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Asking France to ensure that human rights defenders in Andorra do not suffer reprisals and to advocate for the decriminalisation of abortion

Reply to Written question[1]: Written question No. 757 (Doc. 15237)
Committee of Ministers

1. The Committee of Ministers notes that the question addressed by the Honourable Parliamentarian refers to France while the issues raised concern exclusively Andorra. The Principality of Andorra is a sovereign State and member State of the Council of Europe. Although the President of France serves as joint Head of State, or "Co-prince", along with the Bishop of La Seu D'Urgell (Spain), the title is held exclusively in a personal capacity. Historically, the Co-princes are guarantors of Andorra's independence, but Andorran democracy is in the hands of the Andorran people and their representatives.

2. The Committee recalls that there is no legally binding Council of Europe instrument expressly providing for the sexual and reproductive health rights of women. The European Court of Human Rights gives States Parties a margin of appreciation over possible restrictions on abortion (cf. A, B and C v. Ireland, G.C. 16 December 2010, No. 25579/05). However, where abortion is permitted, States have a duty to ensure that effective mechanisms are in place to access it (Tysiąc v. Poland, 20 March 2007, No. 5410/03; see also European Committee of Social Rights, Planned Parenthood Federation European Network (IPPF EN) v. Italy, Complaint No. 87/2012, decision on the merits of 10 September 2013). In addition, the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") requires State Parties to criminalise forced abortion. The Committee notes that Andorra remains one of the few member States to criminalise voluntary abortion, including in cases of rape. However, the Andorran authorities have stated that no woman or practitioner has ever been tried or convicted in Andorra for having an abortion or for performing one.

3. The Committee of Ministers is committed to guaranteeing that civil society can work in a safe environment. It recalls its Recommendation CM/Rec(2018)11 to member States on the need to strengthen the protection and promotion of civil society space in Europe, which sets out measures that should be taken to guarantee a favorable legal framework and a political and public environment conducive to this space, especially with regard to freedom of expression.

4. The Honourable Parliamentarian mentions Ms Vanessa Mendoza Cortés, President of the "Stop Violències" association, who presented a report in 2019 to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) denouncing the criminalisation of abortion in Andorra. The Committee of Ministers has been informed by the Andorran authorities that she also made serious accusations against various government services of violations of women's rights, some of which, if proven, could be criminal offences. These accusations were transmitted to the Public Prosecutor for an independent assessment following which criminal charges have been filed against Ms Mendoza Cortés. The matter will be decided before the Andorran courts.

1. Adopted at the 1410th meeting of the Ministers' Deputies (8 September 2021).

5. It is recalled that the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), in its baseline evaluation report on Andorra published on 30 November 2020, which takes account of developments up until 14 October 2020, strongly encouraged the Andorran authorities to support more effectively, including financially, NGOs which assist women victims of violence by ensuring effective institutional dialogue with them. The Committee of Ministers also refers to the Recommendation of the Committee of the Parties on the implementation of the Istanbul Convention by Andorra, published on 18 December 2020, which recommends that the Andorran authorities take additional measures to afford all victims of sexual violence access to specialised services. Andorra is invited to report back to the Committee of the Parties on progress made by 15 December 2023.