

# ECRI REPORT ON ANDORRA

(sixth monitoring cycle)



**Adopted on 2 July 2024**

Published on 21 October 2024

European Commission  
against Racism and Intolerance

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



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## FOREWORD

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The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI’s country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth-round reports started at the end of 2018.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidence. They are analyses based on information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

**The following report was drawn up by ECRI under its own responsibility. Unless otherwise indicated, it covers the situation up to 10 April 2024; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.**

## SUMMARY

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**Since the adoption of ECRI's fifth report on Andorra on 6 December 2016, progress has been made and good practices have been developed in a number of fields.**

The remit of the *Raonador del Ciutadà* (Ombudsperson) was extended in 2017 to include issues of interest to ECRI. The Ombudsperson is responsible for dealing with complaints of racial discrimination in both the public and private sectors.

The Law on the Rights of Children and Adolescents, amended in 2019, protects children and adolescents against discrimination on grounds of sexual orientation and gender identity. A National Plan for Children and Adolescents, drawn up with the participation of civil society and schoolchildren, was presented in October 2022. An anti-bullying action plan is also being implemented in all Andorran schools.

All minors, regardless of their administrative status, can enrol and receive free schooling immediately. Their healthcare is also covered by the social security system.

Same-sex couples are treated on the same footing as different-sex couples with regard to access to civil marriage and adoption.

Since 2022, the costs of gender-affirming healthcare for transgender people have been fully covered by the public health system. In addition, Andorran legislation allows transgender people to change their gender marker on official documents without undergoing medical treatment.

A handbook on good practices in dealing with diversity in the media was distributed to journalists and communication professionals in 2023.

Guidelines on preventing the secondary victimisation of victims of violence, including hate crimes, have been developed for those working in the relevant fields.

The National Housing Institute, set up in June 2021, is responsible for "protected" housing for people in difficulty and affordable housing. The National Housing Committee enables government bodies, municipalities, the Ombudsperson, the National Housing Institute and private organisations involved in the housing sector to exchange ideas and seek solutions, including for foreigners in vulnerable situations.

The Equality Policy Department is responsible for developing and promoting cross-cutting policies and programmes for the benefit of groups of concern to ECRI, including foreign nationals. The Department prepared a White Paper on Equal Treatment in 2018 and its conclusions were used to draw up Law No. 13/2019 of 15 February 2019 on equality and non-discrimination, which entered into force in 2019.

**ECRI welcomes these positive developments in Andorra. However, despite the progress that has been made, some areas of concern remain.**

There are still a number of outstanding issues relating to the status and powers of the *Raonador del Ciutadà* (Ombudsperson).

Concerning transgender persons, no guidelines have been published on gender-affirming healthcare and a psychiatric diagnosis is still required to access such care. As for name changes and legal gender recognition, the compulsory two-year waiting period and the necessary judicial procedure are still problematic.

Online hate speech against migrants, Muslims and LGBTI people has been noted on several occasions, including in the comments sections of news articles and on social media.

There are significant procedural and technical difficulties in investigating and promptly removing online hate speech.

The two computer systems used to manage data on hate crime do not allow for the compilation of statistics.

Some migrant workers, particularly those from Latin America in the construction sector, have faced abusive practices.

The lack of local voting rights means that the country's foreign population (the majority of the total population) cannot participate actively in public life.

Law 13/2019 on equality and non-discrimination has not yet been implemented through a mainstreamed approach with the active participation of all stakeholders.

**In this report, ECRI requests that the authorities take action in a number of areas and makes a series of recommendations, including the following.**

The status and powers of the *Raonador del Ciutadà* (Ombudsperson) should be

strengthened, in accordance with the Opinion of the Venice Commission of 24 October 2022.

The authorities should strengthen legislation on legal gender recognition to bring it into line with international standards, while opting for a quick, transparent and accessible administrative procedure.

An inter-institutional working group should be set up to develop a regulatory framework to effectively combat racist and LGBTI-phobic hate speech, including online. The authorities should also ensure that racist and/or LGBTI-phobic motivations are fully taken into account in investigations and judicial proceedings.

The authorities should set up a comprehensive disaggregated data collection system on racist and LGBTI-phobic hate speech and hate crime reported to the police and on the judicial follow-up, and make this data available to the public.

As regards employment, the authorities should provide the labour inspectorate with adequate resources to effectively prevent and eliminate all forms of racism and racial discrimination.

As to housing, continued efforts are needed to create social and affordable housing and to step up initiatives to support foreigners in vulnerable situations during the housing crisis.

In order to ensure that non-nationals residing in Andorra can participate in public life, the authorities should grant them the right to vote and to stand for election at local level.\*

The authorities should also adopt a national programme of actions against racism and LGBTI-phobia with the involvement of all ministries, the *Raonador del Ciutadà* (Ombudsperson) and civil society and set up a working group to ensure its effective implementation.\*

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\* These recommendations will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

## FINDINGS AND RECOMMENDATIONS

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### I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

#### A. Equality bodies<sup>1</sup>

1. The *Raonador del Ciutadà* (Ombudsperson), located near the Parliament, is designated as Andorra's equality body. ECRI welcomes the fact that the institution's remit was extended in 2017 to include issues of interest to ECRI. This was a major step forward, fulfilling the expectations expressed by ECRI in a previous recommendation for which priority implementation had been requested.<sup>2</sup> It should also be noted that the Ombudsperson is responsible for dealing with complaints of racial and other types of discrimination in both the public and private sectors.
2. However, ECRI notes that the proportion of complaints relating to racial discrimination or LGBTI issues received by the Ombudsman in recent years has been low, averaging between one and two complaints per year. Various interlocutors heard by the ECRI delegation during the visit to Andorra said that this could be a sign of underreporting due to the institution's lack of visibility, despite the Ombudsperson's efforts to be active in the press and on social media.
3. ECRI also notes that a number of shortcomings persist with regard to the sustainability and independence of the institution, due in particular to the absence of a constitutional basis (as the institution is not enshrined in the Constitution), the non-transparent procedure for appointing the Ombudsperson, the lack of guaranteed access to the documents it needs to process complaints and the fact that it has no authority to refer cases to the courts or to intervene before them.
4. Furthermore, the institution's budget and staff are not commensurate with its responsibilities. ECRI has been informed that the annual budget is in the region of €300 000, which is supposed to cover both the rent of its premises and salaries. The institution has four full-time and one part-time staff members.
5. ECRI therefore welcomes the willingness expressed by the Andorran authorities to strengthen the institution and its capacity to act, as demonstrated by the request for an opinion that they submitted to another Council of Europe body, the European Commission for Democracy through Law (Venice Commission). ECRI endorses the recommendations made in the Venice Commission's Opinion of 24 October 2022<sup>3</sup> and refers to ECRI's General Policy Recommendation (GPR) No. 2 (revised) on Equality Bodies to combat racism and intolerance at national level (in particular paragraphs 1, 7, 13, 14, 21, 23 and 24).
6. ECRI recommends that the authorities strengthen the status and powers of the *Raonador del Ciutadà* (Ombudsperson), in the light of ECRI's General Policy Recommendation No. 2 (revised) on equality bodies responsible for combating racism and intolerance at national level and the Opinion of the Council of Europe Venice Commission of 24 October 2022, and ensure that the institution is provided with the budget and staff necessary for the full performance of its functions.

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<sup>1</sup> The term "national specialised bodies" was updated to "equality bodies" in the revised version of [General Policy Recommendation No. 2](#), published on 27 February 2018.

<sup>2</sup> ECRI (2017), Fifth report on Andorra, §22; ECRI (2020), Conclusions on Andorra.

<sup>3</sup> CoE, Venice Commission ([2022](#)).

## B. Inclusive education

7. This sub-chapter relates to education policies<sup>4</sup> that aim to tackle exclusion and marginalisation through inclusive education for all and build a society that respects diversity, in accordance with sections II and III of ECRI's GPR No. 10.<sup>5</sup>
8. The right to education for all (Article 20) and non-discrimination (Article 6) are enshrined in the Andorran Constitution.<sup>6</sup> Under Article 46 of the Law on the Rights of Children and Adolescents, public authorities must ensure that school curricula include, at all levels and in an interdisciplinary manner, content related to human rights education and the promotion of a culture of peace and non-violence, including the prevention of bullying in schools.<sup>7</sup>
9. ECRI notes that some progress has been made in recent years in the field of inclusive education, including at the normative (legislative and regulatory) level. For example, the UNESCO Convention against Discrimination in Education entered into force in Andorra in June 2018.<sup>8</sup> The Law on the Rights of Children and Adolescents was amended in February 2019 to protect children and adolescents against discrimination on the grounds of sexual orientation and gender identity. The law stipulates that the gender identity of transgender children must be respected. In this context, ECRI is pleased to note the flexibility shown by schools in dealing with transgender pupils.<sup>9</sup> It also notes that the National Plan for Children and Adolescents, presented in October 2022, was drawn up with the participation of civil society and schoolchildren.<sup>10</sup> According to information gathered by the ECRI delegation during its visit to Andorra, parents of pupils and representatives of civil society agreed that the plan was well designed, although some interlocutors said that the resources allocated to its implementation were still insufficient.
10. ECRI is pleased to note that school curricula include educational projects aimed at promoting human rights, non-discrimination and respect for diversity.<sup>11</sup>
11. ECRI would like to highlight as a **promising practice** the awareness-raising activities on the prevention of racism and LGBTI-phobia that take place every year in schools.
12. In particular, ECRI notes with interest that, since 2015, representatives of the Human Rights Institute have been going to schools to talk to children. The Institute also organised two competitions: one on discrimination and the other on bullying at school. In the same vein, Andorran schools devote one day a year to an activity in which all pupils and teachers work on a cross-cutting theme related to the defence of human rights, citizenship, interculturality or non-discrimination.<sup>12</sup> In addition, workshops on preventing LGBTI-phobia are held in both primary and secondary schools, and LGBTI associations are invited to schools as part of these initiatives. Lastly, ECRI notes with interest the training courses run by the DiversAnd association for primary and secondary school teachers and trainee teachers.<sup>13</sup>

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<sup>4</sup> This sub-chapter deals with the education of all children and young people. Measures aimed specifically at migrant children are addressed in the "Integration and Inclusion" section.

<sup>5</sup> ECRI [General Policy Recommendation No. 10](#) on combating racism and racial discrimination in and through school education.

<sup>6</sup> [Constitution of the Principality of Andorra — Consell General Principat d'Andorra](#).

<sup>7</sup> [Llei 14/2019 qualificada dels drets dels infants i els adolescents. — Consell General Principat d'Andorra](#).

<sup>8</sup> All Pyrenees (2017, 21 September).

<sup>9</sup> [Llei 14/2019 qualificada dels drets dels infants i els adolescents. — Consell General Principat d'Andorra](#); ILGA-Europe (2020).

<sup>10</sup> ILGA-Europe (2022); Govern d'Andorra (2022).

<sup>11</sup> See also: [cataleg-activitas-educatives-22-23.pdf](#) (CRC/C/AND/RQ/3-5, p. 11); CERD/C/AND/1-6, p. 3.

<sup>12</sup> CERD/C/AND/1-6, p. 25.

<sup>13</sup> ILGA-Europe (2020); ILGA-Europe (2022); IGLYO (2022), p. 31



13. Among other positive developments, ECRI notes that during the Covid-19 pandemic, measures were taken to support pupils in vulnerable situations, particularly those with a migrant background, through the loan of digital equipment, the provision of free internet access and the introduction of a psychological support service for pupils.<sup>14</sup>
14. ECRI notes with great interest the adoption of a school action plan against bullying. The plan aims to help the educational community to prevent, detect and stop violence between pupils. Implemented in all schools, it focuses on emotional management and the promotion of social harmony and respect for others. It also provides for teams of specialists to follow each case until it is resolved.<sup>15</sup> There are also numerous initiatives to raise awareness of bullying in schools, through campaigns, information days, prevention workshops and training days.<sup>16</sup>
15. During the visit to Andorra, the ECRI delegation went to Santa Coloma secondary school (part of the Andorran education system), which presented a range of initiatives including not only active participation by pupils to promote diversity, inclusion and coexistence, but also places for dialogue and co-operation between pupils and between teachers and pupils. These initiatives help, inter alia, to prevent, detect and deal with bullying, including cyberbullying, in particular through the “B-resol” application, which allows potential cases of bullying to be reported anonymously.<sup>17</sup> ECRI considers these measures to be **good practices**.

### **C. Irregularly present migrants**

16. In GPR No. 16 on safeguarding irregularly present migrants from discrimination,<sup>18</sup> ECRI recommends that governments establish “firewalls” to prevent service providers such as schools and hospitals from sharing the personal data of irregularly present migrants with the immigration control and enforcement authorities. The purpose of such firewalls is to protect these migrants’ fundamental human rights by ensuring that they can access essential public services, such as education and health care, without fear of deportation.
17. According to the authorities, there are few irregularly present migrants in the country (2022: 38 persons detected during controls; 2021: 12; 2020: 23). However, ECRI understands that children of seasonal workers may be irregularly present, as such workers are not entitled to family reunification.<sup>19</sup>
18. In this connection, ECRI notes that in Andorra, all minors, regardless of their administrative status, can enrol and receive free schooling immediately.<sup>20</sup> ECRI is pleased to note that the education authorities have adopted a flexible approach to the integration of migrant children who are irregularly present or in the process of obtaining documentation, ensuring that access to education remains a priority.
19. ECRI also notes the use of firewalls in healthcare, especially for children. As a result of recent legislative changes, the social security system now covers the healthcare costs of minors whose administrative situation has not yet been regularised.<sup>21</sup> Moreover, the authorities state that the Andorran Red Cross provides care to all those in need, without distinction of any kind, including with regard to

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<sup>14</sup> A/HRC/46/11, p. 3.

<sup>15</sup> CRC/C/AND/RQ/3-5, pp. 10-11.

<sup>16</sup> CRC/C/AND/RQ/3-5, pp. 10-11.

<sup>17</sup> Andorra Telecom (2020, 23 November) ; Bondia (2020, 23 November).

<sup>18</sup> ECRI (2016b).

<sup>19</sup> European Committee of Social Rights (2019), p. 20.

<sup>20</sup> CRC/C/AND/3-5, pp. 26.

<sup>21</sup> CRC/C/AND/3-5, pp. 23, 27.

their administrative situation.<sup>22</sup> ECRI has also been informed that the Covid-19 vaccine has been made available to everyone in the country, regardless of residence status.

#### **D. LGBTI equality<sup>23</sup>**

20. According to the 2023 Rainbow Europe Map, which shows European countries' legislation and policies that guarantee the rights of LGBTI persons, Andorra is ranked 24<sup>th</sup> out of 49 countries assessed, with an overall score of 65% for all indicators relating to the protection of the rights and freedoms of LGBTI persons in law and in practice.<sup>24</sup>
21. During its visit to the country, the ECRI delegation was pleased to learn that steps had been taken to launch a survey on the experience and perception of intolerance and discrimination against LGBTI persons.<sup>25</sup> In this context, ECRI would like to reiterate the importance of involving young LGBTI persons as much as possible and of including an intersectional perspective.<sup>26</sup>
22. It should also be noted that there is a relatively high level of respect for LGBTI persons, in particular for homosexuals.<sup>27</sup> In this context, ECRI welcomes various awareness-raising initiatives, including the launch of a short film entitled #lovingdiversity<sup>28</sup> in 2019 and the campaign run by the Ministry of Social Affairs, Youth and Equality in 2022. A number of prominent public figures have also come out.<sup>29</sup> Furthermore, with regard to raising awareness on transgender issues, ECRI welcomes the launch of the children's book "Don't call me Pol, call me Sarai" in 2021<sup>30</sup> and the training of politicians and staff by the NGO DiversAnd.<sup>31</sup>
23. Concerning homosexual persons in particular, ECRI is pleased to note that, since January 2023, same-sex couples have been treated on the same footing as other couples with regard to access to civil marriage.<sup>32</sup> They have also had the right to adopt children since 2014. Similarly, since 2021, if a same-sex couple has had a child through surrogacy in a country where it is legal, the Law on Persons and Family recognises the parenthood of both parties of the couple.<sup>33</sup> On the other hand, it should be noted that under the law adopted in 2019, the State does not cover the costs of assisted reproduction technology for lesbian couples, unless one of them has infertility problems.<sup>34</sup> In this regard, ECRI refers to recommendation 20 of its GPR No. 17 on combating intolerance and discrimination against LGBTI persons.

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<sup>22</sup> CERD/C/AND/1-6, p. 25.

<sup>23</sup> See ECRI [General Policy Recommendation No. 17](#) published on 28 September 2023 and [ECRI Glossary](#).

<sup>24</sup> [Country Ranking | Rainbow Europe \(rainbow-europe.org\)](#).

<sup>25</sup> In its fifth report (§84), ECRI recommended that the authorities collect data on LGBT persons in Andorra and conduct surveys into any possible discrimination and intolerance that they may suffer.

<sup>26</sup> See also recommendation 5 of ECRI GPR No. 17.

<sup>27</sup> In 2018, the population of Andorra rated the "justifiability" of homosexuality at 8 out of 10: Observatori social d'Andorra ([2023a](#)), p. 6.

<sup>28</sup> ILGA-Europe (2020).

<sup>29</sup> See for example PinkNews (2023, 12 September).

<sup>30</sup> ILGA-Europe (2022) ; Bondia (2021, 29 March). See also [§9 above](#).

<sup>31</sup> ILGA-Europe (2022).

<sup>32</sup> Following the Constitutional Court's judgement of 20 December 2022 that Article 77 of the Law on Persons and Family was unconstitutional because it discriminated between religious and civil marriage, which amounted to discrimination on the grounds of religious belief and sexual orientation, the law was amended in January 2023. See also Altaveu (2023, 10 January).

<sup>33</sup> ILGA-Europe (2022).

<sup>34</sup> Law 12/2019 on Assisted Reproductive Technology, which was adopted on 15 February 2019 and entered into force on 21 March 2019.

24. With regard to transgender persons, ECRI notes with satisfaction that in March 2022 the Ministry of Health amended the regulations to make gender-affirming healthcare, including hormone treatment and surgical procedures, available in the public health system, with full coverage of costs. On the other hand, ECRI notes with regret that no guidelines have been adopted or published since the law was amended in March 2022, that a psychiatric diagnosis is still required for access to such care and that there is a lack of training for staff working in this field.<sup>35</sup> ECRI encourages the authorities to ensure that transgender persons have safe, affordable and timely access to the gender-affirming medical treatment they need, while respecting their rights to privacy, non-discrimination and the highest attainable standard of health, in the light of the recommendations set out in paragraphs 30 and 31 of GPR No. 17.
25. The adoption of the Law on Persons and Family, which governs name changes and legal gender recognition, in July 2022 is undoubtedly a positive development, particularly as it allows transgender people to change their gender marker on official documents without undergoing medical treatment (hormone therapy or surgery). However, the compulsory two-year waiting period<sup>36</sup> and the judicial procedure that is required (involving two witnesses) raise serious concerns. ECRI has also been informed of delays in certain procedures to change the name and gender of transgender persons in civil-status records.<sup>37</sup>
26. ECRI recommends that the authorities strengthen legislation on legal gender recognition in the light of relevant international standards, including by opting for a quick, transparent and accessible administrative procedure.<sup>38</sup>
27. As part of the current monitoring cycle, ECRI is also assessing the situation of intersex persons,<sup>39</sup> many of whom suffer as a result of medical interventions, which are in most cases non-consensual and medically unnecessary, with irreversible consequences. According to information gathered during the visit to Andorra, it cannot be ruled out that intersex children may be subjected to irreversible, medically unnecessary and non-consensual surgical sex assignment at birth.<sup>40</sup> It should be noted that the country has no legal framework or guidelines in this respect. In this context, ECRI invites the authorities to take steps to adopt legislation prohibiting unnecessary “sex-normalising” surgery and other such treatment practised on intersex children until such time as they are able to participate in the decision, based on the right to self-determination and on the principle of free and informed consent, in the light of the relevant international standards.<sup>41</sup>

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<sup>35</sup> ILGA-Europe (2023).

<sup>36</sup> Applicants must prove that they have lived in their gender identity in public and social life for at least two years: TGEU (2022, 25 July); ARA Andorra (2022, 21 July).

<sup>37</sup> Poble Andorra (2023, 10 July); Altaveu (2023, 21 June).

<sup>38</sup> ECRI GPR No. 17, recommendation 24; [Recommendation CM/Rec\(2010\)5](#) of the Committee of Ministers of the Council of Europe, paragraph 21; [Principle 31 \(PJ+10\) - Yogyakartaprinciples.org](#).

<sup>39</sup> Persons who are born with biological sex characteristics that do not fit societal norms or medical definitions of what makes a person male or female. See CoE, Parliamentary Assembly ([2017](#)).

<sup>40</sup> See also Villagrasa Alcaide, Carlos (Professor) (no date), p. 14.

<sup>41</sup> See in particular ECRI GPR No. 17, recommendation 32. See also CoE, Parliamentary Assembly ([2017](#)); CoE, Commissioner for Human Rights (2015). ECRI also notes that on 15 June 2023, Andorra ratified the [Oviedo Convention](#), which aims to protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the application of biology and medicine.

## II. HATE SPEECH AND HATE-MOTIVATED VIOLENCE

### A. Hate speech<sup>42</sup>

#### *Data and public discourse*

28. According to information provided by the criminal prosecution services, there were five complaints of hate speech in the first eight months of 2023 (one on the grounds of homophobia and four on the grounds of nationality and/or origin); 12 complaints in 2022 (including eight on the grounds of “race” and/or nationality and one on sexual orientation); three complaints in 2021 (on the grounds of origin and/or “race”); two complaints in 2020 (one on the grounds of nationality and one on “race”); and two complaints in 2019 (one of which was on the grounds of nationality). Charges have been brought in one case a year since 2019.
29. According to information brought to ECRI’s attention from both official and independent sources, hate speech is not widespread in Andorra. When racist public insults are reported, they are isolated cases.<sup>43</sup> Various interlocutors the ECRI delegation met during the visit indicated that there is a general atmosphere of respect for diversity in the country, particularly towards foreigners or people of foreign origin, which is also confirmed by the results of a study carried out in 2023.<sup>44</sup> Religious minorities are also rarely the subject of hate speech in everyday life. However, online hate speech against migrants, Muslims and LGBTI people has been noted on several occasions, including in the comments section of news articles and on social media.
30. ECRI also notes with some concern the emergence of LGBTI-phobic statements in the media, despite the relatively tolerant atmosphere towards LGBTI persons described above. For example, an opinion piece published in the press in September 2023 contained comments targeting LGBTI persons.<sup>45</sup> There were also a number of anti-LGBTI articles and instances of hate speech in the media, including in response to the opening of a rainbow pedestrian crossing in June 2021.<sup>46</sup> Previously, an article published in one of the national newspapers in 2019 contained xenophobic and homophobic remarks and comments directed at the president of the Stop Violències association.<sup>47</sup> It should be noted that the associations also received several reports of LGBTI-phobic microaggressions and that the persons concerned did not wish to inform the authorities, which may indicate that there is a phenomenon of under-reporting in this regard.<sup>48</sup>

#### *Responses to hate speech*

31. ECRI notes with interest that the High Council of Justice runs a number of online and in-person training courses (some mandatory and some optional) on equality issues for prosecutors. In ECRI’s view, this training should be strengthened in order to raise awareness of the need to combat racist and LGBTI-phobic hate speech and should be extended to other parties involved in the criminal justice system, including police officers.
32. ECRI also notes that in January 2023, a handbook on good practices in dealing with diversity in the media was distributed to journalists and communication professionals. The handbook was prepared jointly by the Ministry of Social Affairs,

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<sup>42</sup> See definitions of hate speech and hate crime in [ECRI’s Glossary](#).

<sup>43</sup> INT\_CERD\_STA\_AND\_34779\_E.

<sup>44</sup> See also: Observatori social d’Andorra (2023b), pp. 7, 10, 12, 14, 18, 25.

<sup>45</sup> The opinion piece published in the Andorran daily *El Periòdic* on 27 September 2023 included this statement: “You can be a man, a woman or even a dog: whatever you feel like...”

<sup>46</sup> ILGA-Europe (2022).

<sup>47</sup> Diari d’Andorra (2019, 23 October). It is worth noting that the president of the Stop Violències association, who was the target of these remarks and comments, is an openly lesbian, Roma and foreign-born women’s rights activist.

<sup>48</sup> ILGA-Europe (2023); Andorra Difusio (2022, 28 June).

Youth and Equality and the Association of Communication Professionals of Andorra and provides guidelines for writing articles about different groups, including LGBTI persons and migrants. Three training sessions for media professionals were also held. ECRI sees this as a **promising practice**.

33. Furthermore, ECRI notes with interest that the Code of Ethics (style guide) of Radio and Television of Andorra (RTVA) requires journalists to be particularly sensitive and to take precautions when dealing with information or opinions that may be discriminatory or incite violence or degrading practices (point 11.a).<sup>49</sup>
34. As regards online hate speech, ECRI has been informed that the media have had to delete a significant number of online comments containing hate speech against certain groups within ECRI's remit.<sup>50</sup> ECRI notes with concern that no independent monitoring body has been set up to receive complaints about hate speech in the media,<sup>51</sup> including online media, despite ECRI's previous recommendations in this regard.<sup>52</sup> Moreover, some interlocutors ECRI met with during the visit considered that more regulation should be introduced in this area, in particular to provide a framework that goes beyond self-regulation and allows for criminal proceedings. ECRI reiterates its view that a regulatory framework should be established, in consultation with the Association of Communication Professionals of Andorra.
35. ECRI recommends that the authorities set up an inter-institutional working group to develop a regulatory framework to effectively combat racist and LGBTI-phobic hate speech, including online. This group should include the relevant authorities, the *Raonador del Ciutadà* (Ombudsperson), civil society organisations and media representatives. The framework should take due account of ECRI's GPR No. 15 on combating hate speech and Recommendation CM/Rec(2022)16 of the Committee of Ministers on combating hate speech.
36. In terms of criminal law, it should be noted that Article 338 of the Criminal Code deals with public incitement to violence, hatred or discrimination against a person or group of persons, as well as public insults and defamation. Article 339 provides for the punishment of anyone who, with intent to insult and in public, commits acts or makes statements that are highly offensive to members of religious, national, ethnic, trade union or political groups, or to people who hold certain beliefs or ideologies.<sup>53</sup> The authorities argue that the provisions of the Criminal Code empower them to take action against all forms of hate speech and against racist or intolerant opinions or behaviour in the public sphere. The definition as it stands provides for the criminalisation of individuals and of associations and organisations if they act with "a discriminatory motive".<sup>54</sup>
37. To give some examples of court decisions in recent years, in 2018 a person convicted of racist comments was fined and given a two-and-a-half month suspended prison sentence.<sup>55</sup> In 2019, a person who had posted racist content online about immigrants and/or the Muslim community, as well as LGBTI-phobic

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<sup>49</sup> A/HRC/WG.6/36/AND/1, p. 8.

<sup>50</sup> With regard to online comments, in cases where the author cannot be identified, the online newspaper incurs secondary liability.

<sup>51</sup> In this context, it should be noted that the Andorran Broadcasting Board, an advisory body whose members were appointed by Parliament and whose remit was to ensure that television and radio broadcasting respected the rights of minorities and was not discriminatory, was disbanded in 2012: ARA Andorra ([2022, 20 March](#)).

<sup>52</sup> In its fifth report (§33), ECRI reiterated its recommendation to set up an independent body with responsibility for receiving complaints against all forms of media and monitoring the media in order to identify any racist or discriminatory hate speech. In 2020, the authorities stated that, in their opinion, the number of media outlets in Andorra did not, a priori, require such a body to be set up: A/HRC/46/11/Add.1, p. 3.

<sup>53</sup> [Llei 9/2005, del 21 de febrer, qualificada del Codi penal](#) ; [Llei 9/2005, del 21 de febrer, qualificada del Codi penal](#).

<sup>54</sup> INT\_CERD\_STA\_AND\_34779\_E. ECRI notes that all complaints of discrimination are referred to the criminal justice system, even if they are related to a civil or administrative case (See also: CERD/C/SR.2713, p. 7).

<sup>55</sup> CERD/C/SR.2713, p. 7.

content, was sentenced to imprisonment, with one month unsuspended, and was subsequently deported. His computer equipment was confiscated and the accounts he had used to share the content on social media were deleted.<sup>56</sup>

38. ECRI welcomes the ratification by the Principality of Andorra of the First Protocol to the Council of Europe Convention on Cybercrime (ETS No. 189), which entered into force in Andorra on 1 March 2017.<sup>57</sup> Nevertheless, ECRI's attention has been drawn to significant procedural and technical difficulties in investigating and promptly removing online hate speech. In particular, according to information gathered during the country visit, rapid access to relevant computer data and effective communication with online platform providers are still lacking.
39. ECRI recommends that the authorities step up their efforts to combat hate speech online, in particular by ensuring that the legislative framework sets out a legal duty for media operating online not to disseminate hate speech that is prohibited under criminal, civil or administrative law, that it makes appropriate provision for the restriction or disabling of access to such hate speech posted by third parties in their comments sections or collaborative spaces on their platforms and that it subjects such restrictions ultimately to independent judicial review, while providing the competent authorities with the means to act effectively in practice. In this respect, ECRI refers to its GPR No. 15 and to Recommendation CM(2022)16 of the Committee of Ministers on combating hate speech.

## **B. Hate-motivated violence**

40. Hate-motivated violence is very rare in Andorra. According to a 2023 survey, only 3.4% of the Andorran population believe that racist behaviour is fairly or very common in their neighbourhood.<sup>58</sup> In terms of available statistical data, Andorra reported four cases of hate crimes recorded by the police to the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE/ODIHR) in 2021, eight such cases in 2020 and one such case in 2019.<sup>59</sup>
41. By way of example, in January 2020, a young gay man was verbally harassed and physically assaulted by two men at a club in Santa Coloma.<sup>60</sup> In addition, during the visit, the ECRI delegation was informed by civil society representatives of two other cases of verbal and physical attacks against LGBTI persons, which took place in 2021 and 2022 respectively.
42. Article 30.6 of the Criminal Code, which deals with aggravating circumstances, provides that a motive is considered to be discriminatory if it is based on a person's "birth, nationality or lack of nationality, racial or ethnic origin, female sex or gender, religion, philosophical, political or trade union beliefs or opinions, language, age, disability, sexual orientation, gender identity or expression, or any other personal or social condition or circumstance".<sup>61</sup> The motives set out in Article 30.6 apply to all offences under the Criminal Code.
43. ECRI notes that there are still no tools to provide guidance to the police in dealing with hate crimes. During the visit, the ECRI delegation learned that criminal justice officials face serious difficulties in establishing that a crime is motivated by hate. In particular, the delegation was told that police officers, prosecutors and judges need

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<sup>56</sup> [BOPA](#).

<sup>57</sup> [Full list – Treaty Office \(coe.int\)](#).

<sup>58</sup> Observatori social d'Andorra (2023b), p.11.

<sup>59</sup> [Andorra | HCRW \(osce.org\)](#). However, the ODIHR draws attention to the fact that the cases reported do not necessarily fall within the scope of hate crime as defined by the OSCE/ODIHR. Furthermore, on the basis of the information available, ODIHR observes that law enforcement agencies have not recorded specific motivations linked to hate crimes.

<sup>60</sup> ILGA-Europe, Annual Review 2021.

<sup>61</sup> [Llei 9/2005, del 21 de febrer, qualificada del Codi penal](#).

training in identifying racist and anti-LGBTI motivation. In this context, it should be noted that Andorran judges and prosecutors were given training on the investigation and prosecution of hate crimes in 2016.<sup>62</sup> ECRI considers that such training should be provided on a regular basis and should focus on the identification of hate motivation.

44. ECRI recommends that the authorities ensure that racist and/or LGBTI-phobic motivations are fully taken into account in investigations and judicial proceedings from the very beginning. To this end, training for police officers should be introduced so that the programmes and standards proposed by international organisations can be used, and training for judges and prosecutors on the application of the relevant criminal law provisions should be developed.
45. ECRI notes with regret that there is no official system for recording hate crimes. Two computer systems are used to manage data on hate crimes. The first, “Avantius”, is used by the police and prosecutors, but does not allow statistics to be compiled.<sup>63</sup> The second, “Lotus”, which is used by prosecutors, does not currently allow for the recording of the hate motives listed in Article 30.6 of the Criminal Code, nor for the compilation of statistics from the data. ECRI’s attention was also drawn to the unreliability of the data collection systems due to the fact that the staff responsible for entering the data do not do so correctly. ECRI also notes that the *Tribunal de Corts*<sup>64</sup> only collects data on convictions and that these data are not made public.<sup>65</sup>
46. Although ECRI has been drawing attention to the problems of data collection for a long time,<sup>66</sup> it observes that no real progress has been made. During the visit to Andorra, ECRI was informed of the need for a reliable and centralised system for collecting and analysing statistical data in many areas, including hate speech and hate-motivated violence.
47. ECRI strongly recommends that the authorities set up a comprehensive disaggregated data collection system in order to provide a coherent and integrated picture of cases of racist and LGBTI-phobic hate speech and hate crime reported to the police, as well as judicial follow-up, and that these data be made available to the public.
48. With regard to support for victims of violence, ECRI welcomes, as a **promising practice**, the initiatives to draw up and implement guidelines for those working in the relevant fields with a view to preventing secondary victimisation, including in relation to hate crimes.<sup>67</sup>
49. ECRI is also pleased to note the setting up of the Equality Observatory in 2020.<sup>68</sup> It notes that in 2022, the Observatory’s rules of procedure were amended in order to improve its functioning. ECRI understands that the Observatory will play an important role in data collection and analysis in the future.<sup>69</sup> To this end, it encourages the authorities to make the Equality Observatory fully operational so that it can participate in the collection and analysis of data on hate crimes and on racial, LGBTI-phobic and intersectional discrimination.

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<sup>62</sup> [National frameworks to address hate crime in Andorra | HCRW \(osce.org\)](#).

<sup>63</sup> See also: [National frameworks to address hate crime in Andorra | HCRW \(osce.org\)](#).

<sup>64</sup> A court of first instance.

<sup>65</sup> See also: [National frameworks to address hate crime in Andorra | HCRW \(osce.org\)](#).

<sup>66</sup> ECRI (2017), §43.

<sup>67</sup> These guidelines concern groups in vulnerable situations, such as refugees and LGBTI people and are intended to prevent re-victimisation, particularly in the context of legal proceedings.

<sup>68</sup> [Inici \(observatorisocial.ad\)](#).

<sup>69</sup> ILGA-Europe, Annual Review 2022.

### III. INTEGRATION AND INCLUSION

#### A. Migrants

##### *Data*

50. In August 2023, Andorra had a population of 84 085 persons, of which 46.3% were of Andorran nationality, 24.3% Spanish, 10.3% Portuguese and 4.5% French. Another 100 nationalities accounted for 14.6% of the total population.<sup>70</sup> As regards shortcomings in the statistical data, ECRI refers to the relevant sections of this report.

##### *Learning of the official language*

51. The Language Policy Department of the Government of Andorra is responsible for promoting the official language, Catalan, and enabling the immigrant population to become proficient in it.<sup>71</sup> Learning Catalan is all the more important because, as several civil society interlocutors pointed out during the visit, public services, including healthcare, are provided in Catalan, making them difficult to access for migrants, especially newcomers. ECRI therefore encourages public institutions to make public services more accessible to those who do not speak Catalan, including through interpretation services and the provision of information leaflets in different languages.
52. In this context, ECRI welcomes the introduction of free Catalan language courses. Each year, around 100 in-person courses are run for around 1 100 participants and around 10 distance learning courses for around 400 participants. Andorra also has five Catalan self-learning centres with an average of 3 500 users per year.<sup>72</sup> In addition, the Ministry of Culture runs a programme (Language Volunteers) in which people whose first language is Catalan help foreigners to learn the country's official language.

##### *Education*

53. Andorra has three public education systems, Andorran, Spanish and French, all of which are free. The structure of the education system is governed by Article 5 of the Law of 3 September 1993 on Education. The Andorran, Spanish and French systems are administered by the Ministries of Education of the three respective governments.<sup>73</sup> In the 2022-2023 school year, there were 11 340 pupils, of whom 41% were enrolled in the Andorran system, 26% in the Spanish system and 31% in the French system (plus 2% in the British private system).
54. Education is compulsory from age six to 16. The enrolment rate is estimated at 100%.<sup>74</sup> In addition, over 90% of children between two and a half and six years of age attend school.<sup>75</sup>
55. ECRI notes with interest that families, including newly arrived migrants, can enrol their children in any of the three systems. Children are expected to remain in their chosen system until the end of the school year, after which they may switch. Language courses are provided to enable migrant children to learn Catalan as well as French and Spanish.

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<sup>70</sup> [Departament d'Estadística del Govern d'Andorra - Publicació \(estadistica.ad\)](#); CERD/C/AND/1-6, p. 2.

<sup>71</sup> [Catalan in Andorra - Inlingua Andorra; Cursos gratuïts de català \(cultura.ad\)](#).

<sup>72</sup> [Catalan in Andorra - Inlingua Andorra; Cursos gratuïts de català \(cultura.ad\)](#).

<sup>73</sup> CERD/C/AND/1-6, p. 3. Bilateral treaties and agreements with the French, Spanish and Portuguese governments also form part of the legal framework underpinning the education system. French is the main language of instruction in the French system, although Catalan is also taught. Spanish and Catalan are used in the Spanish system, and all three languages are used in the Andorran system. Andorran history is taught in all schools. (See also: CERD/C/SR.2713, pp. 7-8.)

<sup>74</sup> CERD/C/AND/1-6, p. 3.

<sup>75</sup> CRC/C/AND/3-5, p. 24.



## Employment

56. Under the Law on Immigration Quotas, the government, in consultation with trade unions and professional associations, decides and sets quotas for work permits, taking into account available job offers. There are two types of quotas, one for the winter season (tourism and mountain sports) and another for other seasons. Anyone wishing to work in Andorra must obtain a work permit in order to take up paid employment and thereby obtain a residence permit.<sup>76</sup>
57. However, ECRI is concerned that abusive practices by companies in the construction and public works sectors have affected some migrant workers with “posted worker” status from Peru and other Latin American countries.<sup>77</sup> Such practices were unanimously condemned by various interlocutors met during ECRI’s visit to Andorra, who reported deteriorating working conditions.
58. The information brought to ECRI’s attention also shows that migrant women in domestic work and seasonal workers may be particularly vulnerable to exploitation because they are poorly informed about their rights or are afraid to approach the labour inspectorate when their rights are violated.<sup>78</sup> In this context, ECRI welcomes the establishment by Law No. 6/2022 of the Andorran Women’s Institute, which began its activities in January 2023<sup>79</sup> and supports migrant women, and calls on the authorities to ensure that migrant workers, including foreign women in domestic work and foreign seasonal workers, are better informed about their rights.
59. More generally, ECRI has noted that measures were taken at the end of 2022 to ensure that Andorran labour law applies uniformly to all persons working in the Principality, regardless of their origin and status.<sup>80</sup> It also welcomes the plans to strengthen the capacity of the labour inspectorate.<sup>81</sup>
60. ECRI recommends that the authorities fully support the activities of the labour inspectorate by providing it with adequate resources to effectively prevent and eliminate all forms of racism and racial discrimination in employment, in particular in the tourism, construction and public works sectors. While doing so, they should take due account of ECRI’s General Policy Recommendation No. 14 on combating racism and racial discrimination in employment.

## Housing

61. ECRI notes that equal access to housing for foreigners in vulnerable situations is severely affected by the widespread housing crisis in the Principality of Andorra.<sup>82</sup> In this context, ECRI has reservations about the “five-year residence requirement” for access to social housing<sup>83</sup> and encourages the authorities to review this condition with a view to ensuring equitable access for all, including foreign workers.

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<sup>76</sup> [Qu'est-ce que les quotas d'immigration en Andorre - Setup Andorra](#).

<sup>77</sup> In January 2023, a businessman was prosecuted for ill-treatment because of the conditions in which Peruvian workers were housed: *Diari d'Andorra* (2023, 30 January). In August 2023, three other complaints were being considered: *Altaveu* (2023, 11 August); *Bondia* (2023, 30 August). The Association of Peruvians in Andorra has also claimed that there have been about forty unreported cases of labour abuse: *Poble Andorra* (2023, 18 October).

<sup>78</sup> A/HRC/WG.6/36/AND/2, pp. 7-8; A/HRC/46/11/Add.1, pp. 4-5. See also: GREVIO (2020), p. 16; GRETA (2019), p. 12; GRETA (2024), p. 9.

<sup>79</sup> *Govern d'Andorra* (2023, 25 January).

<sup>80</sup> See also: CoE, GRETA (2024), pp. 25; 36-37.

<sup>81</sup> *Altaveu* (2024, 31 January).

<sup>82</sup> *Raonador del Ciutadà* (2023, 16 January). According to the Ombudsperson, housing continues to be the main reason for consulting the institution.

<sup>83</sup> *Govern d'Andorra* (2022, 28 June).

62. ECRI understands that housing is one of the government's priorities. It notes with interest a number of short- and medium-term initiatives and projects in this field. For example, the National Housing Institute, an independent body set up in June 2021 and operational since November 2021,<sup>84</sup> is responsible for "protected" housing for people in difficulty and affordable housing. Andorra has a total of 22 social housing units, including two emergency units managed by the Ministry and 20 units run by the Institute under the Housing First programme. The government is also planning to create 300 more affordable housing units by the end of 2024. Lastly, the National Housing Committee enables government bodies, municipalities, the Ombudsperson, the National Housing Institute and private organisations involved in the housing sector to exchange ideas and seek solutions.
63. ECRI considers that it would be beneficial if these measures were given greater prominence in government communication. In July 2023, the government was accused of lacking tact in this regard following comments allegedly taken from a statement by the head of government to the effect that "new foreign workers should set up home along the other side of the border".<sup>85</sup>
64. ECRI recommends that the authorities continue their efforts to provide social and affordable housing with the utmost determination and step up initiatives to support foreign nationals in vulnerable situations during the housing crisis.

#### *Participation in public life*

65. During the visit to Andorra, the ECRI delegation noted the strong desire expressed by various representatives of the communities making up the country's foreign population (which, it should be recalled, constitutes the majority of the country's population) to participate actively in public life, including through the right to vote at local level after a certain number of years of residence. The visit also revealed a degree of openness to the issue on the part of various political stakeholders. ECRI also notes that there appears to be public support for this: according to a survey carried out in 2023, the majority of the population (78%) would be in favour of immigrants having the right to vote in local elections.<sup>86</sup>
66. ECRI recommends that the authorities grant, as a matter of priority, the right to vote and to stand for election at local level to non-nationals residing in Andorra, in accordance with the principles laid down in the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.<sup>87</sup>

#### *Naturalisation*

67. During the visit, the possibility of acquiring Andorran nationality was often seen as the last step in successful social integration. ECRI notes, however, that no recent measures have been taken to facilitate the acquisition of Andorran citizenship, either by reducing the period of residence required to apply for ordinary naturalisation<sup>88</sup> or by allowing dual citizenship.<sup>89</sup> ECRI encourages the authorities to re-examine the possibilities of improving access to citizenship under reasonable conditions.

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<sup>84</sup> The forerunner of the National Housing Institute was the Housing Office, a public service set up in 2020. It merged with the National Housing Institute in March 2023.

<sup>85</sup> Diari d'Andorra (2023, 27 July; 2023, 31 July).

<sup>86</sup> Observatori social d'Andorra (2023b), p. 27.

<sup>87</sup> CoE, ETS No. 144, Convention on the Participation of Foreigners in Public Life at Local Level.

<sup>88</sup> In its fifth report (§53), ECRI reiterated its recommendation that the Nationality Law should be amended to reduce the period of residence required to obtain Andorran citizenship to 10 years as defined by Article 6 of the European Convention on Nationality. See also: Council of Europe, ETS No. 166, European Convention on Nationality, 6 November 1997.

<sup>89</sup> In its fifth report (§56), ECRI once again recommended that the Andorran authorities consider ways of making provision in national law for the possibility of holding dual nationality.

## B. People displaced by Russian Federation aggression against Ukraine

68. ECRI notes with interest that the Government of Andorra has received 285 displaced persons from Ukraine, in accordance with the quota it had set.<sup>90</sup> During the visit, the ECRI delegation learned that some 100 displaced persons from Ukraine had left the country.
69. Those who arrived from Ukraine after February 2022 were offered Catalan language courses. In February 2023, of the total number of displaced persons, 64 had been granted residence and work permits because they had found work. Around 70 Ukrainian children were attending school. In terms of assistance, the Ministry of Social Affairs had covered the basic needs of more than 100 families and also provided prepaid cards for daily purchases, transport and mobile communications.<sup>91</sup> ECRI is also pleased to note that displaced persons from Ukraine have access to full and free healthcare.<sup>92</sup>
70. Regarding difficulties with access to accommodation,<sup>93</sup> ECRI has been informed that by September 2023, all displaced persons from Ukraine present in Andorra had already been rehoused either in apartments, hotels or aparthotels. ECRI understands, however, that the measures taken by the government were in force until 2024.<sup>94</sup> In the context of the current housing crisis in Andorra, it encourages the authorities to continue and consolidate the measures taken to accommodate people displaced by the aggression of the Russian Federation against Ukraine.

## C. Religious minorities

71. There are no official data on the membership of religious communities in Andorra. According to recent estimates, there are around 2 000 Muslims and a Jewish community of about 100 members.<sup>95</sup>
72. ECRI notes with interest that an Interfaith Dialogue Group has been set up. It brings together the various religious groups present in the country and serves to promote a good flow of communication and mutual understanding. ECRI considers this to be **good practice**.
73. ECRI notes that religious communities, with the notable exception of the Catholic Church,<sup>96</sup> have no legal existence as such in Andorra. They must register as associations in order, for example, to build a place of worship or to apply for public financial support for their community's activities. ECRI encourages the authorities to review Andorran legislation, regulations and administrative practice to ensure that there is no unjustified differential treatment.
74. As far as Muslim minorities are concerned, ECRI has learned that two halls have been rented out for religious purposes in Andorra la Vella and Escaldes-Engordany, which is a positive development. Nonetheless, ECRI encourages the authorities to ensure that Muslim communities have adequate prayer rooms.

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<sup>90</sup> In February 2023, Andorra also received another 24 Ukrainians who were on the refugee waiting list. They were given an initial authorisation to stay in the country for three months on a tourist visa. *Diari d'Andorra* (2022, 22 February); *La Ciutat* (2022, 22 February).

<sup>91</sup> *Diari d'Andorra* (2022, 22 February); *La Ciutat* (2022, 22 February); *Andorra Diffusio* (2022, 20 June).

<sup>92</sup> *ARA Andorra* (2022, 12 March).

<sup>93</sup> *Poble Andorra* (2023, 25 February); *Diari d'Andorra* (2023, 16 April); *Altaveu* (2023, 10 August).

<sup>94</sup> *Radio SER* (2023, 11 September).

<sup>95</sup> See: United States Department of State (2022).

<sup>96</sup> Since 1993, the Principality of Andorra has no longer had an official religion, but a "favoured religion", according to Article 11§3 of the Constitution, which "guarantees the Roman Catholic Church [...] the preservation of the relationship of special co-operation with the State in accordance with Andorran tradition".

75. With regard to the possibility of a multi-faith cemetery,<sup>97</sup> the information gathered during the visit showed that this is still a major issue, in particular for Muslims, as their faith requires their dead to be buried directly in the ground, which is not yet possible. ECRI notes with interest that a plot of land has finally been found and that it would now be possible to establish a multi-faith cemetery in 2024.<sup>98</sup>
76. ECRI recommends that the authorities continue their efforts and find a solution in order to enable minority religious communities to have a cemetery where they can bury their dead in accordance with their religious beliefs and customs.
77. Lastly, ECRI takes note of the case of a young girl who wore a headscarf at a French school in Andorra. It had caused emotions to run high and led the government to amend the law on the wearing of conspicuous religious symbols in public schools.<sup>99</sup> ECRI notes that the authorities allowed the girl to continue her schooling via remote learning at the authorities' expense, which was considered an acceptable outcome by the girl's family.<sup>100</sup> However, this could be an obstacle to her inclusion within the school environment. In this respect, ECRI draws the authorities' attention to its GPR No. 5 on preventing and combating anti-Muslim racism and discrimination, in particular recommendations 17, 22 and 43.<sup>101</sup>

#### IV. TOPICS SPECIFIC TO THE PRINCIPALITY OF ANDORRA

##### Laws and policies on equal treatment

78. ECRI is pleased to note that strong measures have been taken in recent years to promote equality, both at the legislative and policy level. According to the new government strategy for the promotion of equality, the Equality Policy Department, which was established in 2015 and became operational in 2016, is responsible for developing and promoting cross-cutting policies and programmes for the benefit of groups of concern to ECRI, including foreign nationals.<sup>102</sup>
79. In particular, the Equality Policy Department prepared a White Paper on Equal Treatment, adopted in 2018, as part of a stocktaking exercise carried out in cooperation with the Institute of Andorran Studies, the Parliament and civil society.<sup>103</sup> The conclusions of this exercise led, inter alia, to the drafting of Law No. 13/2019 of 15 February 2019 on equal treatment and non-discrimination, which entered into force in March of the same year. ECRI welcomes the adoption of this law, which follows the recommendation made in its previous report.<sup>104</sup> That said, ECRI considers that the law should be implemented with the active involvement of all stakeholders. It therefore considers that the development of a specific programme of actions to prevent and combat racism and intolerance should be initiated, with the participation of all relevant stakeholders, in order to allow for a more cross-cutting approach to equality.
80. ECRI recommends that the authorities adopt, as a matter of priority, a national programme of actions to combat racism and LGBTI-phobia, involving all ministries,

<sup>97</sup> In its fourth report (§101), ECRI recommended finding a solution in order to enable the minority religious communities to have a cemetery, in which they can bury their dead in accordance with their religious beliefs and customs.

<sup>98</sup> Paragraph 42 of ECRI GPR No. 5 (revised) recommends the removal of "discriminatory legal or administrative obstacles to the construction of appropriate places of worship for the practice of Islam and to its funeral rites".

<sup>99</sup> Ouest France (2022, 17 February); Altaveu (2022, 23 April).

<sup>100</sup> ARA Andorra (2022, 28 July); Altaveu (2022, 24 September).

<sup>101</sup> See ECRI [GPR No. 5 \(revised\)](#), pp. 25-26; 29.

<sup>102</sup> The department replaces the Equality Commission set up previously. See also: INT\_CERD\_STA\_AND\_34779\_E.

<sup>103</sup> INT\_CERD\_STA\_AND\_34779\_E.

<sup>104</sup> In its fifth report (§17), ECRI strongly recommended that the Andorran authorities finalise the bill providing for specific and comprehensive civil and administrative legislation against direct and indirect discrimination, taking account of GPR No. 7 on national legislation to combat racism and racial discrimination, and adopt the law as soon as possible.

the *Raonador del Ciutadà* (Ombudsperson) and civil society, and set up a working group to ensure its effective implementation.

## INTERIM FOLLOW-UP RECOMMENDATIONS

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The two specific recommendations for which ECRI requests priority implementation from the authorities of Andorra are the following:

- (§66) ECRI recommends that the authorities grant the right to vote and to stand for election at local level to non-nationals residing in Andorra, in accordance with the principles laid down in the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.
- (§80) ECRI recommends that the authorities adopt a national programme of actions to combat racism and LGBTI-phobia, involving all ministries, the Raonador del Ciutadà (Ombudsperson) and civil society, and set up a working group to ensure its effective implementation.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

## LIST OF RECOMMENDATIONS

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The position of the recommendations in the text of the report is shown in parentheses.

1. (§6) ECRI recommends that the authorities strengthen the status and powers of the Raonador del Ciutadà (Ombudsperson), in the light of ECRI's General Policy Recommendation No. 2 (revised) on equality bodies responsible for combating racism and intolerance at national level and the Opinion of the Council of Europe Venice Commission of 24 October 2022, and ensure that the institution is provided with the budget and staff necessary for the full performance of its functions.
2. (§26) ECRI recommends that the authorities strengthen legislation on legal gender recognition in the light of relevant international standards, including by opting for a quick, transparent and accessible administrative procedure.
3. (§35) ECRI recommends that the authorities set up an inter-institutional working group to develop a regulatory framework to effectively combat racist and LGBTI-phobic hate speech, including online. This group should include the relevant authorities, the Raonador del Ciutadà (Ombudsperson), civil society organisations and media representatives. The framework should take due account of ECRI's GPR No. 15 on combating hate speech and Recommendation CM/Rec(2022)16 of the Committee of Ministers on combating hate speech.
4. (§39) ECRI recommends that the authorities step up their efforts to combat hate speech online, in particular by ensuring that the legislative framework sets out a legal duty for media operating online not to disseminate hate speech that is prohibited under criminal, civil or administrative law, that it makes appropriate provision for the restriction or disabling of access to such hate speech posted by third parties in their comments sections or collaborative spaces on their platforms and that it subjects such restrictions ultimately to independent judicial review, while providing the competent authorities with the means to act effectively in practice. In this respect, ECRI refers to its GPR No. 15 and to Recommendation CM(2022)16 of the Committee of Ministers on combating hate speech.
5. (§44) ECRI recommends that the authorities ensure that racist and/or LGBTI-phobic motivations are fully taken into account in investigations and judicial proceedings from the very beginning. To this end, training for police officers should be introduced so that the programmes and standards proposed by international organisations can be used, and training for judges and prosecutors on the application of the relevant criminal law provisions should be developed.
6. (§47) ECRI strongly recommends that the authorities set up a comprehensive disaggregated data collection system in order to provide a coherent and integrated picture of cases of racist and LGBTI-phobic hate speech and hate crime reported to the police, as well as judicial follow-up, and that these data be made available to the public.
7. (§60) ECRI recommends that the authorities fully support the activities of the labour inspectorate by providing it with adequate resources to effectively prevent and eliminate all forms of racism and racial discrimination in employment, in particular in the tourism, construction and public works sectors. While doing so, they should take due account of General Policy Recommendation No. 14 on combating racism and racial discrimination in employment.
8. (§64) ECRI recommends that the authorities continue their efforts to provide social and affordable housing with the utmost determination and step up initiatives to support foreign nationals in vulnerable situations during the housing crisis.

9. (§66) ECRI recommends that the authorities grant, as a matter of priority, the right to vote and to stand for election at local level to non-nationals residing in Andorra, in accordance with the principles laid down in the Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level.
10. (§76) ECRI recommends that the authorities continue their efforts and find a solution in order to enable minority religious communities to have a cemetery where they can bury their dead in accordance with their religious beliefs and customs.
11. (§80) ECRI recommends that the authorities adopt, as a matter of priority, a national programme of actions to combat racism and LGBTI-phobia, involving all ministries, the Raonador del Ciutadà (Ombudsperson) and civil society, and set up a working group to ensure its effective implementation.



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## APPENDIX: GOVERNMENT'S VIEWPOINT

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The following appendix (in French) does not form part of ECRI's analysis and proposals concerning the situation in Andorra.

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Andorra on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 10 April 2024, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

Concernant la recommandation numéro 7 (paragraphe 60 du texte du rapport), le ministère de l'Emploi et du Travail propose les commentaires suivants :

Pour l'année 2024, le Gouvernement a doté le Servei d'Inspection du Travail de deux postes d'inspecteurs du travail supplémentaires, en augmentant de 7 à 9 personnes, afin de soutenir ce service dans ses différentes missions.

Par ailleurs, un total de treize inspections inopinées ont été réalisées et une plainte a été reçue en 2023 concernant un groupe de travailleurs migrants qui exerçaient leur activité professionnelle en Andorre, dans le secteur de la construction, sous la modalité d'autorisation de "travailleurs détachés" ou de séjour et de travail, en provenance du Pérou. Ces inspections et plainte ont donné lieu à l'ouverture de huit procès verbaux qui ont touché quatre entreprises différentes avec des sanctions pour un total de près de 134.000 euros.

Le gouvernement d'Andorre, déterminé à éradiquer ce type de pratique, outre l'imposition de sanctions prévues par la loi andorrane pour les entreprises qui ne respectent pas la réglementation du travail, et afin d'introduire certaines limitations pour éviter des dérives pouvant conduire à abus qui affectent les travailleurs, dans le cadre du projet de loi pour la croissance durable et le droit au logement récemment soumis à la procédure parlementaire, il est proposé d'éliminer la figure du "travailleur détaché" par les entreprises de pays extracommunautaires.

En outre, afin d'informer les travailleuses et les travailleurs de leurs droits, un dépliant a été élaboré en catalan, français et espagnol, disponible en format papier et digital, et qui a été également transmis aux autorités du Pérou et de l'Argentine, pays concernés par la problématique des "travailleurs détachés", et également pays d'où proviennent la grande majorité des travailleuses et travailleurs saisonniers en Andorre.

ECRI Secretariat  
Directorate General of Democracy and Human Dignity  
Council of Europe  
Tel.: +33 (0) 3 90 21 46 62  
E-mail: [ecri@coe.int](mailto:ecri@coe.int)

[www.coe.int/ecri](http://www.coe.int/ecri)

 [@ECRI\\_CoE](https://twitter.com/ECRI_CoE)

[www.coe.int](http://www.coe.int)

The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.