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ENGLISH only



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

NOTE VERBALE

The Permanent Mission of the Principality of Andorra to the Organization for Security and Co-operation in Europe presents its compliments to the Permanent Missions of the participating States to the OSCE and to the OSCE 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 Questionnaire on the Code of Conduct on Politico-Military Aspects of Security, valid as of 5 July 2019.

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 OSCE Conflict Prevention Centre the assurances of its highest consideration.



Vienna, 5 July 2019

Permanent Missions of the OSCE participating States
OSCE 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 amended its Criminal Code (CC) in 2017, through Qualified Law 15/2017, of 13 July, amending Qualified Law 9/2005 of 21 February on the Criminal Code, and also approved the Law 14/2017, of 22 June, on the prevention and fight against money laundering and terrorist financing, whose main goal was to transpose, amongst others, the Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (“**4th Directive**”); and the Regulation (UE) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds.

It's important to highlight that Andorra introduced tax crime and tobacco smuggling as both criminal and predicate offenses of money laundering according to the new FATF Recommendations and several international agreements and arrangements.

Please find below the articles 245, 248, 248 bis and 409 of the Criminal Code:

Article 245 (CC) – Offence of smuggling

1. Whoever illegally imports or exports any goods valued

a) between EUR 50,000 and EUR 100,000, both amounts included, shall be punished with imprisonment up to two years and a fine ranging from the equivalent value to twice the value of the goods.

b) more than EUR 100,000, shall be punished with imprisonment from three months to three years and a fine ranging from the equivalent value to twice the value of the goods.”

2. In the case of sensitive goods as defined by the applicable provisions on controls on sensitive goods in Andorran territory of this type of goods, illegal import or export, possession or movement within Andorran territory without having the specific license as provided for in the Law, when the goods are valued:

a) between EUR 6,000 and EUR 18,000, both amounts included, shall be punished with imprisonment up to two years and a fine ranging from the equivalent value to twice the value of the goods.

b) more than EUR 18,000, shall be punished with imprisonment from three months to three years and a fine ranging from the equivalent value to twice the value of the goods.

3. *Modification or alteration of parts or the structure of a vehicle to create hidden cavities or double bottoms designed and addressed to hide goods shall be punished with imprisonment up to one year.*

4. *In the cases set forth in paragraphs 2 and 3, the Court may impose, besides to the additional penalties and ancillary consequences as deemed appropriate, the penalty of disqualification to operate with sensitive goods up to four years."*

Article 248 (CC) – Tax crime

"1. Whoever, by act or omission, defrauds the Public Administration with the purpose of evading the payment of taxes, sums withheld or that should have been withheld, or unduly obtaining tax benefits, exemptions, reliefs or refunds, as long as the amount of tax defrauded, of withholdings not paid or the amount of tax benefits, exemptions, relief or refunds unduly obtained, exceeds EUR 75,000 and represents, at least, 5% of the tax due, shall be punished with imprisonment from three months up to three years and a fine ranging from the equivalent value of the defrauded amount to four times the defrauded amount, unless the taxpayer in question regularises his/her tax position pursuant to the terms of paragraph 2 of this article.

The said amount refers to each tax. In the case of taxes, taxes withheld, tax benefits, exemptions, relief or refunds, either periodical or declared periodically, this amount refers to the amount defrauded in each taxable period or declaration period and, if this is less than twelve months or the taxes are not periodic or declared periodically, the amount defrauded in a calendar year.

2. *The tax situation shall be deemed regularised if the taxpayer has acknowledged and fully paid before receiving a request for payment from the Public Administration or, if a request is not made, before the taxpayer becomes aware of criminal proceedings against him/her.*

The effects of the regularisation foreseen in the preceding paragraph extend to the forged documents used to defraud, if any.

The Administration will provide all necessary means to ensure that the regularisation of the tax situation is possible, even if the administrative statute of limitations period has elapsed."

Article 248 bis (CC) – Aggravated Tax crime

"1. The tax crime offence regulated in article 248 shall be punished with imprisonment from one up to five years and a fine ranging from the equivalent value of the defrauded amount to four times the defrauded amount if any of the following requirements is met:

a) *The amount of tax defrauded, of withholdings not paid or the value of tax benefits, exemptions, relief or refunds unduly obtained, exceeds EUR 150,000 and represents, at least, 5% of the tax due;*

b) *the crime has been committed by means of a criminal organisation or group. Criminal organisation or group means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing crimes, in accordance with the applicable international conventions.*

2. *In the cases covered by this article, all the remaining provisions of article 248 shall be applicable."*

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;*
- *illicit trafficking in organs, tissue, cells or human gametes;*
- *illicit trafficking in human beings and minors;*
- *fraud, embezzlement and unfair administration;*
- *fraudulent insolvency;*
- *patent and trademark infringements;*
- *insider trading;*
- *defrauding the Andorran Social Security Agency;*
- *smuggling;*

- market abuse;
- aggravated tax crime;
- illicit trafficking in weapons and explosives;
- illicit trafficking in harmful substances;
- illicit trafficking in narcotic drugs and psychotropic substances;
- environmental and natural resources offences;
- illicit trafficking in protected or endangered species of wild fauna and flora;
- illicit association;
- fraud committed by a public official and illegal exactions;
- corruption and influence peddling;
- illegal funding of political parties;
- embezzlement of public funds; or
- forgery documents

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 imprisonment from one up to five years and a fine up to three times the proceeds.

2. Any individual who commits any conduct listed in the above paragraph with gross negligence shall be punished with imprisonment 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 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 that set out in paragraph 3 of article 366 bis of this Code.

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

Also, the offences related with terrorism and financing of terrorism has been amended criminalizing new behaviors by means of the Qualified Law 15/2017 that amended the Criminal Code according to the needs of the implementation of those international agreements and arrangements. More specifically, these changes are the following ones:

- Amendment of paragraph 2 and 3 of the article 362;
- Addition of a new paragraph 3 to the article 364;
- Amendment of the article 365;
- Addition of a new paragraph 3 to the article 366;
- Amendment of the paragraph 2 of the article 366 bis.

All of these articles now read as follows:

Article 362 (CC) – Definition of terrorism

"1. The following constitute acts of terrorism:

a) An act which constitutes an infringement within the framework of and according to the definition which appears in one of the following treaties:

- *Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 16 December 1970).*
- *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971).*
- *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the United Nations General Assembly on 14 December 1973.*
- *International Convention against the Taking of Hostages, adopted by the United Nations General Assembly on 17 December 1979.*
- *Convention on the Physical Protection of Nuclear Material (Vienna, 26 October 1979).*

- *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 (Montreal, 24 February 1988).*
- *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988).*
- *Protocol for the Suppression of Unlawful Acts against Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988).*
- *International Convention for the Suppression of Terrorist Bombings by Means of Explosives, adopted by the United Nations General Assembly on 15 December 1997.*

b) Any act addressed to causing the death or serious body injury to a civilian or any other person who does not take an active part in hostilities in a situation of armed conflict when the purpose of such act, by its nature or the circumstances surrounding it, is to intimidate people or to oblige a government or an international organization to carry out or to refrain from carrying out any act.

c) To the extent that they are related to an individual or collective project which has as its purpose the subversion of constitutional order or a serious attack against public peace and order by means of intimidation and terror, the following infringements:

- *Voluntary attacks against the life and integrity of people.*
- *Illegal detainment, kidnapping, threats and coercions.*
- *Robberies, extortions, damages, havoc, fires, and the infringements in matters of computer systems defined in this Code.*
- *The deposit of weapons or ammunition; the holding or deposit of explosive, inflammable, incendiary or asphyxiating substances or devices, or their components, as well as the manufacture, trafficking, transport or supply of same in any form.*

2. The following will be considered a terrorist:

- *An individual who commits or attempts to commit, as author or accomplice, any terrorist act.*
- *An individual who belongs, acts in the service of or collaborates with a terrorist group.*

3. A terrorist group is a group of people organized to commit one or several acts of terrorism. ”

Article 364 (CC) – Other infringements for terrorist purposes

“1. He who, belonging, acting in the service of or cooperating with a terrorist group and for the purpose established in the first paragraph of Article 362, commits any other infringement provided in this Code, should be punished with the punishment corresponding to the act committed, in its upper half.

2. He who disseminates, by any means, an ideology or doctrine addressed to justifying the recourse to terrorism or to making a defence of groups or organizations which have practised it or which have given support to it, should be punished with a punishment of imprisonment of three months to three years.

3. Whoever travels outside his/her territory of residence or nationality with the purpose of committing, participating in, planning or preparing any act of terrorism, or contributing to its commission, or with the purpose of organising, providing or receiving training for terrorist purposes, shall be punished with imprisonment from two up to five years.

The same penalty shall be imposed on whoever, being aware of the terrorist purposes, organises or facilitates in any other way, including recruitment, the commission of the conduct described in the preceding paragraph.

The attempted commission of these criminal offences is punishable. ”

Article 365 (CC) – Active membership in a terrorist group

“Whoever participates in the activities of a terrorist group, with the purpose of committing or assisting the commission of one or more terrorist acts, shall be punished with imprisonment from three up to eight years, without

prejudice to the responsibility arising from the terrorist offences committed."

Article 366 (CC) – 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.

3. The same penalties established in paragraph 1 shall be imposed on whoever provides or receives training, theoretical or practical, on the manufacture or use of explosives, firearms or other weapons or noxious or hazardous substances, or on methods or techniques suitable to commit or assist the commission of any act of terrorism."

Article 366 bis (CC) – 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 purposes of this article, financing shall be understood as any action that, by any means, directly or indirectly, unlawfully and intentionally, consists of the provision or collection of funds with the intention of using them or with the knowledge that they will be used, in whole or in part, in the Principality or abroad:

- by a terrorist group or a terrorist;

- to commit one or more terrorist acts;

- to carry out the conducts defined in article 364 of this Code.

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."

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 Division 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. Respecting the recommendations of the United Nations Security Council, as well as the recommendations of the INTERPOL organization, Interpol channels are used to transmit urgent and/or relevant information related to terrorism.

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.

It also worth mentioning, that Andorra has in place a Permanent committee for the prevention and fight against money laundering and terrorist financing that deals with issues related to TF. This Commission meets every three months, and according to article 63 of Law 14/2017, is formed by:

- a) the head of the UIFAND, who chairs it, and three members of this unit appointed by their head, belonging each one to the different areas of expertise.
- b) the State Public prosecutor;
- c) the director of the Police Department and the head of the unit of the Police Department responsible for the investigation of the cases of money laundering and terrorist financing;
- d) the Director General of the Tax and Customs Department, or the deputy director to whom he may delegate;
- e) when dealing with matters affecting the Andorran financial system, a representative of the Andorran Financial Authority (AFA) appointed by its Director General shall attend the meetings;
- f) when dealing with matters affecting the external relations of the Principality of Andorra and, in any case, in relation to the functions of the Permanent Committee provided for in chapter IX of this Law, a representative of the Ministry of Foreign Affairs appointed by the Minister shall attend the meeting;
- g) when dealing with matters affecting the Companies Register, the Associations Register or the Foundations Register, a representative of such registries shall attend the meeting as the case may be;
- h) occasionally, representatives of other bodies, departments, services, areas, advisors and representatives of professional bodies, Chamber of notaries or other entities which represent parties under obligation under this Law, may be called to deal with concrete items of the agenda.

This Commission, has the powers, amongst others, to:

- participates in the assessment of the measures and actions carried out in the field of money laundering and terrorist financing.
- offers advice on legislative changes;
- attends international meetings;
- provides advice on the drafting of reports addressed to international bodies;
- compiling and requesting, from any administration or party under obligation, directly or through their members, all information necessary to reasonably identify persons who meet the criteria to be included on the list set out by the United Nations Security Council (UNSC) from any relevant administration or party under obligation, either directly or through its members, and to identify persons and entities that could reasonably be suspected of or believed to be involved in terrorism, terrorist financing, or of having an affiliation with organisations engaged in these activities –every amendment of the list set out by UNSC enters automatically into force in accordance with Resolution 1/2016 UN–;
- compiling and amending the list of persons associated with the activities described above, and adopting restrictive measures in accordance with the relevant provisions of Law 14/2017

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 [...]*”.

In the context of the prevention of money laundering and terrorism financing, namely:

- Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (“**4th Directive**”).
- Regulation (UE) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds.

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 5th Mutual Evaluation Report of Andorra.

The 1st Enhanced Follow-up Report of the 5th Round Mutual Evaluation of the Principality of Andorra approved and adopted by MONEYVAL at its 57th plenary meeting on December 2018 highlights the ongoing evolution and intensification of the prevention and repression measures that have been adopted. In this regard, Andorra has been up-rating on 12 Recommendations.

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 5th mutual evaluation of the Principality of Andorra are the following:

- In relation with the prevention and fight against money laundering and terrorist financing:
 - Law 14/2017, of 22 June, on the prevention and fight against money laundering and terrorist financing.
 - Regulation of the Law 14/2017, of 22 June, on the prevention and fight against money laundering and terrorist financing, approved on 23th May of 2018.
 - Regulation regulating the registry of and access of the information relating to beneficial owners in the registers of legal entities, approved on 5th September of 2018.
- Amendments to the Criminal Code (“**CP**”):
 - Qualified Law 15/2017, of 13 July, amending Qualified Law 9/2005 of 21 February on the Criminal Code.
- Amendments to the Criminal Procedure Code (“**CPP**”):
 - Qualified Law 17/2016, of 30 November, amending the Criminal Procedure Code: amongst other measures, it amended the article 116, relative to seize and confiscation of instruments, proceeds and gains of the crime.

It is also worth mentioning that during the last quarter of 2018 (from 22-10-18 to 30-11-18) the UIFAND conducted a thematic inspection to the whole banking sector to assess these entities’ internal control

systems aimed exclusively at the prevention of TF. This thematic inspection was conducting in the following stages.

- Analysis of the information received from the banks through the biannual reporting system that the UIFAND has implemented.
- Definition of the scope of the inspection: it was mainly based on transfers of funds (sent and received) and credit card cash reimbursements done by the customers of the inspected entities during the first semester of 2018 in relation to a predetermined set of high-risk jurisdictions in terms of TF, as well as several bank accounts held by NPOs.
- A questionnaire was sent to each of the banks prior to the inspection, between September and October 2018, requesting information in relation to the scope of the inspection as defined in the stage above, which is then subsequently analysed.
- An individual report was made for each of the inspected entities, highlighting the main findings as well as stating a set of recommended actions to enhance their CFT preventive measures and controls that the entities will have to duly implement. Banks received those reports in April 2019.
- It is scheduled, in the forthcoming months, the issuance of an aggregated *feedback* that draws attention into the main shortcomings and areas with room for improvement identified during the course of the inspections, with the aim to make those conclusions public and, as a result, increase the level of awareness of all reporting entities in relation to the subject of TF.

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 was 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 these institutions for that purpose.

This assessment included two chapters that dealt exclusively with risks associated to terrorist financing, more precisely:

- Assessment of TF risks which Andorra faces, deemed to be "medium-low"
- Assessment of the risks of NPOs being misused for TF purposes, deemed to be "medium-low" as well.

At the same time the NRA report was formally approved on December 2016, and published on July 2017. As a result of the NRA an Action Plan was designed considering the main risks faced by Andorra and prioritizing the mitigation of those risk considered most important. This action plan was also approved on December 2016. The Action Plan includes several specific measures related to the prevention of terrorist financing that national competent authorities, as well as the private sector, must implement within the scheduled timeframe.

Subsequently, Andorra has formalized through a document presented to the Government on the 24th January of 2018 a National Strategy that is expected to be developed between 2018 – 2020, that aggregates the conclusions of the NRA, the measures of the Action Plan and the recommended actions of the 5th round MONEYVAL report into high-level objectives. As a result, the National Strategy includes

measures to counter terrorist financing as one of its strategic issues.

Finally, Andorra is working in the update of the NRA, and it is expected that the new NRA will be approved in 2020. The new edition of the NRA will also include an Action Plan with actions to be developed in the near future, including CFT-related measures. Within this framework, a specific study aimed to identify the subset of NPOs that present a higher risk to be abused for TF purposes is expected to be conducted.

– 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 September 2017, the 5th Mutual Evaluation Report¹ was adopted by 54th MONEYVAL Plenary and was published by the Moneyval Secretariat on the 14th of November of 2017². As a result, Andorra was proposed to submit an enhanced follow-up procedure and report back to Moneyval on December 2018.

Subsequent, the 1st Enhanced Follow-up Report³ was approved and adopted by 57th MONEYVAL Plenary and was published by its Secretariat⁴. As a result, Andorra has been up-rated in 12 Recommendations.

Currently, Andorra has: PC's rating on 6 Recommendations (8, 25, 26, 28, 31, 36); LC's rating on 24 Recommendations (1, 3, 5, 6, 9, 10, 12, 13, 14, 16, 17, 18, 22, 23, 24, 27, 29, 33, 34, 35, 37, 38, 39, 40); and C's rating on 10 Recommendations (2, 4, 7, 11, 15, 19, 20, 21, 30, 32).

As a result of the mentioned Follow up Report Andorra was proposed to report back on September 2019, in accordance to debate, approve and adopt the 2nd Enhanced Follow-up Report during the 59th MONEYVAL's Plenary that will take place on December 2019.

– 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 Financial Intelligence Unit (UIFAND). The UIFAND is also the competent authority to receive, investigate and disseminate to competent authorities any suspicious transaction reports regarding financing of terrorism. On the other hand, the UIFAND 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.

Other supervisory activities conducted by the UIFAND in terms of CFT also included, but were not limited to:

¹ https://www.uifand.ad/images/stories/Docs/Avaluacions/Informe_Avaluacio5_2018_ang.pdf

² <https://www.coe.int/en/web/moneyval/-/moneyval-welcomes-reforms-in-andorra-to-combat-money-laundering-and-terrorist-financing-but-calls-for-some-improvements>

³ https://www.uifand.ad/images/stories/Docs/Avaluacions/Informe_Avaluacio5_2018_ang.pdf

⁴ https://www.coe.int/en/web/moneyval/home/newsroom/-/asset_publisher/zTE3FjHi4YJ7/content/moneyval-publishes-follow-up-report-on-andorra?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fmoneyval%2Fhome%2Fnewsroom%3Fp_p_id%3D101_INSTANCE_zTE3FjHi4YJ7%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1

- Issuing a guide, on February 2017, about the implementation of TFS (targeted financial sanctions), that develops the contents of Recommendations 6 and 7 of the FATF and provides information to reporting entities on how to identify potential situations where they should implement restrictive measures in relation to their customers, as well and how to apply and communicate them to the UIFAND.
- An Andorran banking entity was requested to elaborate and provide a specific audit report in relation to their CFT preventive measures and control systems. This report was received on February 2017 and was subsequently analyzed.
- Technical Communiqué CT-01/2017 was issued on March, 2017, which is exclusively aimed at associations, foundations and other non-profit organizations, which develops the conclusions of the NRA in this regard and details the main methods to abuse NPO for TF purposes, risk indicators and preventive measures to be implemented by the organizations.
- A biannual reporting requirement for all banking entities was established by CT-05/2018, issued on June 2018. This reporting includes information and consolidated data related to the entities' assets under management, received and sent transfers of funds and credit card cash reimbursements. This information is duly analyzed and is taken into account for several *off-site* supervisory purposes, such as planning on-site thematic inspections.
- Technical Communiqués issued on December 2018, regarding the instructions of the external audit reports that are provided by financial reporting entities on an annual basis, have strengthened the requirements in relation to the TF preventive measures and the implementation of TFS, increasing the degree of analysis that the external auditor has to perform in this regard in order to be able to issue their opinion.
- In December 2018, a set of “red-flag” indicators of potential situations that may entail a risk of terrorist financing was issued, aimed to all reporting entities. This document updated its previous one, which was also publicly available through the website of the UIFAND.
- Issuing a guide, on March 2019, about beneficial ownership. This comprehensive guide is aimed to all reporting entities, with the goal to help all the interested parties in the identification of the beneficial owner through practical examples, either to comply with their obligations as reporting entities or to register this information in the corresponding public Register as legal entities.

The guide goes into further detail in relation to: (i) the definition of beneficial owner for each type of legal entity or legal arrangement; (ii) practical examples on the identification of the beneficial owner; (iii) obligations in relation to the information of the beneficial owner for reporting entities and legal entities in general; (iv) examples of documents that can be used to identify and verify the identity of the BO and (v) common misconceptions when identifying the BO.

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

The UIFAND is responsible to receive suspicious transactions reports for terrorist 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 considering its political and geographical characteristics.

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

The Law 14/2017 introduces the obligation to the Corporate and other legal entities incorporated in the Principality of Andorra to obtain and hold adequate, accurate and current information on their beneficial ownership through article 19, that reads as follows:

Article 19 – Obligation to obtain, hold and access information on beneficial owners

“1.- Corporate and other legal entities incorporated in the Principality of Andorra are required to obtain and hold adequate, accurate and current information on their beneficial ownership.

Those entities are required to provide, in addition to information about their legal owner, information on the beneficial owner to parties under obligation when the parties under obligation are taking customer due diligence measures in accordance with chapter II of this Law.

2.- Information referred to in paragraph 1 can be accessed in a timely manner by the UIFAND and other competent authorities.

3.- The Companies Register, the Associations Register and the Foundations Register shall require the information on the beneficial owners of the entities registered in the terms set out by the legislation. The information held is accurate and current.

4.- Information on beneficial owners held in the Companies Register, the Associations Register, and the Foundations Register shall be in all cases accessible to:

a) the UIFAND and other competent authorities, without any restriction;

b) parties under obligation, within the framework of customer due diligence in accordance with chapter II;

c) any person or organisation that can demonstrate a legitimate interest.

The persons or organisations referred to in point c) shall access at least the name and last name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

Access to information on beneficial ownership held in the Companies Register, the Associations Register and the Foundations Register shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof.

5.- Parties under obligation do not rely exclusively on the Companies Register, the Associations Register and the Foundations Register to fulfil their customer due diligence requirements in accordance with chapter II.

6.- An exemption to the access to all or part of the information on the beneficial owner to parties under obligation referred to in paragraph 4, points b) and c) is granted, when such access would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable. This exemption shall not apply to financial parties under obligation, notaries and saigs (bailiff, a specialist and independent executor who has the authority to execute judicial decisions under the control of the body that has issued such decisions).”

Additionally, in this field it is also important to highlight these others provisions of the Law 14/2017:

First additional provision – Associations and other non-profit organizations

“1.- The boards of directors of associations subject to the Qualified Law on Associations of 29 December 2000, and their personnel with management responsibilities, shall ensure that they are not used to channel funds or resources to persons or entities related to terrorist groups or organisations in accordance with the provisions on prevention and suppression of terrorism.

To this end, all associations shall keep records of the identity of all persons that receive funds from the

association for ten years, as well as the registers referred to in article 28 of the Qualified Law on Associations. These books and registers shall be made available to the relevant persons from the Association Register, and also by the administrative and judicial bodies competent in matters relating to the prevention or prosecution of terrorism.

2.- The duties established in paragraph 1 above will also be applicable to foundations or other non-profit-making organizations, and in this case, it corresponds to the protectorate, patron or corresponding representative managing the interests of the entity to abide by these duties.

3.- The obligations provided for in this article may be developed further by a Government decree.”

First transitional provision – Information on beneficial owners

“The information on beneficial owners that companies, associations and foundations incorporated or registered in the Principality of Andorra are required to obtain and hold pursuant to article 19 of this Law shall be obtained within one year from the date of entry into force of this Law.

The obligation to maintain registry books on beneficial owners and make them available to the Companies Register, the Association Register and the Foundations Register in the terms established in the Second, Third, and Fourth Final Provisions of this Law will apply from 1 January 2018.”

Third final provision – Amendment of the Qualified Law on Associations of 29 December 2000

1.- Paragraph 1 of article 28 of the Qualified Law on Associations of 29 December 2000 is amended as follows:

“1. Associations shall keep a register of associates, a register of beneficial owners, a minutes book, a stock book and the relevant accounting books in accordance with their activities. These books shall be signed (*diligenciats*) by the Associations Register and signed by the president and the secretary, or equivalent bodies within the association.”

2.- A new article 28 bis is added to the Qualified Law on Associations of 29 December 2000 and reads as follows:

“Article 28 bis. Register of beneficial owners

1.- The register of beneficial owners includes those persons which, according to the definition laid down in point 3 of article 3 on the Law on prevention and fight against money laundering and terrorist financing, are deemed to be beneficial owners of the association.

2.- This register shall contain, at least, the following information:

- a) name and last name;
- b) date of birth;
- c) nationality and country of residence of the beneficial owner;
- d) nature and extent of the beneficial interest held.

3.- This register shall be made available to the Associations Register in the terms to be developed by regulation, so that adequate, accurate and current information on beneficial ownership is available.”

Fourth final provision – Amendment of Law 11/2008 of 12 June on Foundations

“1.- Article 22 of Law 11/2008 of 12 June on Foundations is amended as follows:

Article 22. Accounting and books

1.- Foundations shall keep their accounts in accordance with the nature of their activities so as to allow the tracking of transactions and the preparation of annual accounts.

2.- Foundations shall keep, at least, a log book, a stock and annual accounts book, a minutes book and a

register of beneficial owners.

3.- The stock and annual accounts book shall be opened with the initial inventory set out in the deed of incorporation, and each year the closing inventory of the annual accounts shall be transcribed.

4.- The minutes book shall contain the minutes of the Board of Trustees and the governing bodies, authenticated in the terms provided for in the articles of association. Minutes shall be signed, at least, by the secretary with the approval of the president.

5.- The register of beneficial owners includes those persons which, according to the definition laid down in point 3 of article 3 on the Law on the prevention and fight against money laundering and terrorist financing, are deemed to be beneficial owners of the foundation, and contains, at least, the following information:

- a) name and last name;*
- b) date of birth;*
- c) nationality and country of residence of the beneficial owner;*
- d) nature and extent of the beneficial interest held.*

6.- The Foundations Register shall sign the books before they are used or once the annotations and entries have been made by electronic means.

2.- Article 37 of Law 11/2008 of 12 June on Foundations is amended as follows:

Article 37. Registrable acts

1.- The following documents shall be recorded at the Foundations Registry:

- a) deed of incorporation;*
- b) articles of association and amendments;*
- c) appointment, suspension, removal and resignation of trustees and, if applicable, of liquidators;*
- d) powers of attorney;*
- e) merger or division of foundations;*
- f) termination and liquidation.*

2.- The Foundations Register also holds information on the foundation's beneficial owners contained in the register of beneficial owners referred to in article 22 of this Law.

3.- If the officer in charge of the Foundations Register considers that there are reasonable indicia of criminal activity from the documents submitted by the Foundation, this shall be notified to the Protectorate and the competent judicial authority. In addition, this circumstance shall be notified to the foundation in question and the registration procedure will be suspended until a final judicial decision is made."

It is also important to highlight that on September 5th was approved the Regulation regulating the registry of and access to the information relating to beneficial owners in the registers of legal entities that establish the procedure, model declaration, deadlines and accessibility to the beneficial ownership information handled by the corresponding Register (including Association and Foundations Register).

– 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 transfers (only authorized to the 5 Andorran Banks), which are subject to equivalent requirements than Regulation (EU) 2015/847 of the European Parliament and of the Council.

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

The UIFAND 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 UIFAND has also signed 25 Memorandums of Understanding (MOU's) with its correspondents. These MOU's sets the provisions of cooperation, procurements and limitations regarding the information exchange.

We attached the details of all the MOU's that has been signed.

Unit	Jurisdiction	Date of the signature
The Anti-Money Laundering Division, Investigation Bureau, Ministry of Justice, Republic of China	Taiwan	26/09/2018
Israel Money Laundering and Terror Financing Prohibition Authority - IMPA	Israel	05/07/2017
Autorità di Informazione Finanziaria - AIF	The Holy See	01/02/2017
Japan Financial Intelligence Center (JAFIC) of the National Public Safety Commission of Japan	Japan	27/01/2017
Federal Financial Monitoring Service	Russian Federation	05/06/2014
Office for Prevention and Fight Against Money Laundering of Republic of Moldova	Moldova	03/07/2013
Administration for the Prevention of Money Laundering (APML)	Serbia	03/07/2013
Financial Intelligence Office	Republic of Macedonia	17/07/2012
Ministry of Interior in the Kingdom of Saudi Arabia	Saudi Arabia	30/06/2010
State Committee for Financial Monitoring of Ukraine	Ukraine	17/03/2010
Financial Monitoring Service of Georgia	Georgia	15/03/2010
Intelligence Agency of the Republic of San Marino	San Marino	15/03/2010
Unidad de Inteligencia Financiera de la Secretaría de Hacienda y Crédito Público de los Estados Unidos Mexicanos	Mexico	17/02/2006
Bahamas Financial Intelligence Unit	Bahamas	30/06/2005
Unidad de Inteligencia Financiera del Perú (UIF- PERU)	Peru	30/11/2004
Meldpunt Ongebruikelijke Transacties Nederlandse Antillen	Netherland Antilles	23/07/2004
Anti-Money Laundering Office (AMLO)	Thailand	23/07/2004
Directory of coordination for fight against money	Albania	14/06/2004

laundering in the Ministry of Finance		
Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN)	Monaco	04/05/2004
General Inspector of Financial Information	Poland	20/01/2004
Unidade de Informação Financeira (UIF)	Portugal	03/11/2003
Procureur d'Etat près le tribunal d'arrondissement de Luxembourg	Luxemburg	29/10/2003
Cellule de traitement des informations financières (CTIF-CFI)	Belgium	10/07/2002
Cellule Traitement du Renseignement et Action Contre les Circuits Financiers Clandestins (TRACFIN)	France	28/05/2002
Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias (SEPBLAC)	Spain	28/02/2002

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 both an advantage and a disadvantage 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. However, it has to be noted that Andorra does not belong to Europol and Schengen. In consequence, authorities do not have access to essential data bases such as Schengen Information System (SIS). In addition, because of the lack of an intelligence law and agency, police authorities have a restricted exchange of information with European intelligence community.

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.

Andorra supports the international efforts in the fields of disarmament and non-proliferation and is convinced that the existing regime of multilateral treaties constitutes the basis for work in these fields.

Full implementation of the existing universal instruments is key to enhance international peace and security.

Andorra is a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention (CWC) and the Convention on the Prohibition of Biological Weapons (BWC). Andorra is also State Party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW) and to the Convention on Cluster Munitions (CCM).

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.

In addition, Andorra fully supports the work within the OSCE and UN in these matters, and replies to related questionnaires. In the OSCE context, Andorra supports the work in the FSC to update the confidence- and security- building measures and financially contributes to various OSCE extra budgetary projects related to promote arms control, disarmament and confidence- and security-building measures

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 consider the legitimate security concerns of other States as well as the need to contribute to international security and stability?

Although the Principality of Andorra is a neutral country with no military capabilities, it is a member of the United Nations, therefore committed to international peace and stability. It is therefore natural that it fully considers the legitimate security concerns of its 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 Department, as well as the Customs who are positioned at the borders of Andorra. The 8/2004 Qualified law on the Police Department, as modified by law 2/2017 in March 2017, establishes that the Police is a special Department 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 Police Department 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, which is the only armed force in Andorra, not only the Constitutional principles apply, but also the entire code of the Administration, and it provides extended 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 neither 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 who 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

Andorran Police
Crtra. De l'Obach, Edifici Administratiu
AD500 Andorra la Vella

Mr. Bruno Lasne, Deputy Director of the Andorran Police Service
Tel. +376 872 015
Fax. +376 872 001
E-mail: b.lasne@policia.ad

Mr. Benjamí Rascagneres, Superintendent, Head of the Criminal Police Office
 (Andorran Focal Points for the Counter Terrorism Network)
 Tel. +376 872 010
 Fax. +376 872 001
 E-mail: po374@policia.ad

Mr. Robert Guirao, Chief of the International Cooperation Bureau (Head of NCB INTERPOL
 Andorra)
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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 the deposit of the instrument of ratification, accession, succession, acceptance, or approval	Date of the entry into force for Andorra
Universal legal instruments				
1.	Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)	Accession	17 May 2006	15 August 2006
2.	Convention for the Suppression of Unlawful Seizure of Aircraft (1970)	Accession	23 September 2004	5 November 2004
3.	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	Accession	22 May 2006 (Washington), 21 June 2006 (Moscow) and 30 June 2006 (London)	21 June 2006
4.	Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)	Accession	23 September 2004	23 October 2004

5.	International Convention against the Taking of Hostages (1979)	Accession	23 September 2004	23 October 2004
6.	Convention on the Physical Protection of Nuclear Material (1979)	Accession	27 June 2006	27 July 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	21 June 2006
8.	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	Accession	17 July 2006	15 October 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	15 October 2006
10.	Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)	Accession	17 May 2006	16 July 2006
11.	International Convention for the Suppression of Terrorist Bombings (1997)	Accession	23 September 2004	23 October 2004
12.	International Convention for the Suppression of the Financing of Terrorism (1999)	Ratification	22 October 2008	21 November 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)	Not Party		
15.	Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005)	Not Party		
16.	Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005)	Not Party		
17.	Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010)	Not Party		
18.	Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (2010)	Not Party		
19.	The United Nations Convention Against Transnational Organized Crime (2000)	Ratification	22 September 2011	22 October 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	1 September 2008
23.	Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015) CETS No: 217	Signature	19 May 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	Not Party		
25.	European Convention on Extradition (1957) CETS No: 024	Ratification	13 October 2000	11 January 2001
26.	Additional Protocol to the European Convention on Extradition (1975) CETS No: 086	Ratification	13 October 2000	11 January 2001
27.	Second Additional Protocol to the European Convention on Extradition (1978) CETS No: 098	Not party		
28.	European Convention on Mutual Assistance in Criminal Matters (1959) CETS No: 030	Ratification	26 April 2005	25 July 2005
29.	Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (1978) CETS No: 099	Not Party		
30.	Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (2001) CETS No: 182	Not Party		
31.	European Convention on the Transfer of Proceedings in Criminal Matters (1972) CETS No: 073	Not Party		
32.	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990) CETS No: 141	Ratification	28 July 1999	1 November 1999
33.	Convention on Cybercrime (2001) CETS No: 185	Ratification	16 November 2016	1 March 2017

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	1 March 2017
35.	Non-Proliferation of Nuclear Weapons Treaty	Accession	7 June 1996 (London), 25 June 1996 (Washington) and 2 July 1996 (Moscow)	2 July 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	1 March 1999
37.	Comprehensive Nuclear-Test-Ban Treaty	Ratification	12 July 2006	Not in force
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	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	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	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 November 2011	19 December 2011
43.	Criminal Law Convention on Corruption (1999) CETS No: 173	Ratification	6 May 2008	1 September 2008

44.	Additional Protocol to the Criminal Law Convention on Corruption (2003) CETS No: 191	Ratification	20 February 2015	1 June 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	29 March 2003
47.	Rome Statute of the International Criminal Court	Ratification	30 April 2001	1 July 2002
48.	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction	Accession	27 February 2015	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	Ratification	20 February 2015	1 April 2018
51.	Agreement between the Principality of Andorra and the Kingdom of Spain on cooperation in the fight against crime and security	Ratification	4 March 2016	Not in force