

ACCESS TO JUSTICE FOR CHILDREN: ANDORRA

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?

Andorra is a monist jurisdiction, meaning that ratified international treaties become part of national law without the need for implementing legislation and have a binding effect nationally. According to the Andorran Constitution, international treaties and agreements are incorporated into the domestic legal system and can no longer be amended or repealed once they are published in the Official Gazette.¹ Andorra ratified the CRC by publication in January 1996.² It also ratified the Optional Protocol on Children in Armed Conflict and the Optional Protocol on the Sale of Children, Child prostitution, and Child pornography on 30 April 2001,³ and the Optional Protocol on a communications procedure on 25 September 2014.⁴ Andorra withdrew its initial reservations regarding Articles 7 and 8 of the CRC in 2005.⁵

B. Does the CRC take precedence over national law?

The CRC takes precedence over national laws by virtue of its status as an international treaty.⁶

C. Has the CRC been incorporated into national law?

The CRC has been incorporated into national law. In Andorra, the publication of international treaties in the Official Gazette incorporates these into national law. The CRC was published in the Official Gazette on 24 January 1996.⁷ The Convention entered into force on 1 February 1996.

Nonetheless, the UN Committee on the Rights of the Child has criticised Andorra for its lack of full implementation of the CRC into national laws.⁸

¹ Constitution of the Principality of Andorra 1993, Art. 3(4), available at: http://www.consellgeneral.ad/ca/accessos-directes/constitucio-i-reglament/copy_of_la-constitucio-del-principat-d-andorra (Catalan) or http://www.andorramania.com/constit_gb.htm (English).

² See publication in the Official Gazette of the Principality of Andorra (*Butlletí Oficial del Principat d'Andorra*), available at: <http://www.bopa.ad/>.

³ *Second periodic report of Andorra to the UN Committee on the Rights of the Child* ("State Party's Report"), CRC/C/AND/2, 15 September 2011, para. 6, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAND%2f2&Lang=en.

⁴ Ratify OP3 CRC, *Andorra ratifies OP3CRC*, 26 September 2014, available at: <http://ratifyop3crc.org/2014/09/26/andorra-ratifies-op3/>.

⁵ State Party's Report, para. 5.

⁶ Constitution of the Principality of Andorra, Art. 3(4); State Party's Report, para. 30.

⁷ Official Gazette.

⁸ UN Committee on the Rights of the Child, *Concluding observations on the second periodic report of*

Andorra does not have a consolidated Children's Act; rather, legislation relating to children's rights is found throughout numerous Qualified Acts, Ordinary Acts, and Regulations. Relevant legislation includes, but is by no means limited to:

- The Criminal Code (amended by Act 9/2005 and 15/2008);
- The Qualified Act on Juvenile Justice 1999;
- The Qualified Act on Justice 1999;
- The Law on Adoption and Other Forms of Protection for Abandoned Children 1996;
- The Qualified Act on Immigration 2002;
- The Qualified Act on Nationality (amended by Qualified Act 10/2004);
- The Qualified Act on Incapacity and the Tutelary Agencies 2004;
- The Qualified Act on Marriage 1995 (amended 2004);
- The Education Act 1989;
- The Law Regulating Leave for Maternity or Adoption 2000;
- The Regulations for Child-Care in Private Homes 2001.⁹

D. Can the CRC be directly enforced in the courts?

As the CRC takes precedence over national legislation, which cannot amend or alter the content of the CRC, the Convention can be relied on directly before the Andorran courts, which can apply it where relevant, and cite it in their judgements.¹⁰

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

In its latest report to the UN Committee on the Rights of the Child, Andorra explained that “it is normal practice to make explicit reference to the Convention or its principles in proceedings for de facto or legal separation, divorce, annulment of marriage or filiation, or when it is necessary to decide on access arrangements, support payments or the general situation of children below the age of majority”¹¹ and that “the principles of the Convention also prevail in judicial decisions on adoption and other measures for the protection of abandoned children”.¹² It was further elaborated that “although the Convention is always taken into account in legal proceedings and judicial decisions, it is not the normal practice to make explicit reference to it in criminal proceedings involving children, whether as offenders or victims”.¹³ While these excerpts from Andorra’s periodic report suggest that the country’s courts use and apply the CRC, we have not been able to find specific court judgements from Andorra explicitly citing the CRC.

Andorra (“*Concluding Observations*”), CRC/C/AND/CO/2, 3 December 2012, para. 11 et seq., available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fAND%2fCO%2f2&Lang=en.

⁹ CRIN, *Andorra: National Laws*, 2 May 2013, available at: <https://www.crin.org/en/library/publications/andorra-national-laws>; List of laws of Andorra, available at: <http://tribunalconstitucional.ad/legislacio>.

¹⁰ State Party’s Report, para. 30.

¹¹ State Party’s Report, paras. 100 & 101.

¹² *Ibid.*

¹³ *Ibid.*

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Children can bring cases in domestic courts challenging violations of their rights, including civil, criminal, administrative and constitutional complaints, through their representatives.

The Constitution contains a number of rights provisions that apply to children as to any other person, but also features two articles that make specific reference to the rights of children: Art. 13(3) provides that all children are equal before the law, regardless of their parentage and Art. 20(3) grants parents the right to decide on the type of education they desire for their children, and to determine the moral or religious instruction of their children in accordance with their own convictions.¹⁴ The Constitution provides for priority proceedings for the enforcement of constitutional rights and freedoms.¹⁵ Constitutional complaints (*procediment excepcional d'empara*) can also be brought against the acts of public authorities if they violate the essential rights and freedoms granted by the Constitution.¹⁶

Every Andorran without a criminal record may initiate criminal proceedings by submitting a complaint.¹⁷

The mandate of the Ombudsman (*Raonador del Ciutadà*) includes addressing individual complaints concerning the activities of the Government regarding the rights and freedoms granted by the Constitution.¹⁸ Violations of children's rights and freedoms guaranteed by the Constitution can also be brought to the attention of the Office of the Ombudsman through complaints by children over 12 years old and their representatives. Children under 12 years old can bring complaints through a representative. The Ombudsman can also take on a matter himself *ex officio*.

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

Children in Andorra require legal representation by their parents in order to bring cases. Parental legal representation terminates automatically when a child

¹⁴ Constitution, Art. 13(3) & 20(3).

¹⁵ Constitution, Art. 41(1).

¹⁶ Law on the Constitutional Court (*Llei qualificada del Tribunal Constitucional*, 3-9-1993), Chapter VI, available at: <http://tribunalconstitucional.ad/docs/legislacio/lqtc.pdf>

¹⁷ Code of Criminal Procedure (*Llei qualificada de modificació del Codi de procediment penal*), Art. 14 & 15, available at: <http://www.consellgeneral.ad/fitxers/documents/lleis-1989-2002/llei-qualificada-de-modificacio-del-codi-de-procediment-penal.pdf/view>.

¹⁸ Role of the Ombudsman, available at: <http://www.raonadordelciutada.ad/uk/index.html>; Law creating the Office of the Ombudsman (*Llei de creació i funcionament del raonador del ciutadà*, 4-6-98), Art. 1, available at: http://www.consellgeneral.ad/fitxers/documents/lleis-1989-2002/copy_of_llei-de-creacio-i-funcionament-del-raonador-del-ciutada.pdf.

turns 18.¹⁹ If parental rights are revoked for any reason, the child's guardian assumes the role of legal representative.²⁰

Complaints based on the violation of constitutional rights and freedoms submitted to the Ombudsman can be made by any natural or judicial person who invokes a legitimate interest regardless of his or her nationality, age, condition, or residency. In the case of children and persons with disabilities, complaints must be submitted through their legal representative.²¹ From the Ombudsman's website, it appears that children aged 12 and over can address complaints directly to the Ombudsman, without needing to be represented by their parents or guardian.²²

C. In the case of infants and young children, how would cases typically be brought?

The same rules as above apply to cases being brought by parents or guardians on behalf of infants and young children.

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

Plaintiffs, including children and their representatives, may resort to the "Free Justice" programme (*Justícia Gratuïta*) which provides pro-bono legal assistance and was established by the Bar Association of Andorra (*Col·legi d'Advocats d'Andorra*) and financed by the government. Any citizen of Andorra or resident who can prove that they meet certain income conditions or that they are insolvent and who require the assistance of a lawyer as part of legal proceedings can access the programme.²³ The applicant is required to fill in a legal aid request form and provide documentation proving their income status.²⁴ In addition, two witnesses are required to appear on behalf of the legal aid applicant in front of the Magistrates Court. The witnesses must not be related to the applicant and unaware of the details of his or her financial situation.²⁵

All actions undertaken by the Ombudsman are free of charge for persons submitting complaints challenging violations of their constitutional rights.²⁶

E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

Additional conditions on legal representatives bringing cases on behalf of

¹⁹ Law on adoption and other forms of protection for helpless children (*Llei qualificada de l'adopció i de les altres formes de protecció del menor desemparat*, 21-3-96), Art. 27, available at: http://www.consellgeneral.ad/fitxers/documents/lleis-1989-2002/copy_of_llei-qualificada-de-ladopcio-i-de-les-altres-formes-de-proteccio-del-menor-desemparat.pdf/view.

²⁰ Law on adoption and other forms of protection for helpless children, Art. 24.

²¹ Law creating the Office of the Ombudsman, Art. 13.

²² Role of the Ombudsman, available at: <http://www.raonadordelciutada.ad/uk/index.html>.

²³ Bar Association of Andorra, Free Justice Programme, available at: http://www.cada.ad/index.php?option=com_content&view=article&id=48&Itemid=20.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Law creating the Office of the Ombudsman, Art. 15.

children do not appear to be required. Especially with regard to the principle of best interests of the child, as required by the CRC, there seems to be a gap in the laws of Andorra as there do not appear to be any legal provisions which would promote this principle and ensure that it is considered at all times when representatives bring cases on behalf of children.

In its latest review of Andorra's performance under the CRC, the UN Committee on the Rights of the Child noted that, while different governmental bodies take into account the best interest of the child, the principle of the best interest of the child is not systematically or sufficiently integrated in legislation, policies, programmes and decision-making processes.²⁷ The Committee further urged the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children.²⁸

III. How can children's rights violations be challenged before national courts?

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Legal challenges against potential violations of the Constitution can be addressed either in front of the Ombudsman or the ordinary courts. The Constitution provides for priority proceedings in the ordinary courts for constitutional complaints which challenge violations of constitutional rights and freedoms.²⁹ The Ombudsman is tasked with addressing individual complaints concerning potential violations of the rights and freedoms granted by the Constitution by the Government.³⁰

If there has been an alleged violation of criminal provisions, children, through their representatives, may initiate criminal proceedings by submitting a complaint to the Public Prosecutor's Office (*Ministeri Fiscal*).³¹

The European Court of Human Rights decides cases concerning alleged violations of any of the rights contained in the European Convention on Human Rights.³² Any individual, group of individuals or an NGO who is a victim of a violation of one of these rights may submit a complaint to the Court,³³ but the complaint will be admissible only if all domestic remedies have been exhausted.³⁴ Anonymous complaints are not permitted.³⁵ The procedural rules for the Court do not make any child-specific provisions. Persons may initially present an application themselves or through a representative, however, all applicants must

²⁷ Concluding Observations, para. 26.

²⁸ Concluding Observations, para. 27.

²⁹ Constitution, Art. 41(1).

³⁰ Role of the Ombudsman; Law creating the Office of the Ombudsman, Art. 1.

³¹ Code of Criminal Procedure, Art. 14 & 15.

³² European Convention for the Protection of Human Rights and Fundamental Freedoms ("European Convention on Human Rights"), 1950, Articles 19 and 32, available at: <https://www.crin.org/en/library/legal-database/european-convention-protection-human-rights-and-fundamental-freedoms>.

³³ Ibid., Art. 34.

³⁴ Ibid., Art. 35.

³⁵ Ibid.

be represented at hearings thereafter.³⁶ After examining the case, the Court renders a judgment which is binding on the State³⁷ and also has powers to award monetary compensation to the victims of human rights abuses.³⁸ It is also worth noting that the Court has an established practice of referring to other international human rights instruments, including the CRC, as guides to interpretation of the European Convention.

Finally, once all domestic remedies have been exhausted, complaints against violations of children's rights may be submitted to the UN Committee on the Rights of the Child under the third Optional Protocol to the CRC,³⁹ which Andorra has ratified. Complaints can be made directly by both an individual child or a group of children, or indirectly, on their behalf by an adult or an organisation.⁴⁰ The violations must concern a right granted by either the CRC, the Optional Protocol on the sale of children or the Optional Protocol on the involvement of children in armed conflict⁴¹ and must have occurred after the entry into force of the Protocol on 25 December 2014.⁴² Anonymous complaints are inadmissible and so are complaints not made in writing.⁴³ In addition, only complaints made in one of the working languages of the UN will be accepted.⁴⁴ After examining the complaint, the Committee can make recommendations to the State, which are not legally binding.⁴⁵

B. What powers would courts have to review these violations, and what remedies could they offer?

When deciding appeals of constitutional complaints, the Constitutional Court can offer various different forms of remedies, including injunctive relief or damages. According to the laws establishing the powers of the Constitutional Court, the Court can adopt all measures which are necessary to restore the rights of the appellant.⁴⁶ Where the breach is materially irreparable, the Court can determine the nature of the liability incurred by the person responsible for the breach so that damages can then be claimed by the claimant before the ordinary courts.⁴⁷

If a complaint to the Ombudsman is successful and the Ombudsman's investigation of the case establishes that the constitutional rights of the

³⁶ Rules of Court, July 2014, Rule 36, available at: http://www.echr.coe.int/documents/rules_court_eng.pdf.

³⁷ European Convention on Human Rights, Art. 46.

³⁸ Ibid., Art. 41.

³⁹ Optional Protocol to the Convention on the Rights of the Child on a communications procedure, 2013, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A/RES/66/138&Lang=en.

⁴⁰ Ibid., Art. 5.

⁴¹ Ibid.

⁴² Ibid., Art. 7(g).

⁴³ Ibid.

⁴⁴ Office of the United Nations High Commissioner for Human Rights, *23 FAQ about Treaty Body complaints procedures*, available at: <http://www2.ohchr.org/english/bodies/petitions/individual.htm#contact>.

⁴⁵ Optional Protocol to the Convention on the Rights of the Child on a communications procedure, Article 10.

⁴⁶ Law on the Constitutional Court, Art. 92(2).

⁴⁷ Ibid.

complainant have been infringed, the Ombudsman can proceed to make a range of different decisions or resolutions:⁴⁸ he or she may issue warnings to the authorities regarding their unconstitutional actions, make recommendations to the authorities, remind them of their legal duties, and make suggestions for the adoption of new or alternative measures to remedy violations. In all cases, it is compulsory for the authorities to respond in writing within one month of the publication of the decision by the Ombudsman.⁴⁹ Once recommendations for remedies have been made to the authorities by the Ombudsman and if the administrative authority concerned does not remedy the violation appropriately, the Ombudsman can notify the highest authority within the administration concerned. If adequate justification for the lack of remedy is not given, the Ombudsman can include the subject in his or her annual report or issue an extraordinary report.⁵⁰ In his or her annual report to the General Council (*Consell General*) of Andorra, i.e. the Andorran parliament, the Ombudsman can also make suggestions for legal or regulatory reform based on his or her findings.⁵¹

Complaints submitted to the Ombudsman are subsidiary to proceedings in front of the courts; they do not interrupt the course of legal proceedings and decisions by the Ombudsman cannot alter any decisions made by the courts.⁵²

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

Constitutional complaints in front of the Constitutional Court, following a decision made by the ordinary courts in priority proceedings, must be pursued by individual victims as the requirements for standing do not allow for collective or popular action.⁵³

Challenges of laws or actions in front of the Ombudsman can be submitted by any person or legal entity with a legitimate interest.⁵⁴ This suggests that individual child victims would not be required to lodge complaints.

According to the Code of Criminal Procedure, legally constituted associations and corporations may initiate criminal and civil proceedings in order to defend the interest groups they represent. Such legal persons must act through their legal representative when submitting complaints to the courts.⁵⁵ This suggests that civil and criminal challenges, with the exception of constitutional complaints, can also be brought without naming an individual victim.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

⁴⁸ Law creating the Office of the Ombudsman, Art. 16.

⁴⁹ Ibid., Art. 20(1).

⁵⁰ Ibid., Art. 20(2).

⁵¹ Ibid., Art. 22(2).

⁵² Ibid., Art. 4.

⁵³ Law on the Constitutional Court, Art. 87.

⁵⁴ Role of the Ombudsman.

⁵⁵ Code of Criminal Procedure, Art. 14.

Group litigation is possible in criminal and civil proceedings, if initiated by a legally constituted association or corporation with a view to defending the interest groups they represent. Legal persons must act through their legal representative when submitting complaints to the courts.⁵⁶

Challenges of laws or actions in front of the Ombudsman can be submitted by any person or legal entity with a legitimate interest⁵⁷ and thus also allows for collective or group action.

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

Non-governmental organisations can file challenges of potential children's rights violations in the criminal and civil courts, if they are legally constituted associations or corporations, and seek to defend the interest groups they represent.⁵⁸ However, this possibility can be impaired but NGOs' lack of resources.

Challenges of laws or actions in front of the Ombudsman can be submitted by any person or legal entity with a legitimate interest⁵⁹ and thus non-governmental organisations are also permitted to file challenges.

Finally, non-governmental organisations can intervene in cases concerning constitutional complaints regarding the violation of children's rights as friend of the court (*amici*).⁶⁰

IV. Practical considerations. Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

All civil cases, penal cases concerning minor offences and administrative cases must be filed with the Magistrates Court (*Batllia*) which is the jurisdiction of first instance in Andorra. It is structured in civil, penal, administrative and special instruction sections.⁶¹ Cases are heard by one Magistrate (*Batlle*) or by a collegiate chamber of several Magistrates, depending on the gravity of the crime in criminal cases, the amount of money in question in civil matters or the issue at hand in administrative proceedings.⁶² The Criminal Court (*Tribunal de Corts*) is competent to judge major offences in the first instance and for any appeals

⁵⁶ Code of Criminal Procedure, Art. 14.

⁵⁷ Role of the Ombudsman.

⁵⁸ Code of Criminal Procedure, Art. 14.

⁵⁹ Role of the Ombudsman.

⁶⁰ Law on the Constitutional Court, Art. 87(1).

⁶¹ High Council of Justice of Andorra, Judicial Organisation, available at: http://www.justicia.ad/en/organitzacio_judicial.html; Also see Justice Act (*Llei Qualificada de la Justícia*, 3-9-93), available at: <https://www.bopa.ad/bopa/005051/Pagines/7CF6.aspx>.

⁶² *Ibid.*

against decisions by the Magistrates.⁶³

There are no judge dealing exclusively with cases involving children, but rather judges dealing with such matters among other specialties.

Complaints to the Ombudsman cannot be made anonymously, but can be submitted in different ways: either in written form and including the identity of the claimant, the reasons for the complaint, the facts the complaint is based on and the identity of other persons relevant to the claim. It can also be accompanied by any documentary evidence. Complaints can also be made in person or by proxy or representative with sufficient power.⁶⁴

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

Plaintiffs, including children and their representatives, may resort to the Free Justice Programme which provides pro-bono legal assistance and was established by the Bar Association of Andorra and financed by the government.⁶⁵ It appears that the programme only covers costs for hiring a lawyer and does not address costs payable to the court or any other expenses. Any citizen of Andorra or resident who can prove that they meet certain income conditions or that they are insolvent and who require the assistance of a lawyer as part of legal proceedings can access the programme.⁶⁶ The case does not have to present any important legal questions or demonstrate a likelihood of success. The applicant is required to fill in a legal aid request form and provide documentation proving their income status.⁶⁷ In addition, two witnesses are required to appear on behalf of the legal aid applicant in front of the Magistrates Court. The witnesses must not be related to the applicant and unaware of the details of his or her financial situation.⁶⁸

All actions undertaken by the Ombudsman are free of charge for persons submitting complaints challenging violations of their constitutional rights.⁶⁹

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

The main source of legal aid is the Free Justice Programme run by the Bar Association of Andorra⁷⁰ and non-profit organisations in Andorra try to raise

⁶³ Ibid.

⁶⁴ Law creating the Office of the Ombudsman, Art. 12.

⁶⁵ Bar Association of Andorra, Free Justice Programme.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Law creating the Office of the Ombudsman, Art. 15.

⁷⁰ Bar Association of Andorra, Free Justice Programme.

citizens' and residents' awareness of the programme. Public social services also offer free legal advice, including instructions on how to access the Free Justice Programme.⁷¹

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

The Criminal Code provides for the following statutes of limitations for crimes committed in Andorra:

- Thirty years for crimes where the maximum penalty is ten years imprisonment or higher;
- Ten years for other major crimes;
- Four years for misdemeanors;
- Six months, e.g. for slander, insult and defamation;
- No limitations for criminal prosecution of genocide and crimes against humanity.⁷²

Limitation periods for assault and sexual offenses committed against children do not start to run before the victim turns 18.⁷³

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

Admissible evidence includes expert reports on medical conditions, examinations of psychological and social behaviour, declarations by the victim or person lodging the complaint, documentary evidence, and witness statements.⁷⁴ The Magistrates Court has a specially designed room to record witness statements made by children.⁷⁵

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

The time frame needed to resolve a case in court varies and may be as long as one year.⁷⁶ Decisions and resolutions regarding complaints made to the Ombudsman must be handed down without delay and should be made within three months of the submission of the complaint.⁷⁷

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

The High Court constitutes the highest instance of the judicial organisation of

⁷¹ Information provided by Ministry of Health and Social Welfare to researcher via email on 5 February 2014.

⁷² Criminal Code (*Llei qualificada del Codi penal, 9/2005, 21-2-2005*), Art. 81, available at: <http://www.consellgeneral.ad/fitxers/documents/lleis-2005/llei-9-2005.pdf/view>.

⁷³ Criminal Code, Art. 82.

⁷⁴ Code of Criminal Procedure, Art. 87.

⁷⁵ Information provided by Ministry of Health and Social Welfare.

⁷⁶ Information provided by Ministry of Health and Social Welfare.

⁷⁷ Law creating the Office of the Ombudsman, Art. 17(3).

the Principality. It is competent to hear all appeals lodged against legal decisions adopted in the first instance by the Magistrates Court in civil and administrative matters and, in criminal matters, by the Criminal Court.⁷⁸ Once a judgment has been obtained on a constitutional matter in the ordinary courts, an appeal can be lodged with the Constitutional Court.⁷⁹ All appeals are open to children and their representatives as well.

Decisions and resolutions by the Ombudsman cannot be appealed.⁸⁰

- H. **Impact.** What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

Justice and the enforcement of laws do not usually lead to political repercussions. However, there could be repercussions if the violation arose from police negligence or negligence of a public service such as health, education, or social services.⁸¹

- I. **Follow up.** What other concerns or challenges might be anticipated in enforcing a positive decision?

No specific concerns or challenges which might be anticipated in enforcing a positive decision have been found.

- V. **Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

The UN Committee on the Rights of the Child has stressed the absence of a specific system of children's complaints at the Ombudsman's office. The Committee has therefore recommended to Andorra to review the operation and activities of the Ombudsman to ensure comprehensive and systematic monitoring of children's rights, including by expanding the presence of the institution in the State party, and consider how to strengthen children's access to this institution.⁸²

This report is provided for educational and informational purposes only and should not be construed as legal advice.

⁷⁸ High Council of Justice of Andorra, Judicial Organisation; Also see Justice Act.

⁷⁹ Constitution, Art. 41(2); Law on the Constitutional Court, Art. 86.

⁸⁰ Law creating the Office of the Ombudsman, Art. 16.

⁸¹ Information provided by Ministry of Health and Social Welfare.

⁸² Concluding Observations, para. 19.