
**Study on Homophobia, Transphobia and Discrimination on
Grounds of Sexual Orientation and Gender Identity**

Legal Report: Andorra

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Table of Contents

A. EXECUTIVE SUMMARY	3
B. FINDINGS	6
B.1. Overall legal framework	6
B.2. Freedom of assembly and association	6
B.3. Freedom of expression	7
B.4. Hate crime – Criminal law	8
B.5. Family issues	8
B.6. Asylum and refugee issues	10
B.7. Social security, social care and insurance	11
B.8. Education	11
B.9. Employment	11
B.10. Housing	12
B.11. Health care	13
B.12. Access to goods and services	13
B.13. Media	14
B.14. Transgender issues:	14
B.15. Intersex issues	14
B.16. Good practice:	15

A. Executive summary

1. Synopsis presenting the main findings of this study in the following sections:

Overall legal framework

2. The fundamental principles of human rights are included in the Andorran Constitution (1993). Same-sex couples are recognised by the qualified Law of Stable Union of Couples (qualified Law 4/2005 of 21 February). Discrimination against sexual orientation in public services, labour, salary, violent acts, murder, and personal data protection are a designated offence in the reformed penal code (qualified Law of Penal Code 9/2005, 21 February). Discrimination based on sexual orientation in the job market is prohibited by the Job Relations Code (qualified Law 35/2008, 18 December).

Freedom of assembly and association:

3. The first and only LGBT organisation in Andorra was founded on 28 June 2003. The organisation called We Are Like We Are ("Som Com Som") planned the first gay pride parade in 2003 in the main square of the capital, Andorra la Vella, but the principal activism are in two political parties now, the Green Party of Andorra ("Verds d'Andorra") and the Social Democratic Party ("Partit Socialdemòcrata d'Andorra"), with LGTB sections into these parties.

Freedom of expression:

4. The news about LGBT issues have aroused great interest from the press, above all the activities and the declarations of the NGO "Som Com Som" and there are no restrictions detected in the main newspapers, radio and TV from Andorra.

Hate crime - Criminal Law:

5. There has been one case related to hate crime in Andorra. The murder of Nuno Miguel Oliveira, a Portuguese youngster (seventeen years old) who was a resident in Andorra, on 13 April 2000. He died from a brutal beating by two Spanish men (twenty and twenty-one years old), who referred to the sexual orientation of their victim as the reason for their attack. This event of extreme homophobic violence aroused a big popular consternation and the Penal Code was reformed to include this element as an aggravating factor in 2005, because the Superior Court considered that "the term sex does not include sexuality or sexual orientation" at that stage.

Family issues:

6. Before the Law of Stable Union of Couples (Law 4/2005 of 21 February) entered into force, an alternative registration scheme existed. It entailed less rights and responsibilities for same-sex couples than marriage. Law 4/2005 of 21 February establishes duties and benefits for registered same-sex partners in social security, division of labour, civil service, and inheritance rights. Same-sex couples in Andorra cannot adopt children. Same-sex marriage is not allowed in Andorra, and same-sex couples married in other countries, as

Spain, have no rights in Andorra like a marriage, but they could be recognised as a stable union. In June, 2009, the Immigration Service refused the right to family reunification to a same-sex marriage, between two Spanish men. Registering their marriage in the Register Office for Stable Union of Couples is required to be able to demand their rights as a couple.

Asylum and refugee issues:

7. There are no cases about refugees or asylum applicants due to their sexual orientation or gender identity in Andorra.

Social security, social care and insurance:

8. There are not specificities about social security and other social protection measures implemented in the context of homophobia or transphobia or discrimination on the ground of sexual orientation or gender identity.

Education:

9. In Andorra three educational systems coexist (French, Spanish and Andorran) and the sexual education does not receive the same coverage in them. Only in Spanish schools, the curriculum includes the subject of education for citizenship, which addresses the existence and issues concerning LGBT persons. In Andorra there were some educational activities organised by the Catalan NGO Include ("Inclou") to promoting sexual orientation and gender identity issues in schools. Up to now there are no provisions in the Andorran legal system and policies to provide adequate protection for students, staff and teachers against all forms of social exclusion and violence within the school environment based on their sexual orientation or gender identity.

Employment:

10. The Labour Relations Code forbids sexual orientation discrimination, but there are no specific provisions about gender identity, categorised as personal or social condition. Discrimination exists against HIV-positive people who apply for residence and work permits. Applicants for residence and work permits must have a medical exam which includes an HIV test. Furthermore, employment discrimination based on health also affects people living under other circumstances in Andorra (diabetes, hepatitis, obesity or chronic illness), as regulated by Law 8/2003, of 12 June, of the Contract of Work.

Housing:

11. There are no specific measures to ensure security of tenure and access to housing on the basis of sexual orientation, gender identity and marital or family status, except a system of social rented flats for young people until 2006. This arrangement does not include any reflections of sexual orientation or the gender identity of the solicitors.

Health care:

12. The NGO "Som Com Som" denounced an unconstitutional discrimination in June 2003, against homosexuals in blood donations. Blood donation campaigns are organised by the

"Etablissement Français du Sang Pyrénées-Méditerranée (EFS)" and this organisation has an internal directive not to allow homosexual individuals to donate blood, as they are considered a group at risk. The National Ministry of Health claimed that homosexual individuals were not to be discriminated against, but nowadays gay men are still rejected as blood donors. In 2009, The Constitutional Court dictated in this case that rejection does not represent discrimination against gay men, because this measure pursues the protection of blood receptors. On the other hand, in 2006, the Ministry of Health announced the first campaign against AIDS without mentioning any specific community. There are no restrictions on provision of health care to LGBT people. But currently, gender reassignment procedures are not legally recognised in Andorra, and gender reassignment surgery is not covered under the national health care system.

Access to goods and services:

13. The Andorran Penal Code (Penal Code 9/2005, 21 February Article 338) establishes as a cause of discrimination the denial to sell or rent goods or services based on any kind of discrimination, also the sexual orientation. However, it does not include specific mention of gender identity.

Media:

14. There are legal requirements for the public TV channel (Andorra Television ATV) and the public radio (Andorran National Radio RNA) to respect the constitutional principles, and in particular the general principles of equality and non discrimination of any person. In practice the Andorran media take a great interest in LGBT activities with due respect to the legal principles.

Transgender issues:

15. Andorran legislation does not regulate the protection, needs or other issues of transgender people. Currently, gender reassignment procedures are not legally recognised in Andorra, and gender reassignment surgery is not covered under the national health care system. Only a few transgender cases are known of.

Intersex issues:

16. Andorran law does not regulate issues relating to intersex people and no cases are known of.

B. Findings

B.1. Overall legal framework

17. Andorra is a parliamentary co-principality with the President of France and the Bishop of Urgell (Catalonia, Spain), as co-princes, in a duumvirate. Since 1993, Andorra has been a parliamentary representative democracy, whereby the Prime Minister of Andorra is the head of Government, and of a multi-party system.

The fundamental principles of human rights are included in the Andorran Constitution (1993). Also in 1993 Andorra gained wide international recognition when this country became a member of the United Nations. In 1994 Andorra became a member of the Council of Europe. Andorra ratified the European Convention on Human Rights in 1996. Andorra ratified the Protocol nº 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms in 2007.

18. Article 5 of Andorran Constitution establishes *that* the Universal Declaration of Human Rights is binding in Andorra, and under Article 6, all persons are equal before the law. No one may be discriminated against on grounds of birth, race, sex, origin, religion, opinions or any other personal or social condition¹. Under Article 3.4, treaties and international agreements take effect in the legal system from the moment of their publication in the Official Gazette of the Principality of Andorra and cannot be amended or repealed by law. In this legal framework the European Convention on Human Rights is recognized in Andorra.
19. Discrimination based on sexual orientation in relation to public services, labour, salary, violent acts, murder, and personal data protection constitute an offence according to the reformed penal code (Penal Code 9/2005, 21 February). Discrimination based on sexual orientation in the job market is regulated by the Job Relations Code (qualified Law 35/2008, 18 December).
20. Anti-sodomy laws have never existed in Andorra.
21. On 21 April 2010, the Andorran government created the Secretariat of State for Equality and Welfare. On 13 May 2010, the National Commission for Equality was presented, to ensure that quality of life of people living and working in Andorra, especially in terms of inequalities in childhood, gender, older people and immigrants. The National Commission for Equality involves various ministries (Welfare, Health, Labour, Youth, Education and Interior).

B.2. Freedom of assembly and association

22. As relevant for LGBT movements, Article 16 of Andorran Constitution establishes “the right to meet and assemble for any lawful purpose shall be respected. The exercise of the right of assembly requires that the authorities be notified in advance, and shall not prevent the

¹ Article 5: La Declaració Universal dels Drets Humans és vigent a Andorra.

Article 6: 1. Totes les persones són iguals davant la llei. Ningú no pot ésser discriminat per raó de naixement, raça, sexe, origen, religió, opinió, o qualsevol altra condició personal o social.

2. Els poders públics han de crear les condicions per tal que la igualtat i la llibertat dels individus siguin reals i efectives.

English version at: www.consell.ad/micg/webconsell.nsf/0/172D2F36A117355EC1256BD60048B6D1

free movement of goods and persons”, and Article 17 of Andorran Constitution indicates “the right to associate for a lawful purpose shall be recognised. A law shall establish a public Registry of the associations which may be constituted”.² These articles are developed by the Qualified Law of Associations, 29 December 2000, complemented by its regulation on 1 August 2001, and completed by the Qualified Law of Union Freedom 33/2008, 18 December³.

23. The first and only LGBT organisation in Andorra was founded on 28 June 2003. This association, called *Som Com Som* (“We Are Like We Are”), was very active in the period 2003-2008. Nowadays the principal LGBT activities are carried out by LGBT sections of two political parties (the Green Party and the Social Democratic Party).
24. In 2003 the association “Som Com Som ” organised the first (and the most significant) gay pride celebration, with an information desk in the main square of the capital. Lesbian, gay; bisexual and transgender people were present, and they had a reception at the Congress Hall of the local council. At the same time, there was the presentation ceremony of the LGBT organisation, with the attendance and support of relevant authorities.
25. SCS (Som Com Som) also ran a Vote Pink campaign before the municipal elections in 2003, consisting of a questionnaire submitted to political parties. This questionnaire was answered by the Green Party (with adherence to 94%), the Democratic Renewal (76%), and the Social Democratic Party (73%), while the Andorran Democratic Centre and the Liberal Party delayed responding.
26. Other activities of the association SCS were the organisation of a conference about AIDS at the main hall of the principal local council at the capital, the denouncement of the unconstitutional discrimination against homosexuals in blood donations, the projection of a documentary at the Cultural and Congress Centre, and the activation of a campaign for gay marriage.
27. On the other hand, an official delegation of four Andorran people of diverse sexual orientations participated in Eurogames Barcelona 2008.⁴ The Andorran authorities supported the LGBT events and they were received with acceptance from the population.

B.3. Freedom of expression

28. There is a specific Constitutional provision on freedom of expression, which includes the prohibition of preliminary censorship as ideological control. Article 12 of the Andorran Constitution establishes “freedom of expression, of communication and of information is guaranteed. The law shall regulate the right of reply, the right of correction and professional secrecy. Preliminary censorship or any other means of ideological control on the part of the public authorities shall be prohibited”⁵. This right has not been regulated yet by a Qualified Law.

2 Article 16: Es reconeixen els drets de reunió i de manifestació pacífiques amb finalitats lícites. L'exercici del dret de manifestació requereix la comunicació prèvia a l'autoritat i no pot impedir la lliure circulació de persones i béns.

Article 17: Es reconeix el dret d'associació per a la consecució de fins lícites. La llei establirà, a efectes de publicitat, un Registre de les associacions que es constitueixin.

3 To consult the legal text, in Catalan, vid. http://www.ccis.ad/cat/pdf/servei_empresa/22-01-09/Llei_Qualificada_de_Llibertat_Sindical.pdf

4 Vid. <http://www.adn.es/deportes/20080724/NWS-1938-Eurogames-Andorra-delegacion-participa-primera.html> or <http://2008.eurogames.info>

5 Article 12: Es reconeixen les llibertats d'expressió, de comunicació i d'informació. La llei regularà el dret de rèplica, el dret de rectificació i el secret professional. Queda prohibida la censura prèvia o qualsevol altre mitjà de control ideològic per part dels poders públics.

29. The LGBT news and activities, and especially the campaigns promoted by SCS, received special mention from Andorran journalists, with a regular consideration.
30. There are no cases of state interference against LGBT published information. No relevant event has happened in which the state has had to protect LGBT people against other citizens who wanted to restrict their rights.
31. There is one website (<http://www.andorragay.com>) with irregular functioning. The official creation of this URL was on 7 January 1999, as a chat. Later came the creation of a website that gradually became a portal with its own domain gayandorra.com. [Andorragay.com](http://andorragay.com) reported the discrimination against gay people in the blood collection in 2002, and this website provided the impetus to organise the LGBT group called "Som Com Som".

B.4. Hate crime – Criminal law

32. Hate crime based on sexual orientation was introduced in the Penal Code in 2005,⁶ after a scandalous case of murder. Article 30 considers an aggravating reason to commit a crime for racism, xenophobic motives or relative to the ideology, religion, nationality, ethnic origin, sex, sexual orientation, disease or physical or psychic disability of the victim.
33. On 13 April 2000, a Portuguese teenager (Nuno Miguel Oliveira was 17 years old) was beaten to death by two young men (20 and 21 years old). The criminals referred to the sexual orientation of their victim as the reason of their attack, in the judgment of the Courts on 23 February 2001. When sentencing the culprits, the Superior Court of Andorra refused the application of homophobia as an aggravating factor, because of the formulation of the Penal Code at that time. The aggravating factor was limited to "acts of discrimination or attempts against the dignity or someone on grounds of origin, religion, race or sex". The Court modified the first sentence, under the judgment of the Superior Court of Justice on 24 October 2001, because "the term sex cannot include sexuality or sexual orientation, but the difference between male and female", and thus it was not possible to apply the aggravating factor in this case.
34. After the sentence SCS issued a proposal for reforming the penal code to the Ombudsman (called "Raonador del Ciutadà"), in 2003. In 2005, the reformed penal code included the aggravating factor for homophobic crime, but there is not reference about transphobic crime.
35. Since this event, at least one attempt of aggression against LGBT people has been reported, and several gay clubs have appeared in Andorra. In 2005, the homophobic aggression happened to a boy who was hit at the door of a gay club. The case was denounced and had repercussion in press, but police did not find the aggressor⁷.

B.5. Family issues

36. In 1997, an MP introduced a proposal to include same-sex couples, with the same rights as heterosexual couples in the law proposal of De facto Family Unions, but this law was not passed. In the parliamentary session of 28 December 1997, the proposition of law was rejected by 17 votes opposed to 11 votes in favour. The motives of the rejection were that same-sex couples could not be considered as a familiar union and the opposition members

⁶ Vid. [www.consellgeneral.ad/micg/webconsell.nsf/0/4818f8ddebfe3aeec1256d4b0027f0b5/\\$FILE/Llei 9 2005.pdf](http://www.consellgeneral.ad/micg/webconsell.nsf/0/4818f8ddebfe3aeec1256d4b0027f0b5/$FILE/Llei%209%202005.pdf)

⁷ The Andorran NGO "Som Com Som" promoted the knowledge of this incident.

of the parliament were thinking that it was a very bold law. The proposal was presented by the party called New Democracy, inside the Mixed Group of the parliament, by the argument of the need to regulate this social reality. The Law of Stable Union of Couples was approved in 2003 under the proposal presented by the Social Democratic party.

37. The Law of Stable Union of Couples, which was enforced in 2005⁸, establishes the duties and benefits for same-sex partners as personal and economic effects, with influence from the regulation by the Catalan Law of Stable Union of Couples approved in 1998. However, Andorran Law opens a Section in the Register Office for Stable Union of Couples, as a difference with autonomic Spanish laws in this issue. After the registration, partners have recognised the effects in social security, division of labour, civil service, and inheritance rights. These rights are the same as for couples of different sex. Under the law the following applies:

Eligibility

38. The couple must not be related in direct line by consanguinity or adoption, or in the collateral line by consanguinity to the fourth degree. Both partners must be adults or emancipated minors; must not be already married or in an existing stable union; must live as a couple; and at least one partner must be a resident of Andorra or an Andorran national.

The process of registration

39. The couple must submit an application accompanied by a sworn declaration of cohabitation; a copy of the current passport or identity document of both partners; a certificate of residency for each partner (Andorran nationals are exempt from this requirement); a private pact signed by both partners setting out property and personal relations arising from the relationship and the rights and obligations of the relationship; a sworn statement by two witnesses confirming the permanent nature of the cohabitation.
40. The "Stable union" is registered six months after the declaration and is then entered into the Register of Stable Unions.

Rights and responsibilities

41. A couple in a stable union have legal rights and responsibilities including the obligation to support one another; the right to compensation and maintenance in the event of a break up; the ability to adopt each other's child subject to the same rules as a married couple; and the same rights as spouses for the purposes of social security and employment law. However, a same-sex couple cannot adopt a child.

Dissolution

42. A stable union ends by the marriage of either party; the death of either party; a unilateral declaration by formal written notification notified to the other party; or a mutual declaration.

⁸ Law of Stable Union of Couples (qualified Law 4/2005 of 21 February). This qualified Law follows a similar schema of Catalan Law 10/1998 of 15 July. (To consult the Qualified Law of Stable Union of Couples 4/2005, 21 February, in the Catalan version, vid. www.bopa.ad/bopa/2005/bopl7025.pdf)

43. The Episcopalian co-prince did not sign the Law of Stable Union of Couples, but it could be approved with the signature of the French co-prince, because in practice, only one signature of either co-prince was needed for the aforementioned law to be passed. Andorra is a Parliamentary Co-principate, with two co-princes as heads of state. One of them is the Bishop of La Seu d'Urgell (Spain), known as the Episcopalian co-prince, and the other is the President of the French Republic, known as the French co-prince.
44. Same-sex marriage is not recognised legally. However, in fact, 62% of the Andorran population support same-sex marriage, according to polls conducted by Andorran newspapers, and thirteen of nineteen political candidates supported it in the last elections process, in 2007⁹. The instance of inscription of a same-sex marriage celebrated in Spain has been refused in the Andorran Registry office. This has had a considerable public impact in Andorra and has encouraged some NGOs to demand the same regulation in Andorra. The official Andorran response to the married couple in the described case was suggest that they be inscribed in the Registry of Stable Unions of Couples, and the interested persons did not object to this solution.¹⁰ So far such a law would not enjoy the support of either of the co-princes who must sign a law.
45. The age of consent (16 years old) is the same for same-sex relationships as it is for opposite sex relationships, but is higher than in Spain (13 years old) and France (15 years old).¹¹
46. In 2005 the responsible of the Andorran Civil Registry declared that the same-sex couples could adopt in agreement with the law of Stable Unions of Couples, but the Chairmen of Government refused that the regulation of Stable Unions of Couples allowed this. The Andorran law allows single-parent adoption, and considers as an Andorran any child adopted by an Andorran citizen who was born in Andorra (Law 15/2006, of 27 October).
47. Andorran laws do not recognise gender reassignment procedures and changes of legal names to become the opposite sex. Moreover assisted human reproduction is not regulated by law and no clinics dedicated for this purpose exist. Andorran women go to Spain to get these treatments.

B.6. Asylum and refugee issues

48. There is no regulation on asylum and political refuge in Andorra.
49. Andorra's geographical position as a landlocked state without an airport makes it impossible to arrive there as a first place from another country, except Spain or France. Andorra has very restrictive immigration measures. Andorra is a member of United Nations since 1993, but does not follow UNHCR principles in all matters. As an example, Andorra does not admit HIV positive immigrants.. The United Nations Secretary General stated in January 2010, that there are still 57 countries, including Andorra, which forbid entry of HIV infected immigrants to their territories and he called upon these countries to remedy these discriminatory measures¹².

⁹ According to Diari d'Andorra, 4 September 2007 and 26 November 2007.

¹⁰ According to interview with Nicolás Pérez, chairman of the Andorran NGO "Som Com Som".

¹¹ To consult the Qualified Law of Penal Code 9/1995, 21 February, in the Catalan version, vid. www.bopa.ad/bopa/2005/bopl7025.pdf

¹² See http://data.unaids.org/pub/FactSheet/2010/20100104_fs_travelrestrictions_en.pdf.

B.7. Social security, social care and insurance

50. In Andorra the social security system was established by Law 1986, 23 December. This system is administered by the Andorran social security Service (Caixa Andorrana de Segureta Social, CASS).
51. There are not specifics about social security and other social protection measures implemented in the context of homophobia or transphobia or discrimination on the ground of sexual orientation or gender identity.
52. The law 17/2008, of 3 October, of the National Health Service¹³, does not distinguish between marriages and stable unions, of the same sex or of different sex, to the effect of recognising the pensions of widowhood and of orphanhood.
53. The social care department realises programmes and projects to the citizens, especially in cases of disability, and offers economic subsidies for persons in situations of social risk.
54. The insurances are regulated by the law of action of the insurance companies of 11 May 1989. There are no specific provisions regarding LGBT persons.

B.8. Education

55. In the Andorran educational system, LGBT issues do not receive the same coverage as the French system and Spanish system of education. In the Spanish system the scholars receive some information in the subject called education for the citizenship. Nevertheless, there are activities addressing LGBT issues, and several materials are available at the national resource centre and the government's public library. The French system has not developed a consistent approach to deal with LGBT issues.
56. The Law of classification of the educational Andorran system, of 9 June 1994, does not foresee sexual education, but there is a draft law regarding sexual education presented in 2008, to include information in the schools on the risks of sexually transmitted infections and prevention. Sexual education and condoms are available at health centres and youth centres.
57. SCS has promoted an educational project on LGBT issues has and been very active in seeking support from institutions and public representatives, and *Inclou* ("Include"), a Catalan LGBT association, has extended its educational programmes to Andorran schools, under the educational Spanish system, occasionally.
58. Harassment or homophobic bullying in educational centres has never been reported, either against students or against teachers.
59. Forecasts do not exist on the renaming of diplomas or educational titles, or on the change of sex not having been recognised legally.

B.9. Employment

60. The Law 35/2008, of 18 December, of the Code of Labour relations, prohibits (Article 4) any discrimination based on sexual orientation, and considers the discriminatory clauses to

¹³ Vid. <http://online.cass.ad/web/lacass/lacass/reglamentacio>

be void for this reason¹⁴. Articles 97 and 98 recognise the worker who suffers discrimination for his/her sexual orientation, the right to choose for the compensation of unfair dismissal or for the reincorporation to the company, with compensation of the prejudices that s/he has suffered¹⁵. Article 159 establishes as a very serious infraction, the managerial decision that implies discrimination for sexual orientation¹⁶. Discrimination based on gender identity is included in the provision on sexual discrimination and is not treated separately as is the case with discrimination based on sexual orientation discrimination. The access to employment for non-nationals is very restrictive. Discrimination exists against people who apply for residence and work permits on grounds of health conditions. There is no specific discrimination against LGBT people, all applicants for such permits must pass a medical examination that includes an HIV test, and the rejection could be based on health (haemophilia, diabetes or obesity could be reasons for permits denegation).¹⁷

61. Jurisprudence does not exist on labour discrimination for sexual orientation or gender identity.
62. Transgender people are able to stay in their job after a gender reassignment.. Gender reassignment is not a cause for dismissal. Gender reassignment treatments have never been performed in Andorran hospitals. Andorran public health does not provide the reassignment operations, nor its financing.
63. In such issues, the Ombudsman plays a specific role when the public administration has damaged rights of the persons.

B.10. Housing

64. Housing is regulated by the general law of land management and urbanism, of 29 December 2000. The leases are regulated by the Law 31/2008, of 18 December on measures of economic reactivation. The property is regulated by the legislative decree of 7 January 2009, and diverse laws exist that regulate the taxes of the real-estate transmissions.
65. These regulations do not include specific provisions for LGBT people, though it is equal, in the suppositions of exemption of taxes, between the marriages and the stable union of couples independently of their sexual orientation.

14 Article 4: Tant l'empresari com el treballador han d'obrar de bona fe en l'execució del contracte i evitar qualsevol abús de dret, conducta antisocial o discriminació per raó de naixement, raça, sexe, orientació sexual, origen, religió, opinió o qualsevol altra condició personal o social, així com d'afiliació, o no-afiliació, a un sindicat.

Són nul·les les clàusules que constitueixin un acte de discriminació i qualsevol de les parts, individualment o de manera col·lectiva, en pot demanar la declaració de nul·litat als tribunals.

15 Article 97.4: Quan el desistiment tingui com a causa un acte de discriminació per raó de naixement, raça, sexe, orientació sexual, origen, religió, opinió o qualsevol altra condició personal o social, així com d'afiliació, o no, a un sindicat, la persona treballadora pot optar per la indemnització esmentada al paràgraf anterior [la indemnització corresponent al comiat injustificat] o bé exigir la reincorporació a l'empresa amb la reparació de l'acte discriminatori i la indemnització del perjudici ocasionat, que fixa la jurisdicció corresponent.

Article 98.5: En el supòsit de l'apartat anterior o en cas que el comiat de la persona treballadora constitueixi un acte de discriminació per raó de naixement, raça, sexe, orientació sexual, origen, religió, opinió o qualsevol altra condició personal o social, o d'afiliació, o no, a un sindicat, o d'acomiadament d'un delegat de personal, la persona treballadora pot optar per la indemnització que correspongui d'acord amb els paràgrafs anteriors o bé exigir el reintegrament a l'empresa amb la reparació de l'acte discriminatori i la indemnització del perjudici ocasionat, que ha de fixar la jurisdicció competent.

16 Article 159: Són infraccions molt greus: 3. Les decisions unilaterals de l'empresa que impliquin discriminacions en matèria de retencions, formació, promoció i altres condicions de treball, per causa de naixement, raça, sexe, orientació sexual, origen, religió, opinió o qualsevol altra condició personal o social, o per la condició de delegat de personal

17 See www.treball.ad/Decret_Immigracio.htm.

66. There are no specific measures to ensure security of tenure and access to housing on the basis of sexual orientation, gender identity and marital or family status, except a system of social rented flats addressed to young people until 2006. Help is granted by means of edicts, which are approved from time to time, to favour access to housing for the most vulnerable groups (young people, single-parent families, large families and disabled persons). The last regulation of help was adopted on 11 March 2009. This system does not introduce differences based on the applicants' sexual orientation or gender identity.

B.11. Health care

67. The legislation on the Health care system was established in the law 1/2009, of 23 January, which modified the General Law of Health of 20 March 1989. There is no specific mention of LGBT interests.
68. The prevention of AIDS is a relevant issue for LGBT people. SCS has organised two campaigns on this matter with public support.
69. On 1 December 2006, the first campaign aimed at promoting healthy behaviours and the fight against AIDS was announced by the Ministry of Health. The message about preventing sexually transmitted infections has centred in four ways: abstaining, engaging in non-penetrative sexual practices, using condoms, and "being careful with whom you engage in sexual relationships, you never know who is infected".¹⁸ On the other hand, the difference in treatment of homosexual individuals in relation to blood donations was the first issue to be denounced by the Andorran gay movement, in 2002. Blood donation campaigns were organised by the Red Cross of Andorra with the cooperation of the "Etablissement Français du Sang". This French organisation had an internal directive not to allow homosexual individuals to donate blood, as they were considered a group at risk. A Member of Parliament asked an Oral Question to the government in 2006, and a Member of European Parliament submitted a Written Question to the European Commission regarding the rejection of blood donations from homosexual individuals in Andorra.¹⁹ The Andorran Ministry of Health claimed that they were not to be discriminated against. However, gay men were rejected as blood donors. The situation changed when Andorran authorities decided to organise the blood donation campaigns with a Spanish institution.
70. The general law on health does not take in consideration same-sex partners to receive information about the patient's health in cases where this is needed.
71. Medical treatments do not exist for the transgender group. No Andorran hospital provides either gender reassignment surgeries or treatments, therefore transsexual people must travel to other countries to obtain them.

B.12. Access to goods and services

72. The Andorran Penal Code (qualified Law of Penal Code 9/2005, 21 February, Article 338) establishes as a cause of discrimination the denial to sell or renting some good or service basis of a sexual orientation with other causes, but does not include gender identity.
73. There is no relevant case-law concerning discriminatory treatment on the grounds of sexual orientation and gender identity in relation to the access to goods and services.

¹⁸ See www.salutibienestar.ad/VE/sida/sida.html or www.andorralavella.ad/opencms/export/sites/wca/contents/_docs/Comu_informa_1130.pdf.

¹⁹ See www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2006-5739+0+DOC+XML+V0//EN

B.13. Media

74. There are legal requirements for the public TV channel (Andorra Television ATV) and the public radio (Andorran National Radio RNA) to respect the constitutional principles, especially equality and non-discrimination of any personal or social circumstance.
75. The Andorran Law on broadcasting and public television of 13 April 2000, establishes that the public entity of radio and television must pay due respect to the constitutional principles and to the equality and non- discrimination principles.
76. Local media as well as Spanish media have given a large coverage to LGBT information and news provided by the LGBT movement itself. So far this coverage has not given rise to complaints from the LGBT community.

B.14. Transgender issues

77. There is no regulation specifically pertaining to transgender people in Andorra. There have been no complaints about discrimination.
78. Currently, gender reassignment procedures are not legally recognised in Andorra, and gender reassignment surgery is not covered under the national health care system. The Law of the Civil Registry, of 11 July 1996, only refers to the inscription of anatomical sex. Article 66 prohibits the inscription or the renaming that it induces to mistake on the sex²⁰, though the denial is appealed to the Court.
79. Article 146 establishes that is civil Court decision admits the modification of sex, when is supported by law, if this is made after the birth.²¹ Nevertheless, no specific law regulates the gender reassignment, and no judicial procedure has taken place for it in Andorra.
80. The hospitals of Andorra have, so far, never performed gender reassignment procedures.

B.15. Intersex issues

81. Gender reassignment surgery is allowed for intersex babies at childbirth. The Law of Civil Registry (of 11 July 1996), Article 146) allows the modification of the sex of a newborn child. There are no other laws which refer to gender reassignment. There are no other legal provisions for gender confirming or changing treatment such as hormone therapy, genital surgery, chest/breast surgery and similar surgery/treatment. However, in the case of medical indications, a special request for insurance coverage could be made. No cases of such requests are known.
82. There are no known cases of intersex people in Andorra.

20 Article 66: Resten prohibits els noms propis que per si sols o en combinació amb els cognoms, resultin contraris a la dignitat de la persona. De la mateixa manera, no es poden inscriure noms que facin confusa la designació o que indueixin a error sobre el sexe, ni tampoc s'admeten cognoms per noms propis.

21 Article 146: És, en general, competència del registrador de l'estat civil, la modificació del Registre Civil, pels tràmits de l'expedient registral, en primera instància i pel procediment establert per la present Llei i en les disposicions reglamentàries.

En canvi, correspon a la jurisdicció civil, a través dels batlles i els tribunals que la integren i pels tràmits del procediment declaratiu ordinari: c) la modificació de sexe que s'admeti per llei i sigui posterior al naixement d'una persona;

B.16. Good practice

83. Three subsidies requested by the NGO “Som Com Som” were granted by the Andorran government, to organise the gay pride in 2003 and two campaigns of the prevention of HIV.