



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 all other Missions and Delegations 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 all Missions and Delegations to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.

Vienna, 1st April 2010

To: All Missions and Delegations to the OSCE
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 cannot give a response to all 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?

- UN Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 16 December 1970) Deposit of adhesion instrument to Russian Government: 23-09-04, Deposit of instrument to United States Government: 06-10-04, deposit of instrument to United Kingdom Government: 24-09-04, entered into force on 05 November 2004.

-UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 14 December 1973) entered into force on 23 September 2004.

- UN International Convention Against the Tacking of Hostages (New York, 17 December 1979), entered into force on 23 September 2004.

- UN International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997), entered into force on 23 October 2004.

- UN International Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, (Montreal, 23 September 1971). Accession by Andorra on 22 May

(Washington), 22 June (Moscow) and 30 June (London) 2006, entered into force on 21 June 2006.

- UN International Convention on 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). Accession by Andorra on 22 May (Washington), 22 June (Moscow) and 30 June (London) 2006, entered into force on 21 June 2006.

- UN International Convention on the Physical Protection of Nuclear Material (Vienna, 3 March 1980). Accession by Andorra on 27 June 2006, entered into force on 27 July 2006.

- UN International Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1 March 1991). Accession by Andorra on 17 May 2006, entered into force on 16 July 2006.

- UN International Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 14 December 1963). Accession by Andorra on 17 May 2006, entered into force on 15 August 2006.

- UN International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988). Accession by Andorra on 17 July 2006, entered into force on 15 October 2006.

- UN International Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988). Accession by Andorra on 17 July 2006, entered into force on 15 October 2006.

- UN International Convention on Suppression of the Financing of Terrorism (New York, 9 December 1999) signed by Andorra on 10 November 2001, entered into force on 21 November 2008.

- UN International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 13 April 2005) signed by Andorra on 11 May 2006.

- UN Convention against Transnational Organized Crime (New York, 15 November 2000) signed by Andorra on 10 November 2001.

- European Convention on Suppression of terrorism (Strasbourg, 27 January 1977) signed by Andorra on 8 November 2001.

- Protocol Amending the European Convention on Suppression of Terrorism (Strasbourg, 15 Mai 2003) signed on 15 May 2003.

- Council of Europe Convention on the Prevention of Terrorism, opened for signature on the 16 of May 2005, signed on the 17 of November 2005, entered into force on 1st September 2008.

- Convention on Laundering, Search, Seizure and Confiscation of the proceeds from Crime (Strasburg, 8 November 1990), entered into force on 1 November 1999.

- European Convention on Extradition, entered into force on 11 January 2001.

- Additional Protocol to the European Convention on Extradition, entered into force on 11 January 2001.

- Non-Proliferation of Nuclear Weapons (London Moscow and Washington, 1 July 1968) entered into force on 2 July 1996.

- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Oslo, 18 September 1997) entered into force on 1 March 1999.

- Comprehensive Nuclear-Test-Ban Treaty (New York, 10 September 1996) internal process of ratification finished on 10 March 2006. Ratification by Andorra on 12 July 2006.

- 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 all signed on 9 January 2001.

- Group of States against Corruption from the Council of Europe (GRECO), accession by Andorra on 26 January 2005.

- Criminal Law Convention on Corruption, opened for signature on 27 January 1999 in Strasbourg, signed by Andorra on 8 November 2001 and entered into force on 1st September 2008.

- Civil Law Convention on corruption, opened for signature on 4 November 1999 in Strasbourg, signed by Andorra on 8 November 2001.

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Geneva, 3 September 1992) entered into force on 29 March 2003.

- European Convention on Mutual Assistance in Criminal Matters opened for signature on 20 of April 1959, and entered into force on 25 July 2005.

- The Rome Statute of the International Criminal Court was adopted in Roma on 18 July 1998, opened for signature on 18 July 1998, and entered into force on 1 July 2002.

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

Publication in BOPA

According to Article 3.4. of the Constitution of the Principality of Andorra, the treaties and international agreements enter in force in the legal system from the moment of 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 dispositions for combating and preventing terrorism. The new Criminal Code includes all penal 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 all other crimes that could have terrorist implications. The 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 an amendment to the Criminal Procedure Code (1998), both amendments modify and introduce provisions relating to money-laundering and financing of terrorism offences in order to adopt most MONEYVAL Recommendations.

The main changes 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 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 was passed on 11th December 2008, and was 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 of this new law 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 both financial parties under obligation and to DNFBP’s.

The new 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.

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

- Financing of terrorism;
- Border controls;
- Travel document security;
- Container and supply chain security;
- Security of radioactive sources;
- Use of the Internet and other information networks for terrorist purposes;
- Legal co-operation including extradition;
- Safe havens and shelter to terrorists and terrorist organizations.

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. It includes the implementation of MONEYVAL recommendations. The implementation of the recent adopted laws is carried out by the Andorran FIU.

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 in Andorra, and can be found in the following link:

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

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 has been adopted on 13 February 2008. The Standing Committee aims at improving coordination among all organizations and Ministries involved, giving an integral 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 the 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 regarding 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 and Institutional Relations