



Govern d'Andorra
Missió Permanent d'Andorra a l'OSCE
i als altres organismes internacionals amb seu a Viena

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NOTE VERBALE

The Permanent Mission of the Principality of Andorra to the Organization for Security and Co-operation in Europe presents its compliments to all Delegations and Permanent Missions of the participating States to the OSCE and to the Conflict Prevention Centre and, in accordance with the decision FSC.DEC/2/09 of the Forum for Security Co-operation, has the honor to transmit herewith the Andorra's response to the Information Exchange on the Code of Conduct on Politico-Military Aspects of Security.

The Permanent Mission of the Principality of Andorra to the OSCE avails itself of this opportunity to renew to all Delegations and Permanent Missions of the participating States to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.



Vienna, 11 May 2017

**To all Delegations and Permanent Missions
of the participating States to the OSCE and
to the Conflict prevention Centre
Vienna**

ANDORRA'S RESPONSE TO THE QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY*

*Please note that the Principality of Andorra has no armed forces, paramilitary forces, internal security forces or intelligence services. Therefore, Andorra cannot give a response to questions regarding military, paramilitary and security forces, in particular to Section I (Chapter 1.3, 2 and 3) and Section II (Chapter 1, 2.2, 2.3, 3 and 4).

Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, sub-regional and bilateral) related to preventing and combating terrorism is your State a party?

See attachment: List of International Agreements and Arrangements

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

In order to strengthen the implementation of the international standards, the Principality of Andorra has amended its Criminal Code in 2015.

It should be noted that currently, the Parliament is in process of approving the criminalization of tax crime and introducing tax crime as a predicate offence of money laundering, as recommended by the new FATF Recommendations.

Please find below the current article 409 of the Criminal Code:

Article 409 (CC) – Money laundering

1. Any individual who converts or transfers funds which are the proceeds, directly or indirectly, of a criminal activity punishable with a minimum term of imprisonment exceeding six months, or from the offences of:

- Prostitution, articles 150 to 154 bis of the Criminal Code;
- Illicit trafficking in organs, tissue, cells or human gametes, article 121 of Criminal Code;
- Illicit trafficking in human beings and minors, articles 121 bis, 134 bis, 157 bis and 164 of Criminal Code;
- Fraud, embezzlement and unfair administration, articles 208 to 215 of Criminal Code;
- Patent and trademark infringements, articles 229 to 331 of Criminal Code;
- Insider trading, article 247 bis of Criminal Code;
- Smuggling, article 245 of Criminal Code;
- Market abuse, article 247 ter of Criminal Code;
- Illicit trafficking in clandestine migrants, article 252 of Criminal Code;
- Illicit trafficking in weapons and explosives, articles 264 to 267 of Criminal Code;
- Illicit trafficking in harmful substances, article 273 of Criminal Code;
- Illicit trafficking in narcotic drugs and psychotropic substances, articles 281 to 285 of Criminal Code;
- Environment and natural resources crime, articles 289 to 293 of the Criminal Code;
- Illicit trafficking in protected or endangered species of wild fauna and flora, articles 294 and 296 of Criminal Code;
- Illicit association, articles 359 and 360 of Criminal Code;
- Fraud committed by public officer and illegal exactions, articles 378 and 379 of Criminal Code;
- Corruption and influence peddling, articles 380 to 386 bis of Criminal Code; or
- Forgery of documents, articles 435 to 441 of Criminal Code;

Knowing their origin, for the purpose of concealing or disguising such illicit origin or assisting any person who is involved in the commission of the offence to evade the legal consequences of such conduct, shall be punished with a one to five year prison sentence and a fine up to three times the value of such funds.

2. Any individual who commits any conduct listed in the above paragraph with gross negligence shall be punished with a prison sentence of up to one year.

3. The same penalties set out in paragraph 1 shall be imposed on any individual who intentionally:

a) Acquires, possesses, or uses funds knowing, at the time of receipt, that they are proceeds, directly or indirectly, of any of the predicate offences listed in paragraph 1.

b) Conceals or disguises the true nature, source, location, movement or ownership of or rights with respect to funds knowing that such funds are proceeds, directly or indirectly, of any of the predicate offences listed in paragraph 1.

4. The definition of funds shall be understood according to paragraph 3 of article 366 bis of this Code.

5. The attempt, the conspiracy and the incitement to commit such a crime shall be punishable.

Additionally, penalties for financing of terrorism (FT) offence have been increased through Qualifies Law 40/2014, as follows:

- General offence of FT is now punished with a penalty from 2 to 8 years' imprisonment (the former penalty was from 2 to 5).
- In case of aggravating circumstances, FT is now punished with a penalty from 3 to 10 years' imprisonment (the former penalty was from 3 to 8)

Thus, article 366 and 366 bis of the Criminal Code related to terrorism and financing of terrorism, reads as follows:

Article 366 Cooperation with terrorists

1. He who, without carrying out the conducts provided in the preceding Article and without being a perpetrator of or an accomplice to terrorist acts, committed or attempted, carries out acts of cooperation with the activities or ends of a terrorist or a terrorist group, should be punished with a punishment of imprisonment of two to five years.

2. The following are acts of cooperation:

Gathering information on or holding surveillance on persons, properties or facilities.

The building, preparation, provision or use of lodgings or depots.

The concealment or transfer of persons linked to terrorist groups, organizations or armed bands.

The organization of training activities or attendance at such activities.

Generally, any other form of equivalent seriousness of cooperation, help or mediation with the activities of a terrorist group.

Article 366 bis Terrorist financing

1. The person who carries out acts of terrorist financing should be punished with a punishment of imprisonment of two to eight years.

Attempt and conspiracy are punishable.

2. For the effects of this Article, financing is understood to be any action which, by whatever means, directly or indirectly, illegally and deliberately, consists in the provision or gathering of funds with the intention of their being used or knowing that they will be used, in whole or in part, in Andorra or abroad, as follows:

- By a terrorist group or by a terrorist.
- To commit one or more terrorist acts..

3. For the effects of this Article, funds are understood to be the following: the financial assets, the property of any nature, tangible or intangible, movable or immovable, acquired by any means, legal or illegal, and

the documents, titles or legal instruments of any form, including electronic or digital, which certify a right of ownership or an interest in such assets or property, especially but not exclusively including the bank account funds, traveller's cheques, bank cheques, payment orders, company shares, securities certificates, bonds, bills of exchange and letters of credit.

4. A punishment of imprisonment of three to ten years should be decreed in the case of any of the following circumstances:

- a) When the financing is committed by means of an organized group.
- b) When the subject acts regularly.

Attempt and conspiracy are punishable.

Article 366 ter Accessory consequences

In relation to the infringements provided in this Chapter, the Court should decree, in addition to the punishments envisaged, one or more of the following measures :

- a) Forfeiture of the proceeds from the crime. The funds which are the object of the financing, for the effects of the application of the forfeiture and of the forfeiture by equivalence provided in Article 70, are considered to be proceeds from crime.
- b) Dissolution of the organization or final closure of its premises or establishments open to the public.
- c) Suspension of the activities of the organization, or closure of its premises or establishments open to the public for a period of not over five years.
- d) Prohibition to carry out the activities, mercantile transactions or business, through the exercise of which the crime was facilitated or concealed, for a time of not over five years.
- e) The other measures, relating to natural persons or to legal persons, mentioned in Article 71, as may be appropriate.

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

As Andorra has no armed force, the National Police force is the sole armed authority and is responsible for fighting terrorism. The Criminal Police Office is in charge of these tasks and it is the National Focal Point for the Counter-Terrorism Network to the OSCE and for the CODEXTER at the Council of Europe.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

The Andorran legal framework is in line with that of neighboring countries and covers aspects such as transactions, solvency and money laundering or securities arising from criminal activities and the financing of terrorism and other matters, as described below.

Financing of terrorism:

– **Any specific changes in national legislation or policy, strategy development;**

Over the last years the Principality of Andorra has implemented significant legislative amendments according to the recommendations made by the MONEYVAL evaluation team and the commitments taken under the Monetary Agreement with the European Union, which was approved by the Andorran Parliament on 24 November 2011 and published in the Official Gazette (BOPA) on 22 December 2011.

On the basis of article 8 of the Monetary Agreement, “*Andorra shall undertake to adopt all appropriate measures, through direct transposition or possibly equivalent actions, with a view to implementing the EU legal acts and rules listed in the Annex to this Agreement in the field of: [...] (c) prevention of money laundering [...]*”.

Part I of the Annex contains all the EU legal provisions to be implemented in the context of the prevention of money laundering, namely:

- Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (“**Third Directive**”).
- Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.
- Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of “politically exposed person” and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.
- Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.
- Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community.
- Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime.
- Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information

Pursuant to the Monetary Agreement, Andorra has adopted all of these European provisions in its legal system. The transposition was validated by the European Commission at the end of 2013.

In addition to the legislation passed as a consequence of the Monetary Agreement, the Principality of Andorra has succeeded in implementing various legislative initiatives related to MONEYVAL’s findings and recommendations in the 4th mutual evaluation report of Andorra.

The evaluation report on the Principality of Andorra approved by Moneyval at its plenary meeting of 8 March 2012 highlights the ongoing evolution and intensification of the prevention and repression measures that have been adopted. In this context, there is a patent need to adapt the Law on international cooperation in criminal matters and the fight against money laundering and against the financing of terrorism of 29 December 2000 to the essential standards established in the old Recommendation 26 of the Financial Action Task Force (FATF) -the new Recommendation 29-, and to establish in this way specific legal measures and provisions relating to the legal configuration of the UIF (now UIFAND).

The main legislative developments in the prevention of money laundering and terrorism financing implemented since the on-site visit made within the framework of the 4th mutual evaluation of the Principality of Andorra are the following:

- Amendments to the Law on international cooperation in criminal matters and the fight against money laundering and against the financing of terrorism, of 29 December 2000 (“**LCPI**”):
 - Law 4/2011, of 25 May, amending the LCPI (published in the Official Gazette on 22 June 2011 and entered into force on 23 June 2011): implements the recommendations deriving from the on-site MONEYVAL visit of March 2011.

- Law 20/2013, of 10 October, amending the LCPI (published in the Official Gazette on 30 October 2013 and entered into force on 31 October 2013): implements the recommendations deriving from MONEYVAL's 4th mutual evaluation and the EU provisions on the prevention of money laundering required by the Monetary Agreement.
- Law 4/2014, of 27 March, amending the LCPI (published in the Official Gazette on 23 April 2014 and entered into force on 24 April 2014): adapts Andorran legislation to R. 6 and R.7 (targeted financial sanctions related to terrorism, terrorist financing and proliferation of weapons of mass destruction and its financing). In February 2017, a Guidance note has also been issued to reporting entities in this regard.
- Law 2/2015, of 15 January, amending the LCPI (published in the Official Gazette on 11 February 2015 and entered into force on 12 February 2015). The Law regulates, primarily, the competences and functions of UIFAND and its composition, establishing specific and particular rules on the appointment and dismissal of the head of UIFAND and regulating the system of incompatibilities. Moreover, the acronym designating the Principality of Andorra's financial intelligence unit is changed, and the unit is now called UIFAND in order to assure the correct identification of this Andorran body in the international sphere, equating it in this regard with its counterparts.
- Amendments to the LCPI Regulations:
 - Decree of 18 May 2011, amending the LCPI Regulations (published in the Official Gazette on 25 May 2011 and entered into force on the same day): implements the recommendations deriving from the on-site visit of March 2011.
 - Decree of 20 November 2013, amending the LCPI Regulations (published in the Official Gazette on 4 December 2013 and entered into force on 5 December 2013): implements the recommendations deriving from MONEYVAL's 4th mutual evaluation and the EU provisions on the prevention of money laundering required by the Monetary Agreement.
- Amendments to the Criminal Code ("CP"):
 - Qualified Law 18/2012, of 11 October, amending the Criminal Code (published in the Official Gazette on 14 November 2012 and entered into force on 15 November 2012): amongst other measures, it implements MONEYVAL's recommendations related to the criminalisation of terrorism financing.
 - Qualified Law 18/2013, of 10 October, amending the Criminal Code (published in the Official Gazette on 30 October 2013 and entered into force on 31 October 2013): amongst other measures, it implements MONEYVAL's recommendations related to the criminalisation of money laundering.
 - Qualified Law 40/2014, of 11 December, amending the Criminal Code (published in the Official Gazette on 14 January 2015 and entered into force on 15 January 2015): amongst other measures, it implements MONEYVAL's recommendations and EU provisions related to confiscation and increases the penalty applicable to FT offences.
 - Qualified Law 10/2015, of 16 July, amending the Law 9/2005 of the 21st of February 2005, described the Criminal Code: this law clarify concepts, specifies that the object of the crime of laundering covers the direct and indirect provenance; though interpreted these terms in current legislation, we wanted to implement the Financial Action Task Force (FATF) recommendations. More precisely, it expands the classification of self-laundering in connection with other behaviours, as well as spectrum or underlying offences of money, including smuggling and trafficking conducts, fraud, appropriation undue and unfair administration, as included in its aggravated form now extending the basic modalities.

- Amendments to the Criminal Procedure Code (“CPP”):
 - Qualified Law 19/2012, of 11 October, amending the Criminal Procedure Code (published in the Official Gazette on 14 November 2012 and entered into force on 15 November 2012): it introduces various procedural amendments.
 - Qualified Law 19/2013, of 30 October, amending the Criminal Procedure Code (published in the Official Gazette on 30 October 2013 and entered into force on 31 October 2013): amongst other measures, it establishes an Asset Recovery Office and an Asset Management Office.
 - Qualified Law 40/2014, of 11 December, amending the Criminal Code and Criminal Procedure Code (published in the Official Gazette on 14 January 2015 and entered into force on 15 January 2015): amongst other measures, it strengthens provisions related to confiscation.
- Amendments to the Foreign Investment Law and its secondary regulations:
 - Decree, of 28 August 2012, amending the Regulations implementing Law 10/2012, of 21 June, on foreign investment in the Principality of Andorra (published in the Official Gazette on 12 September 2012 and entered into force on 13 September 2012): develops the provisions laid down in Law 10/2012.
 - Law 10/2012, of 21 June, on foreign investment in the Principality of Andorra (published in the Official Gazette on 18 July 2012 and entered into force on 19 July 2012): liberalises foreign investment 100% and maintains the UIF prior authorisation requirements and the prohibition on investments from countries considered non-cooperative in the prevention of money laundering and terrorism financing.
- Other relevant legislative developments:
 - Law 28/2013, of 19 December, amending Law 20/2007, of 18 October, on public limited companies and limited liability companies, amended by Law 4/2008, of 15 May, and by Law 93/2010 (published in the Official Gazette on 15 January 2014 and will enter into force on 15 February 2014): sets out additional measures to permanently identify beneficial owners of an Andorran company and specific sanctioning provisions.
 - Decree, of 20 November 2013, approving regulations concerning the declaration of cross-border movements of cash (published in the Official Gazette of 4 December 2013 and entered into force on 28 December 2013): develops the content of the obligation to make customs declarations on cross-border movements of cash and sets out formal requirements to ensure compliance. The goal is to implement legal provisions on Regulation 2005/1889/CE of the European Parliament and the Council of 26/10/2005.
 - Law 8/2015, of 2 April 2015, on urgent measures to introduce mechanisms for the recovery and resolution of banking institutions: This law is based on the provisions within Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014, establishing a framework for recovery and the resolution of credit institutions and investment firms. The law designs processes for recovery and resolution, processes of an administrative and singular nature that grant the administrative authorities the powers that are necessary to ensure financial stability. A large part of the administration system designed by the Law is conferred to a State Agency for the Resolution of Banking Institutions (the AREB), as the competent authority in matters of resolution. Thus, in this law, we found several articles that make explicit reference to the fight against money laundering and terrorist financing.

As mentioned above, currently Andorra is amending its Criminal Code in order to

criminalize tax offences which shall become a predicate offence of money laundering, and also a deep review of the Andorran AML/CFT Act is being discussed in order to implement the 4th EU Directive.

National Risk Assessment

The Principality of Andorra has conducted a comprehensive National ML/TF Risk Assessment (NRA) in order to identify, assess and understand the ML/TF risks for the country. This NRA has been conducted under the methodology of the World Bank.

World Bank's methodology/tool is an Excel-based model that enables to analyse and measure the national ML/TF risks and identify the main drivers of these risks. It provides a methodological process, based on the understanding of the causal relations among money laundering risk factors and variables relating to the regulatory, institutional, and economic environment.

Therefore, the Andorran NRA has analysed the ML/TF risks at a national level and from a sectorial perspective. Different areas of the NRA have been analysed following the methodology of the World Bank and the various modules designed by this institutions for that purpose.

At the same time the NRA report will be formally approved, an Action Plan has also been approved. The Action plan has been designed taking into account the main risks faced by Andorra and prioritizing the mitigation of those risk considered most important.

– Implementation of relevant international standards in this field (Moneyval, FATF, etc.);

The Principality of Andorra is a member of Moneyval Committee, and all its AML/CFT system is duly reviewed by this Committee.

On 8 March 2012, the 4th Follow-Up Mutual Evaluation Report¹ was adopted by MONEYVAL Plenary and as a result Andorra was proposed to submit a Regular Follow Up Report in the next two years.

Consequently, on 31 March 2014, the Principality of Andorra has submitted the above mentioned report which was adopted by the Plenary. On September 2015 Andorra exited the follow-up process of the fourth round. Currently, Andorra is under its 5th Round Evaluation led by Moneyval, where the 2012 Recommendations and 2013 Methodology will be assessed. Andorra has already received the on-site visit of the evaluation team, and the report will be discussed in the Plenary in September 2017.

– Activities of State central bank in the field of CFT and AML;

The Principality of Andorra has no Central Bank, however it should be noted that AML/CFT supervisory functions are carried on by the Andorran FIU (UIFAND). It should be noted that the UIFAND, the Andorran Financial Intelligence Unit is the competent authority to receive, investigate and disseminate to competent authorities any suspicious transaction reports regarding financing of terrorism.. On the other hand, the FIU in its capacity of AML/CFT supervisory body for all reporting entities, has powers to conduct on-site inspections to financial and non- financial institutions, issue binding notes known as technical communiqués, review external independent audits, and finally, to impose sanctions in cases of minor infringements and propose sanctions to the Government for serious and very serious infringements of the AML/CFT Act.

– Establishment or efforts of national financial investigation/information units;

The Andorran FIU (UIFAND) is responsible to receive suspicious transactions reports for terrorist

¹ ([http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/AND4_REM_MONEYVAL\(2012\)1_fr.pdf](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/AND4_REM_MONEYVAL(2012)1_fr.pdf))

financing activities. It should be noted; that Andorran authorities have assessed its risk of financing of terrorism in its National Risk Assessment and has concluded that its risk is medium-low taking into account its political and geographical characteristics.

– Measures to strengthen the effective regulation of not for profits (to prevent misuse for terrorist purposes);

The amendment to the LCPI which entered into force in October 2013, categorised non-profit organisations as parties under obligation (article 45(g) of the LCPI), which means that they must comply with the obligations set out in the LCPI, and in particular its first additional provision, which creates specific obligations for non-profit organisations.

Additionally, on 1st March 2017, the UIFAND, in its capacity of AML/CFT supervisory body, has issued a Technical Communiqué (binding note) to all reporting entities regarding NPO's risk of terrorism financing following FATF indicators.

Moreover, the government plans to deeply review the legal provisions concerning non-profit organisations in order to strengthen the financial transparency standards to be met by these entities.

In any case, non-compliance with some financial transparency standards is already punishable. For instance, non-compliance with the obligation to keep accounting records is punished by article 42 of the Consolidated Text of Law 30/2007 of 20 December on business accounting, approved by a Decree of 15 February 2012 ("TRLCE"), with: (i) a fine ranging from EUR 2,001 to EUR 12,000, and (ii) potentially, ban from entering into contracts or collaboration agreements with public authorities and obtaining grants or benefiting from preferential tax provisions for a maximum period of three years.

– Measures related to asset confiscation, proceeds of crime, witness protection...;

Agreement between the Government of the United States of America and the Government of the Principality of Andorra regarding the Sharing of Confiscated Proceeds and Instrumentalities of Crimes- Entered into force on 16 October 2013. The aim is to improve the effectiveness of law enforcement in both jurisdictions in the investigation, prosecution and suppression of crime and in the tracing, freezing, seizure and forfeiture or confiscation of assets related to crime, whether they be the proceeds or instrumentalities of crime;

Signature on October and November 2013 (Andorra and Washington, respectively) of the: Arrangement between the Terrorist Screening Center and the Andorra Police Department on the Implementation Procedures for the Exchange of Terrorism Screening Information. This document sets the framework for sharing terrorism screening information of the Terrorist Screening Center (TSC) with the Andorra Police Department to protect against acts of terrorism in accordance with the domestic laws and regulations of the Government of the Principality of Andorra. The mutual view is that this sharing of screening information will add to the mutual efforts to protect the national security both the United States of America and the Principality of Andorra.

Additionally, through Qualified Law 40/2014 Andorra has implemented the figures of extended confiscation and Non Conviction Based Confiscation (NCBC).

– Awareness raising with relevant trade bodies (international money transfer services, etc.);

Money transfer services are not common in Andorra; there is only one Western Union office whose activity is very limited and supervised by the Spanish and Andorran authorities. All international transfer of money is done via wire transfer (only authorized to the 5 Andorran Banks)

– **International co-operation/technical assistance activities;**

The FIU of Andorra is a member of the Egmont Group and cooperates with its foreign counterparts to accomplish its functions. Although it is not a legal requirement to exchange information, the FIU has also signed several Memorandums of Cooperation with its counterpart units.

Travel document security

– **Use of new biometric (face, fingerprint, iris, etc.) technology;**

Decree of 11 December 2013 related to ordinary Passports: the increase of the international awareness about the importance to fight against criminal international organizations, in particular the fight against terrorism has fostered Andorra to implement all mechanisms to finish with fraud and forgery of travel documents. For this reason, in 2012 Andorra has introduced a biometric passport, which allows to all Andorran nationals to travel with total security. In 2013 the Decree introduces considerations about this electronic passport that incorporates a chip with biometric data.

On February 2nd, 2017, the Government of Andorra launched a new format of ordinary biometric passport (type EAC-SAC-LASINK). This new passport adds new security measures as restoring faces and fingerprints, including customized pages with LASINK technology.

Moreover, Andorra participates in the VISA WAIVER programme which means that when a lost or stolen Andorran passport is reported, this information is referred immediately to Interpol Stolen and Lost Travel Documents Database, in order to protect our citizens from terrorists and other dangerous criminals using fraudulent travel documents.

Use of the Internet and other information networks for terrorist purposes

– **Implementation of relevant international standards in this field;**

See attachment: List of International Agreements and Arrangements

Legal co-operation including extradition

Regarding legal co-operation including extradition, the European Convention on Mutual Assistance in Criminal Matters regulates the mutual assistance in criminal matters between the Principality of Andorra and the State Parties from 25 July 2005.

Furthermore, the provisional law on judicial procedures from 21 December 1993 establishes the internal basis for the mutual assistance in civil and criminal matters.

Such request shall be addressed by:

- the Ministry of Justice of the requesting Party to the Andorran Ministry of Interior and shall be returned through the same channels, or;
- the competent authorities of the requesting Party through the diplomatic channel, the International Criminal Police Organisation (INTERPOL) or any other way in writing.

In relation to extradition, it will be applied the qualified law on extradition on 28 November 1996. The European Convention on Extradition, adopted in Paris on 13 December 1957, is applicable to the Principality of Andorra from June 11th 2001.

Safe havens and shelter to terrorists and terrorist organizations

The particularities of the country, small size and population, is an advantage regarding aspects of counter-terrorism. In this sense we can affirm that it is very difficult to be present in the country without the knowledge of authorities.

Prevention of violent extremism and radicalization that lead to terrorism

Nowadays Andorra has not adopted a non-legislative strategy on counter-terrorism, nor on Countering Violent Extremism and Radicalization that Lead to Terrorism; but the Andorran Police is organizing meetings with all actors involved.

The incitement to commit terrorist acts is prohibited and punished by law in Andorra, respecting the UNSC resolution 1624 (2005) that call on States to act on that matter. The most specific act of legislation concerning the prohibition of incitement to commit terrorism is to be found in the Criminal Code of the Principality of Andorra (CC), precisely in article 364.2. The criminal code is regularly amended to introduce new dispositions (the most recent version is from 2015, see above); but concerning offences related to the incitement and acts of terrorism, most of them entered into force on November 23rd, 2005, after the modification of the Criminal code in 2005.

Article 364.2 states the following: *“The person who disseminates by any means an ideology or a doctrine aiming to justify the use of terrorism or to make the apology of groups or organizations that endorse, practice or support terrorism will be charged with a prison sentence from three months to three years”*.

This paragraph is really the most specific in relation to the question asked, but it belongs to a chapter of the Criminal code dedicated entirely to terrorism (chapter 4, Title 19 of the Criminal Code on crimes against public order). Thus, under chapter IV of TITLE XIX of our criminal code, you will find:

Article 362 – Definition of terrorism

Article 363 – Penalties

Article 364 - Other offences pursuing terrorist objectives

Article 365 – Active Membership to a terrorist group

Article 366 – Collaboration with a terrorist group

Article 367 – Relevance of remorse and repentance

Topping this specific section on Terrorism, there are other articles that may be relevant to the question of terrorism.

Article 259 concerns bombings

Article 265 concerns war weapons, prohibiting their conception, production, trade and storage.

Article 266 prohibits the same acts as 265 concerning chemical and biological weapons.

Finally, it is worth mentioning article 136.2, which aggravates the offence of sequestration and illegal detention when the author of the offence “takes possession or control of a ship, a plane or a collective road transport means.”

2. Stationing of armed forces on foreign territory

2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

The Principality of Andorra has no armed forces, paramilitary forces, internal security forces or intelligence services.

3. Implementation of other international commitments related to the Code of Conduct

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence and security building as an element of indivisible security are implemented in good faith.

Through a weapon database, the Andorran National Police is aware and controls all the firearms introduced in Andorra, including the weapons denounced as lost or stolen. The latter are introduced in the International Criminal Police Organization (ICPO) Interpol bases to alert member countries to the organization of illegal weapons. In the same way, all weapons reported as lost or stolen in another foreign country, communicated through Interpol, are verified in our National Police weapon database.

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

Andorra supports international efforts for disarmament and non-proliferation (See attachment: List of International Agreements and Arrangements). In addition Andorra fully supports the work within the context of the OSCE and UN, and gives answer to all questionnaires related to importation/exportation of SAWL. Regarding the Resolution of the General Assembly adopting the Arms Trade Treaty (ATT), regulating the international trade in conventional arms, from small arms to battle tanks, combat aircraft and warships; Andorra has voted in favour. The Government has signed the ATT on December 18, 2014 and is studying the possibility to ratify it.

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defense expenditures in your State?

Not applicable (N/A) since there are no military forces or defense expenditure.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

The Principality of Andorra, although is a neutral country with no military capabilities is a member of the United Nations, therefore committed to international peace and stability. It is therefore natural that it fully takes into account the legitimate security concerns of her geographical neighbors: France and Spain. Therefore Andorra has sought to draft and adopt bilateral agreements of cooperation between our Police, Civil forces and Customs and the equivalent bodies of those countries in matters concerning security, fight against crime and terrorism, but also cooperation in the event of natural disasters etc. Andorra is also a member of Interpol which allows to collaborate with the wider international community members and others States' security concerns.

2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

Again, having no military, paramilitary or intelligence services, question 2.1. regards mostly the Police Body, as well as the Customs who are positioned at the borders of Andorra. The 8/2004 Qualified law on the Body of Police, as modified by law 2/2017 in March 2017, establishes that the Police is a special Body belonging to the National Administration and as such are submitted fully to the Constitution, the Code of the Administration, the Rule of Law, the national legislation and the national jurisdiction. Policemen and Policewomen are submitted to the same principles established in the Constitution as any other Andorran citizen or civil servant of the Andorran Government.

2.2 How is the fulfillment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

The Andorran police force is under the authority of the Ministry of Interior. Its activities are regulated by the current Qualified Law 8/2004 of the Body of Police approved on 27 May 2004, as modified by recent law 2/2017. Its task is to provide protection and guarantee the citizen's rights and freedoms by the concept of public security in order to maintain peace and public tranquillity.

According to the Third transitional provision paragraph 2 of the Constitution of the Principality of Andorra, the police services are under the exclusive control of the Government. Following Article 94 of the same Constitution *"The Judges and the Office of the Attorney General are in charge of police activities related to judicial matters as provided for by law"*

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

The Principality of Andorra has no armed forces, paramilitary forces, internal security forces or intelligence services.

3. Procedures related to different forces personnel

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

N/A

3.2 What kind of exemptions or alternatives to military service does your State have?

N/A – No military service

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

The Principality of Andorra has no armed forces, paramilitary forces, internal security forces or intelligence services.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that international humanitarian law and law of war are made widely available, e.g., through military training programmes and regulations?

N/A

Andorra has no armed forces, therefore training on international humanitarian law and law of war are purposeless in Andorra.

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

Concerning International Humanitarian Law and War crimes, the Criminal Code establishes all the types of crimes to comply with all the international conventions Andorra is part of, including the Statute of Rome and the Geneva Conventions. Andorran authorities, including Police (but also any other civil servant of the public administration) would be liable individually under national law for their actions, as well as under international law, since once ratified and entered into force, international law incorporates directly in the legal system of Andorra, having a superior level than the national law.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

See answer under 4.5

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

Andorra is a democratic State, where the rule of law and hierarchy of norms prevail over any public institution and public life, and from the Human Declaration to the Constitution and to the National laws, the State of Andorra does provide all dispositions for the individual service member –as any other citizen- to exercise his or her civil rights.

The question of the Armed forces being politically neutral is not an issue since Andorra does not have any armed forces, so there is no need to ensure its neutral character. Nevertheless, concerning the Police, who is the only armed force in Andorra, not only the Constitutional principles apply, but also the entire code of the Administration, and it provides extensive provisions about the obligations weighing on a member of the Public Administration – including the Police.

Article 17 of the Code of the Administrations states that: *“Authorities and civil servants shall always protect the general interest. The facts and reasons that motivate the acts of the Administration must always be presented in an exact way.”* Article 20 affirms that: *“Everyone is equal in front of the public administration, and no discrimination shall be allowed for reasons of birth, race, sex, religions, opinions or any other personal or social consideration.”* It further states that *“the Administration shall treat all citizens with equality, objectivity, neutrality and impartiality.”*

Administrative sanctions are provided for violating those rules, as well as criminal dispositions in the Criminal Code concerning serious offences committed by civil servants, and the national jurisdiction work to prevent and sanction any behavior or actions going against the basic principles of the public administration.

4.5 How does your State ensure that its defense policy and doctrine are consistent with international law?

As already said, the Principality of Andorra has no armed forces, and therefore has no national defense policy nor doctrine but in relation to the principles of the Police Force, which is the only armed force in Andorra, the law establishes the following.

Qualified Act No. 8/2004 on the Police, modified by law 2/2017 in March 2017, states in the preamble that:

“The Police Force as a service for the protection of the rights and freedoms has its origin in the Article 13 of the Declaration of the Rights of Man and Citizen included in the first French Constitution of 1791, which establishes that “the guarantee of the rights of man and citizen requires a public force, this force is therefore instituted for the advantage of all and not for the personal benefit of those to whom it is entrusted”. The security bodies are configured in this way in the rule of law as an institutional guarantee of the free exercise of rights and freedoms, along with the other guarantees provided in the Constitution and the laws.”

.....

“The Police must adapt its behavior to the legal framework and is subject to the principles of hierarchy and subordination within the body. It is also an essential partner of the Administration of Justice, whom it will assist in the broadest sense, within its possibilities. Moreover, the police must respect the society to which it belongs and from whom its mandate derives from; such respect imposes the Police the obligation to use coercive resources only in extreme situations and with scrupulous application of the principles of opportunity, proportionality and consistency.”

.....

“According to the Article 94 of the Constitution the judges and the Prosecutor direct the action of the Police in judicial matters as established by law. Under this concept a number of functions fall within the scope of the police action that aim to uncover and define the crime and the offender and ensure that the offender is under the supervision of judges, courts and the Office of the Prosecutor. This is a specialty generic police function of ensuring public safety and the free exercise of rights and freedoms.”

.....

The principles of actions to be respected are:

Article 5. Principles of Action

1. The following principles are applied to the police officers:

First: They must comply and ensure compliance with the Constitution and the law.

Second: When carrying their duties, they shall conform to the following code of conduct:

- a) They shall act, when accomplishing in their functions, with absolute political neutrality and impartiality and, consequently, without any kind of discrimination based on race, religion, sex, language, place of residence, place of birth or any other personal or social status circumstance.
- b) They shall act with integrity and dignity and always oppose any act of corruption.
- c) They shall respect the principles of hierarchy and subordination, and that under no circumstances may due obedience be used to justify or defend orders involving the performance of acts that constitute offences or violate the Constitution or the law.
- d) They shall collaborate with the administration of justice and help it in the terms established by law.

Third: Regarding the relations with the community, the members of the Police force:

- a) Shall prevent, in the exercise of their professional activities, practice any abusive, arbitrary or discriminatory practice involving physical or moral violence.
- b) Shall treat properly and carefully the citizens, whom they should ensure assistance and protection whenever circumstances require or would benefit from it, and, provide them with complete information, as extensive as possible, concerning the causes and purpose of all interventions.
- c) Shall act in the exercise of their functions with the necessary decisiveness and no delay, if it may prevent serious harm, immediate and irreparable and they shall be guided in doing so by the principles of consistency, opportunity and proportionality in the use of the available means.
- d) Shall use their weapons only in situations where there is a reasonably serious risk to their lives or physical safety or to other peoples' lives, as well as in circumstances that may pose a serious risk to citizens' safety and they shall follow, in doing so, the principles referred to in the letter c).

Fourth: Concerning the treatment of persons in detention, police officers:

- a) Shall identify themselves clearly at the time of arrest;
- b) Shall protect the life and physical integrity of prisoners or others under their supervision and respect their rights, honour and dignity;
- c) Shall exercise due diligence in applying the procedures, time limits and provisions established by law when making an arrest.

Fifth: Regarding the professional engagement, police officers shall carry out their duties with total dedication and shall always intervene at any time and in any place, whether or not they are in service, in defense of law and public safety.

Sixth: Concerning confidentiality, police officers must respect strict secrecy regarding all information they have come to know through reason or through the fulfillment of their duties and shall not disclose the sources of information except that it imposes the fulfillment of their duties or laws

2. The police officers are personally and directly responsible for the acts carried out in their professional activities infringing or violating legal norms and regulations or the regulations ruling their profession and the principles set forth in this chapter, notwithstanding the liability that might correspond to the public Administration.

Section III: Public access and contact information

1. Public access

1.1 How is the public informed about the provisions of the Code of Conduct?

The public is duly informed of any legislative change or new law about the provisions of the Code of Conduct or related matter, through its publication in the Official Gazette of the Principality of

Andorra (www.bopa.ad).

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

None

1.3 How does your State ensure public access to information related to your State's armed forces?

Regarding the public access to the Code of Conduct and the replies to the questionnaire, any citizen can find them at the OSCE website. Due to the fact that Andorra has no armed forces, the Code of Conduct is not an issue of public debate.

However it should be noted that the police force is subject to a code of conduct, in the 8/2004 Qualified law on the Body of Police, modified by law 2/2017 in March 2017

The preamble to the 2004 law requires: "*... following the trend of modern legislation in the field of police and security forces, the Act is based on the resolutions of the Parliamentary Assembly of the Council of Europe and the United Nations General Assembly, particularly those relating to the Declaration on police and the code of conduct for officials responsible for enforcing the law, respectively. The principles derived from these guidelines remain incorporated into the Andorran legal system in accordance with the provisions of article 3.3 of the Constitution and, therefore, require without exception all members of the police.*"

In addition to the aforementioned Article 5 detailed above

2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

There are two Ministries competent for the implementation of the Code of Conduct:

- Ministry of Interior

Mr. Bruno Lasne, Deputy Director of the Andorran Police Service
Mr. Benjamí Rascagneres, Superintendent, Head of the Criminal Police Office
(Andorran Focal Points for the Counter Terrorism Network)
Crtra. De l'Obach, Edifici Administratiu
AD500 Andorra la Vella
Tel. +376 872 010
Fax. +376 872 001
E-mail: po374@policia.ad

- Ministry of Foreign Affairs

Mrs. Júlia Stokes, Desk Officer for Multilateral Affairs
C. Prat de la Creu 62-64, Edifici Administratiu, 3a planta
AD500 Andorra la Vella
Tel. +376 875 704
Fax. +376 869 559
E-mail: julia_stokes@govern.ad

ATTACHMENT – LIST OF INTERNATIONAL AGREEMENTS AND ARRANGEMENTS

Name of the treaty		Party by: ratification P(R), accession P(a), succession P(s), acceptance P(A), approval P(AA), or Not party	Law and date of ratification, accession, succession, acceptance, or approval
Universal legal instruments			
1.	Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)	Accession	17 May 2006
2.	Convention for the Suppression of Unlawful Seizure of Aircraft (1970)	Accession	23 September 2009
3.	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	Accession	22 May (Washington), 22 June (Moscow) and 30 June (London)
4.	Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)	Accession	23 September 2004
5.	International Convention against the Taking of Hostages (1979)	Accession	23 September 2004
6.	Convention on the Physical Protection of Nuclear Material (1979)	Accession	27 June 2006
7.	Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)	Accession	22 May 2006
8.	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	Accession	17 July 2006
9.	Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)	Accession	17 July 2006
10.	Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)	Accession	17 May 2006
11.	International Convention for the Suppression of Terrorist Bombings (1997)	Accession	23 September 2004
12.	International Convention for the Suppression of the Financing of Terrorism (1999)	Ratification	22 October 2008
13.	International Convention for the Suppression of Acts of Nuclear Terrorism (2005)	Signature	11 May 2006
14.	Amendment to the Convention on the Physical Protection of Nuclear Material (2005)	No Party	

15.	Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005)	No Party	
16.	Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005)	No Party	
17.	Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010)	No Party	
18.	Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010)	No Party	
19.	The United Nations Convention Against Transnational Organized Crime (2000)	Accession	22 November 2011
The Council of Europe legal instruments			
20.	European Convention on the Suppression of Terrorism (1977) CETS No: 090	Signature	8 November 2001
21.	Protocol amending the European Convention on the Suppression of Terrorism (2003) CETS No: 190	Signature	15 May 2003
22.	Council of Europe Convention on the Prevention of Terrorism (2005) CETS No: 196	Ratification	6 May 2008
23.	Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015) CETS No: 217	Signature approved by our government	22 March 2017
24.	Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005) CETS No: 198	No Party	
25.	European Convention on Extradition (1957) CETS No: 024	Ratification	13 October 2000
26.	Additional Protocol to the European Convention on Extradition (1975) CETS No: 086	Ratification	13 October 2000
27.	Second Additional Protocol to the European Convention on Extradition (1978) CETS No: 098	No party	
28.	European Convention on Mutual Legal Assistance in Criminal Matters (1959) CETS No: 030	Accession	26 April 2005
29.	Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (1978) CETS No: 099	No Party	
30.	Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (2001) CETS No: 182	No Party	
31.	European Convention on the Transfer of Proceedings in Criminal Matters (1972) CETS No: 073	No Party	
32.	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990)	Ratification	28 July 1999

	CETS No: 141		
33.	Convention on Cybercrime (2001) CETS No: 185	Ratification	16 November 2016
Please list below any other regional, subregional or bi-lateral agreements or arrangements relevant to preventing and combating terrorism and related co-operation in criminal matters, to which your country is a party.			
34.	Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (2003) CETS No: 189	Ratification	16 November 2016
35.	Non-Proliferation of Nuclear Weapons Treaty	Accession	7 June 1996
36.	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	Ratification	29 June 1998
37.	Comprehensive Nuclear-Test-Ban Treaty	Ratification	12 July 2006
38.	Comprehensive Safeguards Agreement between the Principality of Andorra and the Agency pursuant to the Treaty on the Non-proliferation of nuclear weapons	Ratification	18 October 2010
39.	Small Quantities Protocol adjoined to the Agreement between the Principality of Andorra and the International Atomic Energy Agency relating to the implementation of guarantees within the framework of the Treaty on Non-Proliferation of Nuclear Weapons	Ratification	18 October 2010
40.	Amendment to the Small Quantities Protocol to the Agreement between the Principality of Andorra and the International Atomic Energy Agency relating to the implementation of guarantees within the framework of the Treaty on Non-Proliferation of Nuclear Weapons	Ratification	24 April 2013
41.	Additional Protocol to the Agreement between the Principality of Andorra and the International Atomic Energy Agency relating to the implementation of guarantees within the framework of the Treaty on Non-Proliferation of Nuclear Weapons	Ratification	19 December 2011
42.	Group of States against Corruption from the Council of Europe (GRECO)	Accession	26 January 2005
43.	Criminal Law Convention on Corruption (1999) CETS No: 173	Ratification	6 May 2008
44.	Additional Protocol to the Criminal Law Convention on Corruption (2003) CETS No: 191	Ratification	20 February 2015
45.	Civil Law Convention on Corruption (1999) CETS No: 174	Signature	8 November 2001
46.	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction	Accession	27 February 2003

47.	The Rome Statute of the International Criminal Court	Accession	30 April 2001
48.	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction	Accession	2 March 2015
49.	Arms Trade Treaty	Signature	18 December 2014
50.	Agreement between the Government of the Principality of Andorra and the French Republic relating to cross-border cooperation in police and customs matters	Adoption ²	17 March 2014
51	Agreement between the Government of the Principality of Andorra and the Spanish Reign relative to cooperation between Police forces	Adoption	2 September 2015

² The instrument of this agreement was deposited on the 17th march 2015. However, it will enter into force when national ratification procedures has been completed and after the corresponding notification.