

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

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¹ Except where specifically indicated, any developments which occurred after 31 October 2014, date on which the response of the Andorran authorities 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 the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, 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 recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1.

1. *In its report on Andorra (fourth monitoring cycle) published on 22 May 2012, ECRI strongly recommended that the Andorran authorities introduce and apply the principle of the sharing of the burden of proof when discrimination complaints on grounds of “race”, colour, ethnicity, nationality, religion or language are brought before civil/administrative courts. Notably, the law should provide that when persons consider themselves wronged because of a discriminatory act and they establish before the competent authority facts from which it may be presumed that there has been direct or indirect discrimination, it should be for the respondent to prove that there has been no discrimination.*

According to the information available to it, ECRI considers that the Andorran authorities have taken no action in respect of its recommendation and concludes that it has not been applied.

ECRI points out that its recommendation relates to principles that are broadly recognised as legal standards. In particular, these principles have been enshrined in various European Union Directives.¹ They are also part of ECRI’s General Policy Recommendation (GPR) No. 7. As the explanatory memorandum to this GPR makes clear, it is often difficult to collect evidence, which is why paragraph 11 of the GPR advocates providing for a shared burden of proof. As Andorra is not a member of the European Union, ECRI considers that it is all the more important to ensure that Andorra brings its legislation into line with its GPR.

2. *In its report on Andorra (fourth monitoring cycle), ECRI recommends the Andorran authorities to offer judges, prosecutors and lawyers initial and ongoing training in issues pertaining to racism and racial discrimination, as well as on the criminal legislation in place relating to racism and intolerance.*

The Andorran authorities have indicated that there have been no proceedings instituted concerning offences relating to Articles 338 and 339 (prohibition of incitement to racial discrimination in various fields) or to Articles 457 and 458 (prohibition of incitement to racist hate crimes) of the Criminal Code since 2011, and that a racist motivation has been found in various cases in which an aggravating circumstance was applied. The Andorran authorities believe that in the light of these considerations, the training referred to in the ECRI recommendation is not a priority, especially in a period of economic crisis.

ECRI concludes that its recommendation has not been implemented.

ECRI notes, however, that the Andorran authorities have referred to a reform project in the judicial field. This reform, currently being implemented, provides that career management in the judicial field will be based on merit and technical aptitude for the exercise of judicial functions.

ECRI welcomes this promising initiative regarding career management in the judicial field, which the Andorran authorities could use as an opportunity to implement its recommendation.

¹ Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex, Council Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

3. *In its report on Andorra (fourth monitoring cycle), ECRI strongly recommended that the work of the National Equality Commission be used to devise and coordinate an integration policy. This policy should, inter alia, address the problems faced by seasonal workers, raise the awareness of the public on the importance of the various communities present in Andorra and strive to increase the level of integration of non-Andorrans.*

ECRI has been informed that the National Equality Commission had drawn up a “National Plan for Equality”. Although this Commission was dissolved by the government as part of the process of simplifying administrative structures, its tasks have been taken over by the Advisory Council on Health and Well-being. The national plan for equality is still operational and its recommendations are taken into account in the decisions of the Council of Ministers.

In addition, ECRI notes that the practical measures taken in connection with the amendments in 2011 to the regulations on economic welfare benefits, already noted by ECRI in its 4th cycle report, have been consolidated and have meant that a larger number of people belonging to vulnerable groups are now eligible for various welfare benefits. Accordingly, the budget for economic welfare benefits was increased in 2012, as too were the number of beneficiaries and the average amount of benefit paid.

Various legislative initiatives have removed a series of restrictions which previously applied to vulnerable groups. For example, in May 2014 a law on social and health services entered into force, granting entitlement to social and other services for all people resident in the Principality. This law also provides that positive discrimination measures may be taken to achieve effective equality and social integration. In September 2014, a law entered into force concerning study grants, guaranteeing that all children residing in the Principality can have access to education. The authorities have taken steps to ensure that the benefits of this new law applied from the beginning of the 2014-2015 academic year.

In addition to these legislative measures, the provision of training courses on Andorran language and culture has been expanded, in particular with the organisation of decentralised training throughout the Principality, so as to promote the integration of new arrivals. This has been supplemented by basic courses in history and geography.

Lastly, the Ministry of Culture provides financial support for cultural associations representing 15 different nationalities. Over 50 cultural events representing cultures other than that of Andorra are organised each year.

ECRI welcomes all these measures which it regards as substantial progress in the field of integration by a very culturally diverse country and therefore concludes that the recommendation has been implemented.

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