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Civil rights and freedoms in the Andorran Constitution in the context of the Spanish constitutional provisions

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Abstract – The paper is to analyze the provisions of the Andorra Constitution (1993) in the context of similarities that can be found in the Spanish Constitution (1978). The author is limited to examining only the rights, freedoms and duties of citizens. The author takes the analysis at the level of the similarities between solutions in both constitutions and tries to answer the question as to the scope of these similarities. The analysis will be focused on wording of legal acts of April 1993¹.

Keywords-Andorra, Spain, civil rights and freedoms, constitution

I. INTRODUCTION

Andorra for years was a subject of many analysis mainly due to (if not exclusively) its legal international status. From Since 1278 the Valleys of Andorra (*Les Valls*) were on joint sovereignty of the French Count of Foix and the Catalan Bishop of La Seu d'Urgell. Henry III of Navarre, who was also Count of Foix, in 1589 ascended the French throne as Henry IV, and by an edict of 1607 established the head of the French state, along with the Bishop of Urgell, as Co-princes of Andorra. When France became republic, title of the Co-prince passed to the president (in years 1793-1806 France renounced position of the Co-prince, but on the Andorran request Napoleon Bonaparte readmitted this title). This diarchic head of state remained to this day.

Questions were raised about position of the French head of state to Andorran state. There were doubts whether Andorra is a vassal state or a state with limited sovereignty. As other microstates there where questions whether such countries can be defined as a state².

In contrast to the Eastern Europe, in the western part of the continent in the 90s of the 20th century there were not many geopolitical changes. But you can not forget the events of the 80s and 90s that took place in the Pyrenees. Due to changes in years 1978-1992, in 1993 inclusion of Andorra to the group of

¹ The author received funding for his doctoral thesis from the National Science Centre in the framework of a doctoral scholarship funding based on the decision no. DEC-2014/12/T/HS5/00140.

² Before 1993 relations between Andorra and France did not fit into the pattern of relations between sovereign states. The French Government used to refuse to recognize the Principality's statehood. The same as the other neighbor. See more: M. Lukaszewski, *Research on European Microstates in Social Science. Selected Methodological and Definitional Problems*, "AD ALTA – Journal of Interdisciplinary Research", 2011, Issue 2, pp. 74-77.

sovereign democratic states took place. The adoption of the Constitution, however, was preceded by a decision of the European Court of Human Rights on the human rights violations in the famous Drozd and Janousek vs. France and Spain case [1]³. The adoption of the constitution and signing of the Tripartite Treaty with neighbors (Spain and France) [2] completed the long process of creating a sovereign and democratic state.

Specially established Tripartite Commission had decisive influence on the shape of the Constitution of the Principality (hereinafter: CPA). This Commission was represented by 3 parties: the General Council (parliament), and each of Co-princes (Andorra is a diarchy, a state with a double head of state). Delegates of the Commission met 1-2 times a month since 1991 [3]. Delegates took experiences of neighboring countries, especially Spain, to construct the Andorran system. It is worth mentioning that both: the Episcopal Co-prince's and the General Council's delegations took advices from the Catalan specialists in constitutional law⁴. After developing the text of the Constitution, it was approved by parliament, Co-princes and citizens. It was published in the *Bulleti Oficial del Principat d'Andorra* on 4 May 1993.

Due to the wide range of the subject, the present paper is to analyze the provisions of the Andorra Constitution in the context of similarities that can be found in the Spanish Constitution of 1978 (hereinafter: CKS). The author is limited to examining only the rights and freedoms of citizens. The

³ The case of Drozd and Janousek vs. France and Spain is frequently invoked as an academic example of how far the state's jurisdiction extends. In that case, the European Court of Human Rights had to decide if the French courts which served for the Andorran judicial system before 1993. The Court had to examine Andorran political system and legal system. According to the judgment the term "jurisdiction" is not limited to the territory of countries. Their responsibility may be taken into account when their authorities produce effects outside their own territory. The Court stated that while Principality of Andorra was not a sovereign state, the Andorran territory neither belonged to France nor to Spain.

⁴ Parliamentarian's commission delegates had advices from: Pere Vilanova Trias, Marc Carrillo i López, Jordi Capó Giol, Miguel Angel Aparicio Pérez (lecturers in law and political science at the University of Barcelona). Some of them were later members of the Constitutional Court. The Episcopal Co-prince's commission delegates were accompanied by 3 advisors: Isidre Molas i Batllori (author of books on Catalan constitutionalism and Catalanian MP), Enric Fossas Espadaler (lecturer at the University of Barcelona), José Maria Ferré (legal advisor of the Spanish Ministry of Foreign Affairs) [4].

author takes the analysis at the level of the similarities between solutions in both constitutions and tries to answer the question as to the scope of these similarities. The analysis will be focused on wording of legal acts of April 1993.

II. BASIC PRINCIPLES

It should first be noted that both constitutions have a similar scheme. Both constitutions begin with a preamble, which indicate that each act is an expression of the will of the sovereign - the people. It was confirmed in subsequent parts of the text of each constitutions. Already in the first article of both acts 3 systemic principles are determined: the principle of a democratic state, the principle of the social state and the rule of law.

CPA, additionally as in the case with some European microstates, clearly indicates that it is an independent state (in this way among others: the Monegasque Constitution). Moreover, in both cases indicated values upon which both countries are based: liberty (freedom), equality, justice. The CPA adds: tolerance, defense of human rights and dignity of the person. Both countries have a similar regime, due to the fact that both are monarchies. Constitutions of both countries clearly determine the form of government as a parliamentary monarchy (Andorra is the world's only parliamentary Co-principality).

The similarity between Andorran and Spanish institutions is very high. We are dealing with constitutionalization of political parties in both cases. Both constitutions define the capital of the state, flag and official language. In addition, the CPA sets national anthem and emblem, and in the preamble indicates the motto of the state ("virtus, unita, fortior").

III. CIVIL RIGHTS AND LIBERTIES

First of all, it should be emphasized that both constitutions indicate the difference between the rights and freedoms with regard to the citizens and to foreigners. Both constitutions refer regulations of the nationals' status to the relevant law (in the case of Andorra is a qualified law), as well as restrict the right to filling public offices to nationals who also have electoral rights. Constitutions clearly emphasize equality before the law, although the CPA specifies that the category is binding on all parties while the CKS – only Spaniards, indicating that aliens enjoy the public freedoms, under the terms to be laid down by treaties and the law (CPA Art. 6 par. 1, CKS art. 13 par. 1 and art. 14). Both indicate that no one may be discriminated against on grounds of birth, race, sex, origin, religion, opinions or any other personal or social condition (the only difference is the addition of features "origin" by the Andorran legislator).

Also, both constitutions regulate the age of majority and related with this voting rights issue. Both constitutions indicate that adult citizens acquire the right to vote. However, only the CKS indicates acquisition of majority (18 years). In addition, the CKS clearly indicates that the state facilitates the exercise of the right of vote by Spaniards who are outside Spanish territory. Spain in a similar way cares about its citizens when they are working abroad (art. 42).

Matter of very extensive in both constitutions is the problem of relation of the state towards a market economy.

Both constitutions provide the possibility of state intervention (art. 32 CPC, Art. 130-131 CKS). In Andorra the public authority was given the opportunity: to create the means of social communication (requires, however, that the General Council exercises control over their pluralism) (CPA, art. 36) and to intervene in economic, commercial and trade system and the labor market but only in order to implement the concept of sustainable development and the common good (CPA, art. 32). The CKS there is not any right to form media dependent on government, as is the case in Andorra, although in both cases there is provision to respect the principles of pluralism in the media.

The issue which does not appear in the Spanish Constitution is the country's right to refuse a residence or expulse individuals from the territory of the state. In Andorra, this decision can be taken only by a judicial decision (art. 22).

IV. A SPECIAL SCOPE OF PROTECTION

A fundamental principle in both cases, is the principle of equality before the law (CPA does not allow discrimination on grounds of birth, race, gender/sex, ethnicity, religion, opinion or any other personal or social conditions and oblige public authorities to create the conditions in which equality and freedom of the individual can be realized). In the case of freedom of conscience and religion the special role of the Catholic Church in the socio-political system of Andorra is worth mentioning. In addition to cleric functioning in the Andorran diarchic head of state, the Constitution guarantees the Catholic Church free and public exercising of the activities and behavior of co-operation with the state, in accordance with the Andorran tradition (*d'acord amb la tradició andorrana*) [5]. In addition, the Constitution recognizes the full legal capacity bodies of the Catholic Church, whose legal status is defined in the internal regulations.

The constitutional legislator surrounded family and marriage with special protection. According to the CPA both spouses have the same rights and duties. All children are equal before the law, regardless of their parentage. According to art. 13 par. 1 the civil effects of Canon Law marriage are recognized. Equal rights in marriage are provided in both constitution (art. 13 par. 3 PCA, art. 32 par. 1 CKS).

Place of the Catholic Church in the political system had its effect in the legal system of the Principality. For many centuries, the canon law played a very important role in the Andorran legal system. In 2004, the Court delivered a judgment (Pla and Puncernau v. Andorra) in which he had to assess the significance of effects of the canon law on the legal system⁵.

⁵ In 1939 Mr Pla Pujol's mother, drew up her will leaving him her estate. One of the clauses stipulated that her son was to pass on his inheritance to a child or grandchild "from a legitimate and canonical marriage". In the event of failure to satisfy those conditions, the estate was to pass to the children and grandchildren of Ms Pujol Oller's daughters. Mr Pla Pujol married Roser and, in 1969, they adopted Antoni, assuming full parental responsibility. In 1995 Mr Pla Pujol bequeathed the property he had inherited to Antoni, giving Roser a life-interest in the estate. In 2000 the High Court of Justice of Andorra found that Antoni, as an adopted child, could not be considered "a child of a lawful and canonical marriage" and could not, therefore, inherit Ms Pujol Oller's estate. The court ordered the applicants to

TABLE I. ABILITY TO LIMIT THE RIGHTS AND FREEDOMS OF CITIZENS AS A RESULT OF INTRODUCTION OF A STATE OF EMERGENCY

	Andorra	Spain
State of alarm	<p>Exercising of selected rights may be limited:</p> <ul style="list-style-type: none"> ➢ private property, ➢ rights of inheritance, ➢ deprivation of individuals' goods or rights upon justified consideration of the public interest, with just compensation, ➢ right to move freely throughout the national territory, ➢ right to enter and leave the country, ➢ right to choose place of residence. 	
State of emergency	<p>Selected rights may be suspended:</p> <ul style="list-style-type: none"> ➢ executive detention takes no longer than the time needed to carry out the enquiries in relation to the clarification of the case, and in all cases the detained shall be brought before a judge within 48 hours and inviolability of the dwelling (but application of this suspension must be effected under the control of the judiciary notwithstanding the procedure of protection – in both cases), ➢ freedom of expression, ➢ freedom of communication, ➢ freedom of information, ➢ right of reply, ➢ right of correction, ➢ right of professional secrecy, ➢ prohibition of preliminary censorship or any other means of ideological control on the part of the public authorities, ➢ privacy of communication, ➢ right to meet, ➢ right of assembly, ➢ right to move freely throughout the national territory, ➢ right to enter and leave the country, ➢ right to choose place of residence. 	<p>Selected rights may be suspended:</p> <ul style="list-style-type: none"> ➢ right to freedom and security and prohibition of depriving freedom, ➢ a rule that preventive arrest may last no longer than the time strictly necessary in order to carry out the investigations aimed at establishing the events, ➢ a rule that person arrested must be set free or handed over to the judicial authorities within a maximum period of 72 hours, ➢ <i>habeas corpus</i> procedure, ➢ inviolability of home and prohibition of entry and search without the consent of the householder or a legal warrant, ➢ secret of communication, ➢ right to freely choose place of residence, ➢ right to freely move about within the national territory, ➢ right to freely enter and leave Spain, ➢ freedom of expression, ➢ right to freely communicate or receive truthful information ➢ confiscation of publications under court order, ➢ right to assembly and to demonstrate, ➢ right of workers to strike, ➢ right of workers and employers to adopt collective labor dispute measures.

hand over the property to Ms Pujol Oller's great-granddaughters, deemed to be her rightful heirs. The decision was upheld by the Constitutional Court. Finally the European Court decided that there had been a violation of provision of prohibition of discrimination of the European Convention on Human Rights.

State of siege (martial law)	<p>Rights which may be suspended – the same as in the case of state of emergency and additionally:</p> <ul style="list-style-type: none"> ➢ a rule that arrested person must be informed immediately, and in a way understandable to him or her, of his or her rights and of the grounds for his or her arrest, and may not be compelled to make a statement, ➢ a rule that arrested person need be guaranteed the assistance of a lawyer during police and judicial proceedings, under the terms to be laid down by the law.
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Source: own.

The Spanish Constitution provides special protection or special rights for more categories than does the CPA. These should include: collective labor bargaining between worker and employer representatives (art. 37), access to cultural opportunities (art. 44 par. 1), right to set up foundations (art. 34), autonomy of Universities (art. 27. par. 10), rule that elementary education is compulsory and free (art. 27 par. 4). Persons who are subject to special protection of the Spanish state: young people (art. 48), physically, sensorially and mentally handicapped (art. 49), senior citizens, the elderly (art. 50). It also provides, among others, participation of a jury in the court proceedings. Citizens may engage in popular action and take part in the administration of justice through the institution of the jury, in the manner and with respect to those criminal trials as may be determined by law, as well as in customary and traditional courts. Filed also the issue of compensation for the mistakes committed by the institutions of justice. We may find provisions of the prohibition of public office for judges and prosecutors, as well as their membership in political parties and trade unions.

V. DUTIES OF CITIZENS

The CPA provides two duties of citizens. Very limited range of duties in the event of Andorra is limited to the obligation to pay taxes by all persons within the Andorran territory and the possibility of the creation of community service by the state in order to carry out general interest.

VI. RESTRICTING THE RIGHTS AND FREEDOMS

Both constitutions provide situations in which the rights and freedoms may be limited. It takes place only in the case of introduction of one of the states of emergency (table 1). It is worth noting that the CPA provide the same states of emergency as the CKS, with the fact that the Spanish Constitution provides additionally the state of siege (martial law) (*estado de sitio*). The CKS also provides the possibility of suspending some rights and freedoms for specific persons in connection with investigations of the activities of armed bands or terrorist groups.

Restrictions in relation to fundamental rights, freedoms and political rights can not be applied and this principle is protected by the courts. In relation to the rights and freedoms of economic, social and cultural the legislator allowed for their limitations, but only under the conditions specified in the law. It is worth mentioning that the CPA provides the opportunity to

challenge acts of the public authorities to the Constitutional Court (residents who underwent the procedure of expulsion are deprived of this right).

VII. SUMMARY

It should be noted that the CPA does not include provisions for the operation of the state during the war. While the CKS, among others, indicates that the monarch is commander of the armed forces (art. 62 h), defines the procedure of declaration of war (art. 63.3), requires citizens to defend the state (art. 30), whereas the CPA on this topic has no single word. This is due almost exclusively of obligations under the Tripartite Treaty, according to which the protection of the sovereignty of Andorra is provided by its neighbors.

The rights and freedoms of citizens in both countries has been relatively widely expanded. In the case of Andorra, before the adoption of CPA in 1993, in the legal system there were provisions protecting the rights of the individual: in 1989 with the submission by the prince's delegates signatures under the Law on the Rights of the Individual the Universal Declaration of Human Rights 1948 was incorporated into the legal system [6, 7]. While the Andorran decided to write that the Declaration is binding in the Principality, the Spanish decided to oblige the public institutions to recognize constitutional provisions relating to the fundamental rights and liberties need to be construed in conformity with the Declaration. The reason for such a construction of the system had probably two sources: the desire of both Co-princes to provide a wide range of rights and freedoms in connection with the transfer function of the princes to the citizens, as well as pressure from the institutions and the Council of Europe.

Noteworthy, one of the most commonly violated provisions in the case of Andorra is article 6 para. 1, according to which everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. This article states as well that judgment should be pronounced publicly (the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice). There were at least two well-known judgments linked with that issue: in 2008 in the case of Vidal Escoll and Guilan González v. Andorra⁶ and in 2012 in the case of UTE Saur Vallnet v. Andorra⁷. In the second case we may see that Andorran government still has to deal with very limited number of independent and studied in

⁶ Failure to execute a judgment ordering the partial demolition of buildings facing the applicants homes which exceeded the authorized height. The applicants applied to have the planning permits set aside and complained that the expropriation of part of their properties to widen the road was aimed solely at preventing the execution of the judgment.

⁷ The case concerned a complaint made by a business consortium about an alleged lack of impartiality and independence of the Administrative Division of the Andorran High Court of Justice. The reporting judge of the Administrative Division having heard his case on appeal was at the same time a partner in a Barcelona law firm providing legal services to the Andorran Government in other proceedings.

the judges who are Andorran nationals. The very similar case was in the case of Drozd and Janousek vs. France and Spain.

In conclusion, it should be noted the very broad catalog of rights and freedoms is provided Co-princes' intentions expressed yet already in 1989. So extensive catalog is supported by a strong political position of the Constitutional Court and so-called constitutional complaint mode may settle the violation of individual rights. As indicated by reports of international organizations, Andorra fulfills the obligations to respect rights and freedoms [8, 9]. One of the few problems of protection of individual rights in the Principality may be a relatively short period of functioning of independent (from other bodies) institutions of the judiciary, the Constitutional Court and the Ombudsman. However, it should be emphasized that we can notice a system of mechanisms to ensure the highest possible independence of these bodies (the selection procedure, the independence of the budget). It should also be noted that a wide range of civil rights and freedoms enshrined in the Constitution of the Principality has its source in solutions of eastern neighbor as well as the experience of the Commission's advisers.

TABLE II. THE RIGHTS AND CIVIL LIBERTIES RECORDED IN THE CONSTITUTION OF KINGDOM OF SPAIN (1978) AND CONSTITUTION OF PRINCIPALITY OF ANDORRA (1993)

	Spain	Andorra
1. Publicity of trials (with limitations) and oral procedure	Art. 120 par. 1-2	Art. 86 par. 3
2. Position of the Universal Declaration of Human Rights in the legal system	Art. 10 par. 2	Art. 5
3. Right for workers and employers to defend their rights without prejudice to the community	Art. 37	Art. 19
4. Courts of exception are prohibited	Art. 117 par. 6	Art. 85 par. 2
5. Right to form and maintain trade-union associations	Art. 28	Art. 18
6. Right to form and maintain managerial and professional associations	Art. 36	Art. 18
7. Right to life	Art. 15	Art. 8 par. 1
8. Right to physical and moral integrity	Art. 15	Art. 8 par. 2
9. Prohibition of torture and the death penalty	Art. 15	Art. 8 par. 2-3
10. Right to freedom and security	Art. 17 par. 1	Art. 9 par. 1
11. Right to jurisdiction and to have a ruling founded in the law	Art. 24	Art. 10 par. 1
12. An obligation to transfer the suspect before a judge in a certain time	Art. 17 par. 2	Art. 9 par. 2
13. The law establishes a procedure (<i>habeas corpus procedure</i>) so that the detained may request the court to decide on the legality of the detention	Art. 17 par. 4	Art. 9 par. 3
14. Freedom of ideas, religion and cult	Art. 16 par. 1	Art. 11 par. 1
15. No one is bound to state or disclose their ideology, religion or beliefs	Art. 16 par. 2	Art. 11 par. 1
16. Position of the Catholic Church	Art. 16 par. 3	Art. 11 par. 3

17.	Freedom of expression, of communication and of information with right of professional secrecy	Art. 20 par. 1 a), d)	Art. 12
18.	Prohibition of preliminary censorship	Art. 20 par. 2	Art. 12
19.	Protection of the family	Art. 39 par. 1	Art. 13. par. 2
20.	Children are equal before the law, regardless of their parentage.	Art. 39 par. 2	Art. 13 par. 3
21.	The right to privacy, honour and reputation	Art. 18 par. 1	Art. 14
22.	Inviolability of the dwelling (except in case of <i>flagrant delicto</i>)	Art. 18 par. 2	Art. 15
23.	Protection of human dignity	Art. 10	Art. 4
24.	Privacy of communication (except upon a reasoned court order)	Art. 18 par. 3	Art. 15
25.	Right to meet and assemble	Art. 21	Art. 16
26.	Right of association	Art. 22	Art. 17
27.	Right to education	Art. 27 par. 1-2	Art. 20 par. 1
28.	Freedom of education and of establishing teaching centres	Art. 27 par. 1 and 5-6	Art. 20 par. 2
29.	Parents' right to moral or religious instruction for their children in accordance with their own convictions.	Art. 27 par. 3	Art. 20 par. 3
30.	Right to move freely throughout the territory and to enter and leave the country	Art. 19	Art. 21 par. 1
31.	Right to choose place of residence in the country	Art. 19	Art. 21 par. 2
32.	Right to petition	Art. 29	Art. 23
33.	Citizens have the right of accession to public service and office	Art. 23	Art. 25
34.	Private property and the rights of inheritance	Art. 33	Art. 27
35.	Right of enterprise	Art. 38	Art. 28
36.	Right to work	Art. 35 par. 1	Art. 29
37.	Right to social assistance	Art. 41	Art. 30
38.	Right to health protection	Art. 43 par. 1	Art. 30
39.	The state has the task of ensuring the rational use of the land and of all natural resources	Art. 45 par. 2	Art. 31
40.	Right to decent housing	Art. 47	Art. 33
41.	The State is obliged to guarantee the conservation, promotion and of the historical, cultural and artistic heritage	Art. 46	Art. 34
42.	Rights of consumers and users	Art. 51	Art. 35
43.	Prohibition of arbitrarily detained	Art. 17	Art. 9 par. 1

COMMENTS:

2. – In the case of A., the UDHR is binding in that country, and in case of S.: provisions relating to the fundamental rights and liberties recognized by the CKS have to be construed in conformity with the UDHR
3. – CKS provides: collective labor bargaining, collective labor dispute measures, binding force of the agreements between workers and employers.
5. – In A. those forms: have to have their own autonomy without any organic dependence on foreign bodies and need to function democratically, in the case of S. in is stressed twice that no one may be compelled to join a trade union. While in S. there is a restriction about this right (in the Armed Forces or Insitutes or other bodies subject to military discipline).
6. – In A. those forms need to have their own autonomy without any organic dependence on foreign bodies. In the case of S. the law regulates the

peculiarities of the legal status of Professional Associations and the exercise of degree professions. In both cases those associations need to function democratically.

9. – In S. death penalty is abolished, except as provided for by military criminal law in times of war.

12. – In the case of A. it is 72 hours, in the other – 48 hours.

16. – In S., no religion has a state character. The Constitution stands that public authorities have to maintain appropriate cooperation relations with the Catholic Church and other confessions. In A., position of the Catholic Church is a little stronger: the Constitution guarantees the Church free and public exercise of its activities and the preservation of the relationship of special cooperation with the State and recognizes the full legal capacity of the bodies of the Church which have legal status in accordance with their own rules.

19. – In S. the public authorities ensure social, economic and legal protection of the family, and in the other case – the public authorities only promote a policy of protection of the family.

25. – Restrictions in the Andorran case: lawful purpose; the authorities must be notified in advance; the assembly can not prevent the free movement of goods and persons. Restrictions in the case of Spain: peaceful and unarmed assembly; in the case of meetings in public places and of demonstrations, prior notification must be given to the authorities, who can only forbid them when there are well founded grounds to expect a breach of public order, involving danger to persons or property.

26. – There is a constitutional requirement for: 1) establishing public registry of the associations in both cases and 2) all association need to be made for a lawful purpose

27. – In both cases: education has to be orientated towards the dignity and full development of the human personality, respect for freedom and fundamental rights.

29. – In the Andorran case: parents have the right to decide the type of education for their children.

30. & 31. – In the case of S. it is restricted only to Spaniards.

32. – In the case of S. there is a restriction for members of the Armed Forces or Institutes or bodies subject to military discipline.

33. – In the Andorran case: the exercise of institutional offices is reserved for citizens, with the exceptions that may be provided for in this Constitution or in international treaties.

34. – In both cases: The social function of these rights determines the limits of their content and no one can be deprived of their property and rights, except on justified grounds of public interest and with a compensation in accordance with the law.

36 – A.: All persons have the right to work, to their promotion through work, and to just income which shall guarantee a living befitting human dignity for themselves and their families, as well as to reasonable limitation of the working day, weekly rest and paid vacation.

S.: All Spaniards have the duty to work and the right to work, to the free choice of profession or trade, to advancement through work, and to a sufficient remuneration for the satisfaction of their needs and those of their families. Under no circumstances may they be discriminated on account of their sex

37. – In both cases there is a requirement for the authorities to maintain a public social security system.

40. – In the Andorran case there is only a need of promoting the necessary conditions to ensure the right to enjoy decent housing, while in Spanish case there is right to enjoy decent and adequate housing.

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