2.



1. *In its report on Andorra (fifth monitoring cycle) published on 28 February 2017, ECRI strongly reiterated its recommendation to ensure the existence of a body with specialised capacity to combat racism, racial discrimination, xenophobia, antisemitism and intolerance at national level in the public and private sectors in line with its GPR Nos. 2<sup>1</sup> and 7 on specialised bodies and on national legislation to combat racism and racial discrimination.*

The Andorran authorities have informed ECRI of an amendment to the Law on the Establishment and Functioning of the Raonador del Ciutadà (Ombudsman) which entered into force on 24 November 2017. In addition to his or her previous tasks, the Ombudsman is now in charge of the fight against all types of discrimination and racist, xenophobic, antisemitic and intolerant attitudes. The Ombudsman should, in particular, ensure that public and private bodies, including the media, respect the principle of gender equality and that all the necessary measures are taken to avoid any form of direct or indirect discrimination on the grounds of birth, race, background, nationality or ethnic background, colour, gender, religion, philosophical, political or trade union views, physical or mental disability, [...] sexual identity or orientation, or any other consideration. He or she can now receive complaints of racial discrimination both in the public and private sphere.

ECRI welcomes this broadening of the Ombudsman's terms of reference and considers that this recommendation has been fully implemented.

2. *In its report on Andorra (fifth monitoring cycle), ECRI strongly recommended that the authorities introduce into the law the principle of sharing the burden of proof where discrimination complaints on grounds of "race", colour, ethnic origin, nationality, religion, language, gender identity and sexual orientation are brought before the civil or administrative courts*

In accordance with paragraph 11 of ECRI's General Policy Recommendation No. 7, the law should provide that, if persons who consider themselves wronged because of a discriminatory act establish before a court or any other competent authority facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no discrimination.

The Andorran authorities have informed ECRI that the Law on Equal Treatment and Non-Discrimination was approved by Parliament on 15 February 2019. Article 24.1 of the law provides that in the event "that the complainant alleges that there has been discrimination and provides conclusive evidence thereof, the respondent shall provide an objective and reasonable justification, sufficiently documented, of the measures taken and their proportionality".

ECRI welcomes the adoption of the Law on Equal Treatment and Non-Discrimination and considers that this recommendation has been fully implemented.

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<sup>1</sup> ECRI revised its General Policy Recommendation No. 2 in 2017. The new version is available from the following link : <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.2>.



