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

Sociological Report: Andorra

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Table of Contents

A. EXECUTIVE SUMMARY	3
B. DATA COLLECTION	4
C. FINDINGS	5
C.1. Public opinion and attitudes towards LGBT persons	5
C.2. Freedom of assembly and association	5
C.3. Freedom of expression	5
C.4. Hate crime - hate speech	6
C.5. Family issues	6
C.6. Asylum and refugee issues	6
C.7. Social security, social care and insurance	7
C.8. Education	7
C.9. Employment	7
C.10. Housing	7
C.11. Health care	8
C.12. Access to goods and services	8
C.13. Media	9
C.14. Transgender issues	9
C.15. Good practices	9

A. Executive summary

1. Andorra has a population of about 80,000 people. Its capital is Andorra la Vella (23,000). It is sub-divided into seven districts.
2. As with the other micro-states in Europe, Andorra is not a member of the EU but has a customs agreement with the EU and uses the Euro. Andorra is not party to the Schengen Agreement.
3. As a member of the Council of Europe, it has increasingly adjusted its legislation to that of Europe, including in the fields of political and civil rights.

LGBT rights

4. Same-sex relations were decriminalised in 1790. Homosexuality is legal according to the Penal Code of 2005. The age of consent is equal at 16, regardless of sexual orientation and/or gender.
5. In March 2005, Andorra first recognised the right of same-sex couples to join in civil unions as well as so-called "stable unions of couples", meaning couples who have lived together for at least six months upon registering in a "civil union". At least one partner must be a resident of Andorra.
6. A couple in a stable union have legal rights and responsibilities parallel to those of a heterosexual couple, including the ability to adopt the partner's child. However, same-sex couples cannot adopt children.
7. During election campaigns in April 2009, the leader of the Social Democratic Party, announced that, if the party won the 2009 elections, it would open up the debate on same-sex marriage in Andorra. Although the party won the elections, no clear commitment has been given over whether and when same-sex marriage would be legalised.
8. Andorra has no asylum legislation, and hence has not recognised persecution on the grounds of sexual orientation or gender identity as a ground for obtaining asylum. Since Andorra has neither an airport nor a coastline, it is impossible to arrive in Andorra as a first country of entry.
9. All persons living in Andorra have equal access to social security and social protection regardless of their sexual orientation and gender identity. Married and "stable union" couples have corresponding social protection.
10. SomComSom (meaning: "We are as we are") is the Andorran organisation representing lesbians and gay men. They are active in organising events and annual campaigns, including keeping newspapers updated on LG events and rights.
11. Sex education is part of the school curriculum and SomComSom is working to have a fair description of same-sex relations included in the curriculum.
12. The legislation ensures the compliance of the media with prohibition to infringe freedom of discrimination, freedom of expression and equal opportunity and treatment.

13. There have been no court cases/convictions with regards to discrimination because of sexual orientation/gender identity or otherwise relevant for this report. However, in 2000 a young homosexual man was murdered, allegedly for a homophobic motive.
14. Neither the authorities nor the local NGO, SomComSom, know about transgender or intersex people living in Andorra.
15. No systematic compilation of data takes place with regards to gender identity or sexual orientation.

B. Data Collection

16. Data have been collected for this report through:
 - Government Web-pages
 - ILGA-Europe Web-page
17. Telephone and e-mail interviews during the period 12 April to 4 May 2010 with:
 - Joint meeting with the Ministry of Foreign Affairs and the Legal Cabinet of the Government; Ms Mireia Fernandez
 - The Ombudsperson Institution Raonador del Ciutada
 - The spokesperson for SomComSom ("We are as we are") - the LG organisation in Andorra.¹

¹ Where nothing else is stated the information in this report comes from an interview with SomComCom 3 May 2010.

C. Findings

C.1. Public opinion and attitudes towards LGBT persons

18. Andorra has ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, moreover Andorra was a signatory to the 2008 UN Declaration on Sexual Orientation and Gender Identity and has worked intensively on promoting LGBT rights in the UN context.²
19. The population of Andorra has multicultural origins. The majority have Spanish/Catalan, French and Portuguese origins. Although no research has been made on the subject, it is the opinion of the Andorran LGBT organisation SomComSom that the perception of lesbian, gay, bisexual or transgender children is highly dependent on the level of education of the parents. The organisation can cite examples of young gays who have been expelled from their homes at the age of 18 by their parents because of their coming out, although such examples are rare.
20. Andorra has an Ombudsinstitution which can receive complaints, including in the field of breach of LGBT rights. The Ombudsinstitution has not received or treated complaints in this regard.³
21. Since Andorra is a very small country, most people know one another which may have made LGBT persons reticent to present their sexual orientation or gender identity as this would likely make it public to the whole society. But this is a personal decision that each person confronts based on his/her circumstances. Hence, the traditional Spanish and Andorran "macho" culture is not foreign to offensive acts and offensive expressions for LGBT persons and until quite recently, LGBT persons in general lived an invisible life in Andorra.
22. However as homophobic behaviour is increasingly considered unacceptable in society, lesbians and gays have increasingly been able to come out.
23. Since the creation of SomComSom, the LGBT community has received widespread and overwhelmingly positive exposure in the media.

C.2. Freedom of assembly and association

24. LGBT can associate freely like other citizens. There are no restrictions different from those to which other associations are subject.

C.3. Freedom of expression

25. Information about LGBT issues receives comprehensive coverage in the Andorran press, who frequently cite SomComSom.

² Interview with the Ministry of Foreign Affairs and the Legal Cabinet of the Government, 9 April 2010.

³ Interview with the Ombudsinstitution, 7 April 2010.

C.4. Hate crime - hate speech

26. According to SomComSom, the traditional quite macho culture of Andorra (and Catalonia) does involve derogatory remarks towards LGBT people, especially gay men.
27. In 2000, a 17 year-old gay man was murdered in Andorra after being beaten brutally by two young Spanish men, who declared that the attack was due to the sexual orientation of the victim. The case gave rise to a public outcry and resulted in an amendment of the Penal Code whereby reference to the sexual orientation of the victim became an aggravating factor in criminal cases like this. The murderers were tried and sentenced. Since then, at least one incident has been recorded of aggressive homophobia towards a same-sex couple.⁴
28. The Penal Code (Law 9/2005, of 25 February, qualified Penal Code; revised in 2008) provides that having made an offence based on racist reasons, i.e. on sex, sexual orientation, inter alia is considered an aggravating circumstance.

C.5. Family issues

Registration of same-sex couples

29. In March 2005, Andorra first recognised the right of same-sex couples to join in civil unions. Both co-princes of Andorra have signed the civil code in law, despite controversy over the code's provisions on adoption. The Ministry of Foreign Affairs informed the interviewer that 3 couples were registered in 2006, 3 in 2008 and 5 in 2009.⁵
30. The new code took effect after publication in the Government Reporter of Andorra, along with a new different law covering "stable unions of couples".
31. Spanish same-sex *marriages* are not recognised in Andorra.

Same-sex marriages

32. On 21 April 2009, Jaume Bartumeu, leader of the Social Democratic Party, announced that, if the party won the 2009 elections, it would open up the debate on same-sex marriage in Andorra.
33. The Social Democrats are now the governing party in the country, with Bartumeu as Head of Government. Nevertheless, no clear commitment was given over whether and when same-sex marriage would be legalised.

C.6. Asylum and refugee issues

34. Andorra is not party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. The law does not provide for the granting of asylum or refugee status. However, the government has, from time to time, cooperated with the UNHCR and other organisations in assisting refugees "for humanitarian reasons."

4 For more on the case and the legislation, see the legal national report on Andorra drafted as part of this study.

5 Interview with the Ministry of Foreign Affairs and the Legal Cabinet of the Government, 9 April 2010.

In practice, the country provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.⁶

C.7. Social security, social care and insurance

35. Everybody has equal access to social security and other social protection measures, including employment and unemployment benefits, health insurance or care or benefits, other social insurance and pension benefits without discrimination on the basis of sexual orientation or gender identity. Registered same-sex couples have the same access to such services as everyone else.
36. Social Security covers 75 to 100 percent of the costs of medical treatment upon application and Social Security approval. Coverage is limited to people who are labour active and pay subscription and coverage only lasts for some months after the person has stopped working, unless the person has reached pension age.
37. Body modifications in relation to sex reassignment surgery are not available in Andorra, and only Andorran private insurances might pay for such surgery abroad. However, no such cases are known.
38. There have been no court cases in connection with violations of the right to social security/care of LGBT people due to homophobic/transphobic motivation.
39. No statistical information is available.

C.8. Education

40. There are three education systems in Andorra (Andorran, French and Spanish). The programmes on sex-education taught in the schools and the colleges under the French and Spanish education systems are similar to those taught in France and Spain. The Andorran system does not treat same-sex relations or LGBT issues in particular. All they do is to promote tolerance. The programmes of sex education are developed by each educational centre, and each class works on the topics of their interest.

C.9. Employment

41. The Labour legislation establishes non-discrimination because of sexual orientation (Law 8/2003, 12 June 2003) as part of the anti-discrimination legislation. No relevant statistical information is available.

C.10. Housing

42. Discrimination in access to goods or services because of sexual orientation is considered an offense and is not recorded as a problem in Andorra.⁷
43. Public housing is almost nonexistent in Andorra. The government gives aid towards rent to people with low incomes irrespective of their sexual orientation.⁸

⁶ UNHCR Refworld, April 2010.

⁷ Interview with the Ombudsinstitution, 7 April 2010.

C.11. Health care

44. All persons living or working in Andorra are subject to compulsory health insurance. No data have been presented on discrimination in access to health services.
45. All persons have equal access to health care facilities, goods and services, including in relation to their sexual and reproductive health without regards to their sexual orientation. People also have the right to access their medical records.
46. There are no representative data on the health conditions for LGBT persons regarding, for example, suicide rates as there are no data for the general population to make comparison.
47. Persons who have been registered as HIV positive are unable to obtain a permit to work or reside in Andorra. Andorra also excludes access to residence and work because of many other types of diseases such as diabetes, hepatitis, and others that can entail an economic cost for the social security of the country.

HIV/Aids and blood donation

48. There are no organisations that represent HIV positive persons and although the data are known to epidemiologists, the patients hesitate to inform relatives and the health authorities about their disease. Andorran legislation does not allow persons with HIV to take up residence in the country.
49. The question of blood donation has played an important part for the gay movement in Andorra. So far, homosexual individuals are not accepted as blood donors in Andorra. Collection of blood is undertaken by *Etablissement Français du Sang (EFS)* and in France homosexual individuals are not allowed to give blood for fear of infection with HIV.
50. Based upon a case raised by SomComSom, the Andorran constitutional Court concluded in 2009 that it is not a protected human right to donate blood and EFS did not break the constitution by refusing homosexual individuals as donors.⁹
51. However, the present Andorran government has announced that it will enter into an agreement with the *Banc of Sang in Teixits de Catalunya (Spain)* that will allow homosexual individuals to donate blood when it is done through this organisation.¹⁰

C.12. Access to goods and services

52. Discrimination in access to goods or services because of sexual orientation is prohibited and is not recorded as a problem in Andorra.
53. No cases are known where LGBT persons have been denied access to private insurance and financial services or have been refused to rent premises for an LGBT-event, publish announcements or have been refused to be served in a bar or restaurant on the grounds of sexual orientation or gender identity.

8 As not 8.

9 The Official Bulletin of the Principality of Andorra, p. 4696-99.

10 Please refer to the legal country report by prof. Carlos Villagrasa Alcaide for more details.

C.13. Media

54. The media of Andorra inform about LGBT issues and represent LGBT persons in an objective way and SomComSom has easy access to the media, including both newspapers, radio and public as well as private television.
55. The key LGBT issues over the last years: Prohibition for homosexual individuals to donate blood, and the possibilities of gay marriages have been discussed widely in the media and members of LGBT association are often invited to present their opinion in the media.
56. However, mostly, people watch Spanish and French TV. Hence, they receive the same information as in Spain and France.
57. From time to time the Office of Equal Opportunity and the Institute for sexual questions and HIV-prevention publish articles or give interviews on the radio with regard to their activities in order to prevent prejudices and biased information in connection with LG persons.

C.14. Transgender issues

58. There are no data available on conditions for transgender persons. Being a small country means that transgender persons are very few, so few and invisible that they are not known to the LGBT organisation. There are a few transvestites, but reportedly no one has undergone gender reassignment treatment in Andorra.
59. Such treatment, if available, would not be covered by the social security - an issue that was highlighted by a political party at its electoral programme in 2009.
60. No cases of transgender persons are known, nor are cases known where transgender persons have been deprived of the right to access health care facilities.
61. There is no legislation on possible name-change for transgender persons.

C.15. Good practices

62. Political parties have taken up LGBT issues such as the right to gender reassignment surgery; blood donation and similar issues in connection with election campaigns in 2009. Some parties have formed special working groups in LGBT issues.