



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

FSC.EMI/181/12
7 May 2012

ENGLISH only

NOTE VERBALE

The Permanent Mission of the Principality of Andorra to the Organization for Security and Cooperation in Europe in Vienna presents its compliments to the Permanent Missions of the participating States to the OSCE and to the Conflict Prevention Centre and has the honour to convey the Principality of Andorra's response to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security in accordance with FSC Decision 4/03.

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



Vienna, 7 May 2012

To: Permanent Missions of the participating States to the OSCE
Conflict Prevention Centre (CPC)

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 can not 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, subregional 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?

According to Article 3.4. of the Constitution of the Principality of Andorra, the treaties and international agreements enter into force in the legal system after their publication in the BOPA (Official Bulletin of the Principality of Andorra) and cannot be amended or repealed by law.

Criminal Code

The Government of the Principality of Andorra adopted a new Criminal Code on 21 February 2005 (Qualified Law on Criminal Code), concretising new provisions for combating and preventing terrorism. The new Criminal Code includes all criminal measures contained in the antiterrorist conventions and treaties currently in force. A new chapter entitled "Terrorist Crimes" has been introduced defining the terms of terrorist groups and terrorist activities and criminalizing them from 20 to 30 years. The new Code also criminalizes persons belonging to and/or collaborating with a terrorist group and other related crimes that could have terrorist implications. The new Criminal Code refers to terrorism in the following articles:

- 362: Definition of terrorism
- 363: Penalty
- 364: Offences with a terrorist purpose

- 365: Active involvement in a terrorist group
- 366: Collaboration with a terrorist group
- 367: Importance of repentance
- 409: Money and values laundering
- 410: Type qualified (aggravating)
- 411: Additional consequences
- 412: Implementation of the Criminal Code
- 413: Punitive reductions in criminal policies

On 27 October 2008 entered into force an amendment to the Criminal Code and to the Criminal Procedure Code (1998), both amendments modify and introduce provisions relating to money-laundering and financing of terrorism offences in order to include most of MONEYVAL Recommendations. The amendments are:

- The autonomous crime of financing of terrorism (article 366 bis) has been introduced. The definition of the financing of terrorism is widely taken from the Convention for the Suppression of the Financing of Terrorism, New York 1999
- The predicate offence of corruption has been added to the article 409 related to Money and values laundering
- Laundering by negligence has been introduced.

Prevention of the Money Laundering

A law related to International Criminal cooperation and the fight against the laundering of money and securities deriving from international delinquency entered into force on 29 December 2000, and its regulation on 22 August 2002. The Decree also established by law the Money Laundering Prevention Unit (although the Unit existed since 2000), specified its mandate and functions. The main task of the Unit is to promote and coordinate measures to prevent and combat the money laundering.

The *International Criminal cooperation and the fight against the laundering of money and securities deriving from international delinquency law* provides that the persons under obligation of the law must maintain special vigilance over all operations, whether suspicious or not, when they are presented under complex or unusual conditions and seem

to have no economic justification or legal purpose, in particular transactions likely to involve money-laundering and those requiring special monitoring according to the non-restrictive official communications issued by the Andorran Money-Laundering Prevention Unit. An Amendment to this law, (hereafter designated the LCPI) was passed on 11th December 2008, and published in the BOPA on 21st January 2009, extending the tasks and power of the Money Laundering Prevention Unit, providing the Unit with the necessary tools and measures to combat more efficiently the financing of terrorism and the money laundering and taking into account the MONEYVAL recommendations and FATF 40+9 Recommendations. The main changes are:

- The title of the law, which now includes also the financing of terrorism: “Law on International Criminal cooperation and the fight against the laundering of money and securities deriving from international delinquency and financing of terrorism”
- The name of the Unit is no longer Money Laundering Unit, it has been changed to the general term of Financial Intelligence Unit (Unitat d’Intel·ligència Financera)
- Extension of Customer Due Diligence (CDD) and reporting obligations to the financing of terrorism, which has been criminalised.
- Principle of risk has been introduced. Enhanced CDD measures are required in the case of PEP’s and other risky situations.
- The technical communiqués sent by the FIU are binding.
- Business relations with shell banks and anonymous accounts are forbidden.
- In general terms, CDD and reporting obligations have been widened and strengthened in accordance with FATF and EU standards (e.g. requiring relevant and updated information on the client and beneficial owners and their activities, full identification and verification of clients and beneficial owners) that are applicable to all obliged subjects

Another amendment of the LCPI was approved by the Andorran Parliament on 25th May 2011, Act No 4/2011, which came into force on 23rd June 2011.

The Regulations of the International Criminal cooperation and the fight against the laundering of money and securities deriving from international delinquency law and against the financing of terrorism were approved by the Government of Andorra on 13th May 2009. These new regulations bring into line the above mentioned AML/CFT law.

This Regulation was further amended by a decree of 18 May 2011, published in the Official Journal on 25 May 2011 and entering into force the same day.

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

Money Laundering Prevention Unit

The Principality of Andorra has its own Financial Intelligence Unit (Unitat d'Intel·ligència Financera) since 29 December 2000 (initially called Money Laundering Prevention Unit), which participates in experts' committees against money laundering, organised crime networks of the United Nations and the Council of Europe (Moneyval), and co-operates bilaterally with other Financial Intelligence Units. The Financial Intelligence Unit of Andorra is also a member of the Egmont Group since June 2002.

The Government of Andorra has adopted a national plan on combating the money laundering and the financing of terrorism, on December 2007, including the MONEYVAL recommendations. The implementation of the recent adopted laws is carried out by the Andorran Financial Intelligence Unit.

On the 10th of December 2008 the Moneyval plenary adopted the progress report on Andorra. It contains a detailed description of the latest efforts on the prevention of money laundering and the financing of terrorism made by Andorra. The progress report can be found in the following link:

http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/progress_rep_en.asp

On 8 December 2010 Moneyval adopted the 2nd Progress Report (3rd round assessment) of the Principality of Andorra.

In March 2011 Andorra received an on-site visit by the Moneyval assessment mission. The report is the basis for the fourth round of the Mutual assessment report.

The 4th Round Mutual Evaluation Report of the Principality of Andorra was adopted by the Moneyval Plenary on 8 March 2012. (Pending of publication on the official Moneyval website).

Standing Committee on the Prevention of Money-Laundering and Financing of Terrorism

A Decree on the establishment and tasks of the Standing Committee on the Prevention of Money-Laundering and Financing of Terrorism was adopted on 13 February 2008. The Standing Committee aims at improving coordination among all organizations and Ministries involved, giving an exhaustive approach to this matter.

Coordination and Cooperation between departments

In addition, the Ministry of Foreign Affairs and Institutional Relations of Andorra transmits the lists of individuals and entities as established and maintained by the Committee established by UNSCR 1267(1999) and by the Counter-Terrorism Committee established by UNSCR 1373(2001) to the Ministry of Interior and to the Financial Intelligence Unit. The Ministry of Interior transmits the lists emitted by the UN Resolutions to the Immigration Department and to the Police Department.

The Financial Intelligence Unit-within the legal framework of the jurisdiction which is allotted to him by the article 53 of the Law on International Criminal cooperation and the fight against the laundering of money and securities deriving from international delinquency and financing of terrorism, emits binding technical communiqués, taking again the lists of the physical people and corporate entities which are likely to be directly or indirectly dependent on international terrorist groups. In compliance with the article 94 of the Andorran Constitution, the Judges and the Attorney General have the direction of the actions of the Police in judicial matters as established by the Law.

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 to it 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.

Section II: Intra-State elements

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?

Andorra has a police force adscript to the Ministry of Interior. Its activities are regulated by the current legislative Police Law qualify approved on 27 May 2004. Its task is to provide protection and guarantee the citizens rights and freedoms by the concept of public security in order to maintain peace and public tranquillity.

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?

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?

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

In relation to 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 Andorran has no armed forces, the Code of Conduct is not an issue of public debate.

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
- Ministry of Foreign Affairs

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
2.	Convention for the Suppression of Unlawful Seizure of Aircraft (1970)	Accession
3.	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	Accession
4.	Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)	Accession
5.	International Convention against the Taking of Hostages (1979)	Accession
6.	Convention on the Physical Protection of Nuclear Material (1979)	Accession
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
8.	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	Accession
9.	Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)	Accession
		22 May (Washington), 22 June (Moscow) and 30 June (London)
		23 September 2004
		23 September 2004
		27 June 2006
		22 May 2006
		17 July 2006
		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.	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	
24.	European Convention on Extradition (1957) CETS No: 024	Ratification	13 October 2000
25.	Additional Protocol to the European Convention on Extradition (1975) CETS No: 086	Ratification	13 October 2000
26.	Second Additional Protocol to the European Convention on Extradition (1978) CETS No: 098	No party	
27.	European Convention on Mutual Legal Assistance in Criminal Matters (1959) CETS No: 030	Accession	26 April 2005
28.	Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (1978) CETS No: 099	No Party	
29.	Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (2001) CETS No: 182	No Party	
30.	European Convention on the Transfer of Proceedings in Criminal Matters (1972) CETS No: 073	No Party	
31.	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) CETS No: 141	Ratification	28 July 1999
32.	Convention on Cybercrime (2001) CETS No: 185	No Party	
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.			
33.	Non-Proliferation of Nuclear Weapons Treaty	Accession	7 June 1996
34.	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction	Ratification	29 June 1998
35.	Comprehensive Nuclear-Test-Ban Treaty	Ratification	12 July 2006

36.	Comprehensive Safeguards Agreement between the Principality of Andorra and the Agency pursuant to the Treaty on the Non-proliferation of nuclear weapons, the Protocol Additional to this Agreement and the Small Quantities Protocol	Signature	9 January 2001
37.	Group of States against Corruption from the Council of Europe (GRECO)	Accession	26 January 2005
38.	Criminal Law Convention on Corruption	Ratification	6 May 2008
39.	Civil Law Convention on corruption	Signature	8 November 2001
40.	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction	Accession	27 February 2003
41.	The Rome Statute of the International Criminal Court	Accession	30 April 2001