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Periodic review report of countries not under the monitoring procedure sensu stricto or engaged in a post-monitoring dialogue:

Andorra

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe
(Monitoring Committee)

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1. See also [Doc. 13868 Part 1](#), [Part 3](#), [Part 4](#) and [Part 5](#).



Explanatory memorandum by Mr Schennach, rapporteur

1. Introduction

1. Andorra is a principality of 468 km² landlocked between the Pyrenees mountains, on the border between France and Spain, with a total border length of 120.3 km. This geographical situation has allowed Andorra to maintain its specific status for more than a thousand years.

2. The Principality of Andorra is a constitutional democracy. The current status of Andorra originates from a treaty of 1278 establishing shared sovereignty, known as the “Coregency”. This legacy was perpetuated in the 1993 Constitution, which defines Andorra as a parliamentary Co-principality with a diarchic Head of State, namely the Bishop of Urgell and the President of the French Republic. Their role is to ensure respect for the Constitution and facilitate the functioning of public institutions. The Co-princes rank as Head of State, but political power is in the hands of the government and the parliament (the *Consell general*). Under the authority of its head, the *Cap de Govern*, the government directs Andorra’s national and international policy. The Co-princes are both represented in Andorra by a delegate.

3. Andorra’s main legislative body is the Consell General (parliament), which is composed of 28 general councillors elected by direct universal suffrage. Fourteen members are elected from a national constituency under the proportional system, while the other fourteen members are elected from the “parishes” or administrative divisions (two MPs for each of the seven parishes) under a simple majority system with one round of voting. Slightly less than half of the parliamentary seats are held by women. The *Sindic* (President of Parliament), the *Subsindic* (Deputy President) and the *Consellers Generals* (MPs) are elected for a four-year term in a general election. The *Sindic* and the *Subsindic* cannot serve more than two consecutive terms of office.

4. After the elections and following an investiture debate, the *Consell general* elects the head of government, a choice which is ratified by the Co-princes. The head of government chooses the other ministers, forming the *Govern*.

5. The first elections following the adoption of the Constitution took place in 1993. Since the inception of the system of political parties under the Constitution, the political scene has been marked by alignments, mergers or splits of political parties for electoral purposes. The political spectrum is generally centre-left versus centre-right, on the one hand, and parish politics versus national politics, on the other.

6. The April 2011 general elections took place after two years of government deadlock. The Democrats for Andorra (DA) won 20 seats, followed by the Social Democratic Party (PS) with six and the Lauredian Union with two. Antoni Martí became the Head of Government. The 2011 elections marked a change of power from the Social Democratic Party to the Democrats for Andorra. The last general elections took place on 1 March 2015 (see below).

7. Local elections will be held in December 2015. The local government authorities are the parish councils, or *Comuns*, which manage local affairs. Each *Comú* generally has from 8 to 12 members, who are elected by direct universal suffrage for a four-year term. The two highest-scoring candidates of the party, or list, which wins the election become mayor (*Consol*) and deputy mayor (*Consol menor*).

8. As a parliamentary Co-principality, Andorra has a joint Head of State, in the singular. This form of sovereignty dates from 1278 and has evolved over the years, culminating at present in the reign of the President of the French Republic and of the Spanish Bishop of Urgell. With the adoption of the 1993 Constitution, international recognition of the Principality as an independent, law-based, democratic and social State (Article 1-1 of the Constitution) was no longer called into question. Andorra went on to sign many international agreements, including a trilateral treaty of vicinage, friendship and co-operation with France and Spain in 1993, a trilateral treaty on the free movement of persons with France and Spain in 2000, a similar treaty with Portugal in 2007, and a Concordat with the Holy See in 2008. The country has joined various international organisations; it became a member of the United Nations in 1993 and of the Council of Europe one year later, on 10 November 1994.

9. Relations between the European Union and Andorra have been marked by a high level of stability and co-operation. In particular, in June 1990 a trade agreement between Andorra and the European Community established a partial customs union. In November 2004, an agreement was signed introducing measures equivalent to those of Council of the European Union Directive 2003/48/EC on taxation of savings income, and in June 2011 a monetary agreement was signed between Andorra and the European Union. In November 2012, the Council of the European Union called for an evaluation of the European Union’s relations with the

sovereign European microstates of Andorra, Monaco and San Marino. In November 2013, the European Commission concluded that Association Agreements were the best mechanism to integrate the microstates into the internal market. In December 2014, the Council of the European Union approved the launching of negotiations on such an agreement. In order to develop closer relations with the European Union, in particular with regard to its increased participation in the internal market, Andorra has, in recent years, worked to bring its legislation closer to the *acquis communautaire* (see below).

10. Upon its accession to the Council of Europe, Andorra committed itself to respect the obligations incumbent upon every member State under Article 3 of the Statute with regard to pluralist democracy, the rule of law and human rights. As of 30 July 2015, Andorra had ratified 46 Council of Europe treaties and signed seven additional treaties without ratification.² In April 2013, Andorra signed the Convention on Cybercrime (ETS No. 185) and its Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189). In November 2013, Andorra signed the Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (ETS No. 127). In April 2014, Andorra ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210). Andorra ratified the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191) and the Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 213) respectively on 20 February and 27 May 2015.

11. This periodic report was drafted in line with [Resolution 2018 \(2014\)](#) and the explanatory memorandum approved by the committee on 17 March 2015.³ It was discussed at committee level on 17 March 2015 and 3 September 2015, taking into account the comments presented by the Andorran delegation⁴ whom I warmly thank for its valuable contribution. This report is based on, *inter alia*, the most recent findings of the Council of Europe monitoring mechanisms, the reports of the Parliamentary Assembly and the Commissioner for Human Rights and, when relevant, reports prepared by other international organisations and civil society.

2. Background information

12. Economic relations have had a strong impact on Andorra's structural reforms. In recent years, Andorra had been affected by the global economic crisis. The European Union and the Organisation for Economic Co-operation and Development (OECD) made compliance with international tax standards a condition for relations with Andorra. In order to stimulate international ties and build confidence with its European partners, Andorra had to align itself with common international principles in order to obtain the endorsement of its western partners.

13. Andorra suffered an economic slow-down in the fields of trade, banking, construction and tourism, as well as an increasing public debt (41% of the gross domestic product (GDP) in 2012). After several difficult years, the Andorran economy is showing signs of recovery. Despite the intensity of the economic crisis, Andorra still has one of the highest standards of living in Europe, as shown by its relative position in terms of GDP per capita: with a GDP of US\$37 200, Andorra ranks 32nd globally. In its Conclusions 2014 on Andorra,⁵ the European Committee for Social Rights considered that the minimum inter-professional wage does not ensure a decent standard of living⁶, in violation of Article 4.1 of the revised European Social Charter (ETS No. 163).⁷ In April 2014, a law on social and health services was passed, which provides *inter alia* that the amounts of solidarity-based pensions and other welfare payments cannot be less than the inter-professional minimum wage of €962 per month.

14. In the past, Andorra maintained bank secrecy laws and levied no income tax on residents. Its main sources of revenue were registration fees, property transaction taxes and taxation of capital gains on property, import taxes and minor sales taxes. As a result of this tax environment, the Principality was identified by

2. www.conventions.coe.int/treaty.

3. Document AS/Mon (2015) 12.

4. Document AS/Mon (2015) 22

5. European Committee of Social Rights, [Conclusions 2014 \(ANDORRA\)](#), January 2015 [www.coe.int/t/dghl/monitoring/SocialCharter/Conclusions/State/Andorra2014_en%20\(2\).pdf](http://www.coe.int/t/dghl/monitoring/SocialCharter/Conclusions/State/Andorra2014_en%20(2).pdf).

6. According to the European Committee of Social Rights, in order to ensure a decent standard of living within the meaning of Article 4.1 of the Charter, wages must be no lower than the minimum threshold, which is set at 50% of the average net wage.

7. Determined in accordance with the OECD/EUROSTAT method at 60% of the gross median equivalised income, which was €906 per month for 2012.

OECD as a tax haven,⁸ above all due to the lack of transparency. In 2009, the OECD called on Andorra to bring itself into line with OECD standards on information exchange. Having done so, the Principality was then able to sign 23 information exchange agreements and to be removed from the list of unco-operative tax havens. Further developments regarding the tax situation in Andorra have since taken place. In 2010, the country introduced corporation tax, a tax on income from economic activities and income tax for persons who are not fiscal residents. In 2012, Andorra adopted value added tax (VAT), and in 2014 personal income tax, which has been in force since 1 January 2015. In recent years, the Andorran authorities have thus made an effort to establish transparency and co-operation in tax and financial matters and to bring the relevant legislation into line with European and OECD standards.

15. Closer integration into the internal market is essential for Andorra, as its main trading partners are the EU member States, representing more than 95% of its exports and 90% of its imports. In March 2014, as mentioned above, the European Commission issued a recommendation to open negotiations with Andorra on an Association Agreement. As from the launch of these negotiations, in April 2015, the parties agreed to ensure the implementation of the principles of the European Single Market while taking into account the particular situation of the country. In parallel, and following the OECD's recommendations, in November 2013 Andorra signed the new single global standard for the automatic exchange of financial accounting information, developed by the OECD and endorsed by the G20. In March 2014, the European Council's conclusions confirmed that the European Union would follow the principles of the OECD model for the revision of the savings taxation agreements between the European Union and Andorra. The OECD and the European Union have repeatedly encouraged Andorra to comply with and implement the standards on good governance in fiscal transparency and co-operation matters and have welcomed the changes made in recent years.

16. Since 2012, the government, with the backing of parliament (the Consell General), has taken measures to modernise and diversify the economy and open up the markets in line with international standards. For example, in 2012 the Foreign Direct Investment Law was passed, making possible an economic opening of the country. With a view to containing public spending, an investments limitation policy has also been implemented so as to avoid driving up public deficits, and civil service salaries have been frozen. In parallel, value added tax was introduced in 2012 at a general rate of 4.5%, with reduced rates of 0%, 1% and 2.5% for certain goods and services and a higher rate of 9.5% on banking services. Income tax, at a flat rate of 10%, has been in force since 1 January 2015 (see paragraph 14 above). A number of laws were enacted in 2014 to align Andorra with international standards, particularly regarding trade, organisational requirements and operations in the financial sector and the rationalisation of public spending. In November 2013, the government signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the Council of Europe Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (ETS No. 127), which it has yet to ratify (see paragraph 10 above).

17. The banking sector in Andorra recently faced a scandal following the accusations made on 10 March 2015 by FinCEN, the financial intelligence agency of the US Treasury, against Banca Privada d'Andorra (BPA). FinCEN accused the country's fourth largest bank of being a primary vehicle for money laundering. The day following this announcement all of the bank's foreign correspondent accounts were blocked. The Andorran authorities, through the INAF (the country's financial oversight body), took control of the running of the bank and its chief executive was arrested.⁹ This scandal raises risks for Andorra's financial industry, which accounts for almost 20% of its GDP. Moreover, since BPA held a majority share in the capital of a Spanish private bank, Banco Madrid, Spain's anti-corruption prosecutors conducted an investigation to determine whether similar activities had taken place in Spain, leading to bankruptcy proceedings regarding the Spanish bank.¹⁰ The crisis also had repercussions elsewhere, such as in Panama where BPA had another subsidiary. Despite the Andorran authorities' rapid and firm reaction to the BPA scandal, the reputation of the country's financial industry has suffered and efforts must continue to preserve Andorra's four other banks from the effects on their growth prospects and stability. The recently elected parliament took very rapid action along these lines on 2 April 2015, with the adoption of a "Law on urgent measures to implement restructuring and resolution mechanisms for banks", which transposes Directive 2014/59/EU of the European Parliament and the Council into Andorran law. Under the monetary agreement in force, the directive was to be transposed before 2018. The BPA scandal merely speeded up the process. Through this law, the authorities were able to avoid the receivership and bankruptcy of BPA, which would have battered its customers and creditors and undermined the Andorran banking system in general. In accordance with this new law, a State agency for resolution of banks (AREB) was established and tasked with setting up a "good bank", by the autumn of 2015, to receive BPA's legally sound assets, as certified by the internationally renowned audit firm

8. www.oecd.org/countries/monaco/listofunco-operativetaxhavens.htm.

9. www.reuters.com/article/2015/03/16/bpa-bancomadrid-idUSL6N0WI1O720150316.

10. www.euronews.com/2015/03/16/andorran-money-laundering-scandal-hits-banco-madrid/.

PricewaterhouseCoopers. The purpose of this good bank will be either to sell the bank's assets as a whole, safeguarding its staff's jobs as far as possible, or to sell them in separate batches. The toxic assets will remain grouped in the "bad bank", which will have to face creditors' claims before being liquidated. It must be noted that this crisis has occurred at a crucial time in Andorra's history, since the country is reforming its economy so as to enhance economic transparency.

3. Democracy

18. Andorra had a population of 70 570 in 2014.¹¹ Due to the economic crisis and the subsequent rise in unemployment, the annual population growth rate decreased by 0,6% between 2010 and 2012. Between 2012 and 2014, there was an increase in population of 1.16%.¹²

19. Less than 50% of the population have Andorran citizenship. The population is composed of more than 100 different nationalities. Persons born in Andorra of non-Andorran parents obtain provisional Andorran citizenship until they reach the age of majority, when it becomes final if they so request. Persons born in Andorra or abroad with one Andorran parent have Andorran citizenship. The legislation is stringent since it requires a minimum of 20 years of legal residency to acquire Andorran nationality, except in the event of marriage with an Andorran citizen, in which case citizenship can be acquired after three years of marriage. If the foreign spouse has been resident in Andorra for at least three years, he or she can acquire citizenship upon marrying an Andorran citizen. After his last visit to Andorra in 2012, the Council of Europe Commissioner for Human Rights¹³ called on the Andorran Government to ease the requirements for applications for Andorran citizenship. In this connection, the Commissioner recommended the ratification by Andorra of the European Convention on Nationality. In its 2012 report on Andorra,¹⁴ the European Commission against Racism and Intolerance (ECRI) recommended that the Andorran authorities explore ways of introducing dual citizenship in national legislation, even if that entailed a constitutional reform. Andorra has still not signed or ratified the European Convention on Nationality. To introduce the concept of dual citizenship the country must amend its Constitution.

20. Voting is only open to Andorran citizens. Residents who are not Andorran citizens do not have the right to vote. Consequently, almost two thirds of the population cannot vote in local elections. In its 2012 report,¹⁵ ECRI recommended that the Andorran authorities grant non-Andorrans the right to take part in local elections. Postal votes for non-resident citizens were put in place¹⁶ for the March 2015 elections for the first time and 100 postal voters were registered. There were a total of 24 509 registered voters in March 2015.

21. The General Council was dissolved on 16 January 2015, after the approval of the general budget for 2015, and the general elections were held on 1 March 2015. Municipal elections are foreseen for December 2015.

22. The political parties registered for the 2015 general elections were: "Demòcrates per Andorra" (DA), headed by Antoni Martí i Petit (the incumbent Head of Government); "Junts", the coalition of the Partit Socialdemòcrata d'Andorra, Verds d'Andorra (the Greens) and Iniciativa Ciutadana I, led by Pere López Agràs; "Socialdemocràcia i Progrés" (SDP), led by Víctor Naudi Zamora; "Liberals d'Andorra" (L'dA), led by Josep Pintat i Forné. At the Parish level an independent party called "Unió Laurediana" was registered in Sant Julià de Lòria.

23. The campaign focused on the economic, fiscal and social reforms undertaken by the incumbent government, including the introduction of income tax, the opening up to foreign investments, the reform of the CASS (the Andorran social security scheme), and the signature of double taxation agreements with France, Luxembourg, Portugal and Spain. The liberals (L'dA) questioned the fiscal model of the incumbent government and called for a competitive system respectful of Andorra's identity. They recommended that direct taxes be reduced to a strict minimum, the maintenance of indirect taxes and modification in the taxation of income by taxing only their income of Andorran origin, whereas the current law takes the worldwide income; they considered the double taxation agreements with Spain and France as contrary to Andorra's specificities. For them, further EU integration was not the best solution, and they wished to submit the agreement with the European Union to a referendum. The social democrats (SDP) recommended a balanced system of limited

11. www.estadistica.ad/serveiestudis/web/index.asp.

12. www.estadistica.ad/serveiestudis/web/index.asp.

13. See [press release](#).

14. www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Andorra/AND-CBC-IV-2012-024-ENG.pdf.

15. *Ibid.*

16. Legislative amendments of 2014.

taxation promoting competitiveness and demonstrating Andorra's will to open up. The Junts deplored the economic situation and contested the undermining of social rights and the unfairness of the income tax system; they called for a proportional income tax and a system giving priority to social policies, in particular an increase in the minimum inter-professional wage in conformity with the revised Social Charter. The incumbent Democrats (DA) acknowledged that during their term of office they had encountered difficulties in explaining to the population the benefits brought by the social security reforms, the legislation adopted in the welfare, social and health fields, the arrangements concerning civil servants' supplementary pensions, the rationalisation of public spending, the introduction of a moderate level of fiscal regulation, and the signature of double taxation treaties, all with the aim of opening up the markets and boosting growth. They underlined the need to adopt a fiscal system acceptable to Andorra's European neighbours and sought to explain the opportunities the country might derive from access to the EU internal market under an Association Agreement with the European Union, which they would submit to a referendum.

24. The campaign also focused on the issue of abortion, which is illegal on any grounds based on Article 108 of the Criminal Code. According to its Article 8-1, "[t]he Constitution recognises the right to life and fully protects life in all its phases". Both the SDP and the Junts were favourable to new legislation on the issue to authorise abortion in certain cases. The DA and Ld'A considered that the question endangered not only the Constitution, but also Andorra's institutional framework, in view of the fact that a bishop was joint Head of State, and posed a threat to the country as a Co-principality.

25. The Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) in January 2015 and concluded that "all interlocutors expressed their overall confidence in the electoral process and no issues were brought to the attention of the OSCE/ODIHR NAM that would necessitate the immediate involvement of the OSCE/ODIHR".¹⁷ Overall, the legal framework was considered satisfactory,¹⁸ as well as the impartiality and efficiency of both the election administration and the electoral dispute resolution system.

26. The elections confirmed the overall majority of the incumbent party "Demòcrates per Andorra" headed by Antoni Martí i Petit. Despite a loss of five seats, "Demòcrates per Andorra" secured 15 out of 28 seats in the General Council. The Liberals d'Andorra secured 8 seats, the coalition Junts 3 seats and the SDP 2 seats.

4. Human rights and fundamental freedoms

27. Andorra has ratified Protocol No. 12 to the European Convention on Human Rights (ETS No. 177). Its Constitution and legislation declare all persons equal before the law and prohibit discrimination on grounds of birth, race, gender, origin, religion, opinions, or any other personal or social condition.

28. In the past, whilst having the same rights and freedoms as Andorran citizens in principle, non-citizens lacked access to some of the social benefits provided by law. In its third¹⁹ and fourth²⁰ reports, ECRI recommended that the Andorran authorities introduce policies to promote the integration of non-Andorrans in all areas, including the labour market. This was one of the three specific recommendations for which ECRI requested priority implementation in its fourth report. ECRI insisted that this policy address the problems faced by seasonal workers, and raise public awareness of the importance of a diverse society. Andorra is not a member of the ILO. It has neither signed nor ratified the Additional Protocol to the European Social Charter providing for a system of collective complaints.

29. The Andorran authorities have recently amended the existing regulations to ensure that non-citizen residents receive the same social and economic benefits as citizens. In 2014, the General Council passed a law on social services giving access to social services and other benefits to all residents. Based on this legislation, access is given to residents, without discrimination, to economic and technical benefits and services (social benefits provided for by the law include education, higher education, housing, social aid, family welfare). For example, minimum residence requirements for access to social welfare have been lifted, and migrant and seasonal workers are provided with full health coverage. In its conclusions on the implementation of the recommendations in respect of Andorra subject to interim follow up,²¹ ECRI welcomed all the measures taken by the authorities in the field of integration which had marked substantial progress in the field and concluded that this recommendation had been implemented.

17. www.osce.org/odihr/elections/andorra/141736?download=true.

18. The NAM nevertheless noted the lack of provision on international or citizens election observers.

19. http://hudoc.ecri.coe.int/XML/ECRI/ENGLISH/Cycle_03/03_CbC_eng/AND-CbC-III-2008-1-ENG.pdf.

20. www.coe.int/t/dghl/monitoring/ecri/country-by-country/andorra/AND-CBC-IV-2012-024-ENG.pdf.

30. Another priority issue raised by the ECRI was the lack of comprehensive and exhaustive criminal legislation relating to racism and intolerance. The principle of the sharing of the burden of proof in case of discrimination complaints should be applied, and judges, prosecutors and lawyers should be trained on racism and racial discrimination. In its conclusions on the interim follow-up,²² ECRI noted that the recommendation regarding training had not yet been implemented but welcomed as a promising initiative the reform project in the judicial field, which the Andorran authorities could use as an opportunity to implement its recommendation. ECRI considered that its recommendation on the burden of proof was not implemented.

31. Andorra signed the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems in April 2013, but has not yet ratified it.

32. The 2012 ECRI report recommended that legislation on asylum seekers and refugees be enacted. In November 2013, on the occasion of the consideration of the United Nations Committee against Torture's report on Andorra,²³ the Andorran delegation confirmed that there were still no national laws on refugees. According to the delegation, very few foreign nationals come to the country due to Andorra's geographical location and thus the current legislation is adequate to provide asylum and other permits on an ad hoc basis.

33. Andorra has neither signed nor ratified the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. As regards the Framework Convention, the authorities have stated that due to the geographical and historic specificity of the Principality of Andorra, Andorran citizens have never represented the net majority of the population and that the concept of "national minority" would therefore not be fitting.

34. In the field of media freedom, while the 2014 Freedom House²⁴ report on Andorra was rather positive, Andorra's rank in the *World Press Freedom Index* represents the sharpest fall between 2014 and 2015: it ranked 32nd, falling by 27 places "due to the lack of independence of its media from financial, political and religious interests".²⁵ Reporters Without Borders has denounced "many conflicts of interests and the great difficulty experienced by journalists in covering the activities of Andorran banks, coupled with the lack of any legal protection for freedom of information, such as the confidentiality of journalists' sources". This latest development raises potential concerns that will need to be followed closely. In November 2014, Andorra passed a law entitled Civil Law Protection of the Rights to Privacy, Honour and Personal Reputation, which aims to protect individuals from abuses of these rights.

35. Concerning domestic violence, the Commissioner for Human Rights noted after his visit to Andorra in 2012 that further prevention efforts were needed. The Commissioner recommended that the authorities continue to give priority to extending assistance to victims of domestic violence and to allow longer stays in shelters.²⁶ In April 2014, Andorra ratified the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), triggering its entry into force on 1 August 2014. On 15 January 2015, during the last session before its dissolution, the parliament passed a law to combat domestic violence, which had been jointly proposed by the three parliamentary groups.

36. In its report published in September 2014,²⁷ the Group of Experts on Action against Trafficking in Human Beings (GRETA) noted the existence of a framework for assisting victims of domestic violence, under the responsibility of the Ministry of Health and Welfare and based on an action protocol specifying the different roles of stakeholders. A dedicated department had been set up in 2006 within the Ministry, and agreements had been concluded with NGOs. Domestic violence victims were allocated financial assistance and received counselling. Under an agreement concluded with the Bar Association of Andorra, free legal assistance could be provided if they had insufficient resources. Victims of violence could be accommodated by the Domestic

21. Conclusions on the implementation of the recommendations in respect of Andorra subject to interim follow up adopted on 19 March and published on 9 June 2015.

22. Ibid.

23. [www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/44143E155FB3D475C1257C21005F5320?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/44143E155FB3D475C1257C21005F5320?OpenDocument).

24. Freedom of the world Andorra 2014 report.

25. <http://en.rsf.org/world-press-freedom-index-2015-12-02-2015,47573.html>.

26. "As in other places, in Andorra victims of domestic violence tend to suffer in silence. Measures to better protect such persons, who are predominantly women, should be adopted, including a wider use of restraining orders to oblige offenders to leave the house, the adoption of a specific law addressing gender-based violence, awareness-raising to dismantle cultural stereotypes and measures to address the reluctance of those subject to violence to report the problem."

27. www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2014_16_AND_FGR_w_cmnts_en.pdf.

Violence Department in specific premises for up to nine months. Once the monitoring mechanism for the Istanbul Convention, GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence), becomes operational, the implementation of the Istanbul Convention by Andorra will be evaluated.

37. Concerning trafficking in human beings, no victims of trafficking were identified in Andorra at the time of GRETA's reporting.²⁸ In its report, GRETA took note of the absence of a specialised authority on the fight against human trafficking and underlined the need to raise awareness amongst vulnerable groups (vulnerable children and women and migrant workers in particular) on the risks of human trafficking. The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) recommended²⁹ that a proactive approach to the identification of victims of human trafficking be taken. It also recommended the adoption of a legislation establishing trafficking in human beings as a criminal offence in conformity with Article 4 of the Convention, and of the relevant measures to provide assistance and protection to all victims of trafficking including by increasing the awareness of the actors concerned. It has called on the authorities to provide in law for a recovery and reflection period for victims of trafficking, for the possibility to issue renewable residence permits and to refrain from deportation once the identification process is started. Since then, on 16 July 2015, the Andorran Parliament adopted law 10/2015 amending the criminal code with regard to the legal qualification of trafficking in human beings. These legislative changes will be examined by GRETA in its second evaluation cycle.

38. There is no other specific concern to be raised relating to the protection and promotion of human rights in Andorra.

5. Rule of law

39. Six applications against Andorra were pending before the European Court of Human Rights in May 2015. Most of the judgments delivered by the Court concerned Article 6 of the European Convention on Human Rights, but do not seem to highlight basic structural issues.

40. With regard to the judicial system, according to the 2014 Freedom House report,³⁰ the government generally respects the independence of the judiciary. Defendants enjoy the presumption of innocence and the right to a fair trial.

41. The government has recently worked on a judicial reform. Between 2013 and January 2015, the Andorran Parliament passed the Qualified Law on Justice, amendments to the Code of Criminal Procedure, amendments to the Transitional Law on Court Proceedings, a law on bailiffs, a law on seizure, a law on arbitration and various amendments to the Criminal Code. The purpose being to have an integrated legal framework for the judiciary, governing the membership, status and powers of the Higher Council of Justice and the careers of judges and magistrates. With this first reform package, improvements have been made to the management of judicial organisation and the allocation of criminal cases. Applicable procedural rules have been set regarding the review of domestic judgments deriving from the judgments of the European Court of Human Rights.

42. In the field of corruption, GRECO published its Third Round Evaluation Report on Andorra in June 2011, which found that further amendments to the Criminal Code were necessary to comply with Council of Europe standards and called for considerable changes to the legislation on political financing. In its third Round Compliance Report on Andorra,³¹ adopted in October 2013, GRECO noted that Andorra had satisfactorily implemented only three of the twenty recommendations from the 2011 report (twelve were partially implemented and five were not implemented). It stated that Andorra was able to show that substantial reforms were in progress, offering the potential to achieve an adequate level of compliance with the outstanding recommendations in the next 18 months and asked the Andorran delegation to provide it with a progress report on implementation of the outstanding recommendations by 30 April 2015 at the latest. Based on this situation report, GRECO is now expected to assess the implementation of the outstanding recommendations in the following months.

28. Ibid.

29. Recommendation CP(2014)14 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Andorra, adopted on 5 December 2014.

30. <https://freedomhouse.org/report/freedom-world/2013/andorra>.

31. Greco RC-III(2013)12E.

43. GRECO acknowledged that Andorra was legally equipped to respond to a certain extent to the requirements of the Criminal Law Convention on Corruption. However, the restrictive manner in which some of the bribery and trading in influence offences were incriminated could explain in part the absence of prosecutions and convictions for such offences, and even of cases pending. Andorra needed to provide stiffer penalties for bribery and trading in influence offences.

44. GRECO noted that thanks to legislative improvements, undue advantage was no longer necessarily of a financial nature but could take any form, and the concepts of third-party beneficiary and indirect bribery had been introduced. Bribery of members of parliament from other countries had also been established as an offence. Improvements were noted with regard to bribery of jurors and arbitrators. However, Andorra continued to avail itself of its right of reserve regarding bribery offences in the private sector and trading in influence. According to GRECO, a number of other questions still needed to be addressed notably the issue of extraterritorial jurisdiction of its judicial authorities and the conditions for extinguishment from liability based on the “effective regret” provision. On 20 February 2015, Andorra ratified the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191), following GRECO’s recommendation.

45. Concerning the transparency of political party financing, in its 2011 report GRECO called on the authorities to make considerable changes to its legislation by requiring, in particular, that political groupings publish their accounts on a regular basis (including the names of major donors and support in kind). GRECO insisted on the need for a more effective supervision of political financing and for a more extended range of proportionate and dissuasive sanctions. The GRECO 2013 compliance report noted that out of its ten recommendations related to transparency of political financing, none were satisfactorily implemented. At the time of the preparation of the GRECO compliance report, work at national level was ongoing on the preparation of the “Political parties’ bill”. While acknowledging the improvements foreseen in the draft legislation, such as the rules on various sources of funding used by parties and monitoring of their annual accounts, the GRECO report highlighted certain aspects requiring further clarification, such as the scope of application, interlinking and harmonisation of the legislation, the annual publication of parties’ accounts and publication of the names of major donors. In the meantime, on 19 September 2014, the law on the funding of political parties and election campaigns was adopted by the General Council, and was implemented during the general elections of 1 March 2015. GRECO is expected to assess the newly adopted legislation. The situation report on further implementation of the GRECO recommendations was due for submission on 30 April 2015. This new legislation will be assessed in this framework.

46. Concerning money laundering and financing of terrorism, at its 44th plenary meeting in Strasbourg from 31 March to 4 April 2014, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) took note of a follow-up report on Andorra that is still confidential. While acknowledging some progress in the legislation on money laundering and terrorist financing offences, in its previous public report of 2012 MONEYVAL insisted on the need to improve measures to combat money laundering and terrorist financing. Although Andorra had the necessary legislation for the seizure and confiscation of criminal assets in place, criminal justice bodies’ effectiveness remains insufficient due to the lack of means. No regulatory framework for freezing terrorist assets in accordance with United Nations Security Council Resolutions had been adopted. In the field of preventive measures, further improvements were still needed and the supervision mechanisms in place to ensure compliance appeared to lack effectiveness. The report also concluded that the Andorran Financial Intelligence Unit had insufficient human and technical resources to perform its tasks. While Andorra’s international co-operation system and practice appeared sound and effective, there were some deficiencies regarding exchange of information and co-operation with foreign supervisory authorities.

47. In the meantime, in November 2014, the government approved amendments to the Law on international criminal co-operation and the fight against money laundering and the financing of terrorism that are based on the old recommendation 26 of the Financial Action Task Force (FATF) – new Recommendation 29. Their aim is to strengthen the autonomy of the Financial Intelligence Unit (former “FIU”, now the “UIFAND”) by regulating its composition (including the appointment and dismissal of its Director), competences and functions, and to improve the processing and notification to the law-enforcement agencies. In its follow-up report of September 2015, MONEYVAL will assess these legislative provisions as well as the amendments to the Criminal Code, to the law on criminal procedure and to the Law on Insurance which were adopted by the parliament on 16 July 2015. These changes are aimed *inter alia* at increasing the criminal penalties for very serious cases of smuggling, introducing an offence of self-laundering and establishing anti-money laundering supervision for insurance-related activities.

48. In 2012, the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report³² on its last visit of 2011 together with the authorities’ comments. Since then, in the framework of the consideration by the United Nations Committee against

Torture in November 2013,³³ the authorities have reported on their efforts to improve the infrastructure of detention facilities, regulations, conditions of detention of minors, health and sanitary issues as well as training for prison staff. At this stage, there is no information on a future CPT visit to Andorra.

49. There is no other specific concern in the area of the rule of law in Andorra.

6. Conclusions and recommendations

50. Overall, Andorra has been honouring its membership obligations to the Council of Europe in the period under review.

51. The country has carried out a number of important reforms in recent years, demonstrating its clear capacity and will to reconcile its European identity with its domestic specificities. The country is engaged in a reform of its economy so as to enhance economic transparency and has progressed in the implementation of standards on good governance in fiscal transparency and co-operation matters, as acknowledged by its international partners.

52. The ongoing judicial reform has already resulted in improvements in the justice system, notably concerning the management of judicial organisation and the allocation of criminal cases. The reform needs to be further continued, notably with regard to changes in career management in the judicial field.

53. In addition, the country has made substantial efforts to develop an effective integration policy striving to increase the level of integration of non-Andorrans. Important reforms have been carried out with regard to economic welfare benefits, entitling all people resident in Andorra to social and other services. A more accomplished integration policy could benefit from a greater involvement of non-Andorrans in the democratic processes.

54. The ratification in 2014 of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence further demonstrate Andorra's commitment to the protection and promotion of human rights, as does the adoption by the Andorran Consell General in January 2015 of a law to combat domestic violence.

55. Andorra has so far not signed/ratified certain Council of Europe conventions. Based notably on the findings of the main Council of Europe monitoring mechanisms, Andorra should be encouraged, *inter alia*, to sign and ratify the European Convention on Nationality and the Additional Protocol to the European Social Charter providing for a system of collective complaints. I welcome the announcement by authorities that they will ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems by the end of 2015.

56. The question of the lack of independence of the media from financial, political and religious interests remains a potential source of concern that will need to be followed closely. The independence of the media needs to be guaranteed both in principle and in practice, and measures should be taken by the authorities to ensure that pressure is not exerted on them.

57. The authorities have recently reported to GRECO and MONEYVAL on the action initiated for the implementation of their recommendations, which will be assessed in the following months by the specialised monitoring bodies. The authorities should continue with the implementation of the outstanding GRECO and MONEYVAL recommendations, taking into account the conclusions of their forthcoming reports.

58. In the light of the findings of the Council of Europe monitoring mechanisms, a certain number of additional issues raise concerns and should be addressed by the authorities before the next periodic review. The committee therefore recommends that the authorities:

58.1. further implement the recommendations of ECRI and continue efforts towards the adoption and implementation of a comprehensive criminal legislation relating to racism and intolerance;

58.2. work on the preparation of a national legislation on asylum seekers and refugees;

58.3. further develop the means to ease the residence requirement for application for Andorran citizenship and explore ways to introduce dual citizenship into national legislation.

32. www.cpt.coe.int/documents/and/2012-11-15-eng.htm.

33. [www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/44143E155FB3D475C1257C21005F5320?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/44143E155FB3D475C1257C21005F5320?OpenDocument).

- 58.4. explore the legal possibility to grant non-Andorrans the right to take part in local elections;
- 58.5. implement the recommendations made by GRETA and the Committee of the Parties to combat trafficking in human beings in particular the proactive approach towards identification of victims and the measures to be taken to provide assistance and protection to all victims.

Appendix

Council of Europe conventions signed and/or ratified between 1 October 2013 and 30 July 2015 by Andorra

CETS No. 127: Convention on Mutual Administrative Assistance in Tax Matters

Signature: 5/11/2013

CETS No. 191: Additional Protocol to the Criminal Law Convention on Corruption

Ratification or accession: 20/2/2015; Entry into force: 1/6/2015

CETS No. 201: Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

Ratification or accession: 30/4/2014; Entry into force: 1/8/2014

CETS No. 208: Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters

Signature: 5/11/2013

CETS No. 210: Council of Europe Convention on preventing and combating violence against women and domestic violence

Ratification or accession: 22/4/2014; Entry into force: 1/8/2014

CETS No. 213: Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms

Ratification or accession: 27/5/2015

Recent findings of Council of Europe monitoring mechanisms and other bodies as at 30 July 2015

European Court of Human Rights	European Convention on Human Rights (ETS No. 005) ratified in 1996 Protocol No. 1 (ETS No. 009) ratified in 2008 Protocol No. 2 (ETS No. 044) ratified in 1996 Protocol No. 6 (ETS No. 114) ratified in 1996 Protocol No. 12 (ETS No. 177) ratified in 2008 Protocol No. 13 (ETS No. 187) ratified in 2003 Protocol No. 14 (CETS No. 194) ratified in 2006 Out of a total of 69 900 applications pending before a judicial formation on 31 December 2014, 4 concerned Andorra. 0 Resolution adopted by the Committee of Ministers in 2013, 2014 and 2015. See Press country profile Andorra
Congress of Local and Regional Authorities	European Charter on Local Self-Government (ETS No. 122) ratified in 2011 There has been no monitoring report by the Congress to date.
Group of States against Corruption (GRECO)	Civil Law Convention on Corruption (ETS No. 174) signed in 2001 but not ratified Criminal Law Convention on Corruption (ETS No. 173) ratified in 2008, Additional Protocol (ETS No. 191) ratified in 2015 <i>Third evaluation round: compliance report on Andorra: "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of party funding" adopted by GRECO at its 61st plenary meeting, Strasbourg, 14-18 October 2013, Greco RC-III(2013)12E</i>

Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) ratified in 1999 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) neither signed nor ratified <i>Report on the 4th assessment visit: Anti-Money Laundering and Combating the Financing of Terrorism: Andorra</i> adopted by MONEYVAL at its 38 th Plenary, Strasbourg, 5-9 March 2012, MONEYVAL(2012)1
Commissioner for Human Rights	<i>Follow-up report to the recommendations of the Commissioner for Human Rights following his visit to the Principality of Andorra from 10-12 January 2001</i> , CommDH(2003)7 Last visit by the Commissioner to the country in February 2012
European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)	Convention (ETS No. 126) ratified in 1997, Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152) ratified in 2000 Last country visit: November-December 2011 Publication of the last report: November 2012, CPT/Inf (2012)28 (in French only)
Group of Experts on Action against Trafficking in Human Beings (GRETA) and Committee of the Parties	Convention (CETS No. 197) ratified in 2011 1 st Evaluation Round: - Evaluation visit in November 2013 GRETA's Evaluation Report and Government's Comments published in September 2014, GRETA(2014)16 - Recommendation CP(2014)14 of the Committee of the Parties adopted in December 2014
Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and Committee of the Parties	Convention on preventing and combating violence against women and domestic violence (CETS No. 210) ratified in 2014
European Commission against Racism and Intolerance (ECRI)	The 4 th report on Andorra was adopted in March 2012 and made public in May 2012, CRI(2012)24 Conclusions adopted in March 2015 and published in June 2015, CRI(2015)21
Venice Commission	No opinion concerning Andorra

Other Treaties:

Framework Convention for the Protection of National Minorities	Convention (ETS No. 157) neither signed nor ratified
European Charter for Regional or Minority Languages	Convention (ETS No. 148) neither signed nor ratified
European Social Charter	European Social Charter (revised) (ETS No. 163) ratified in 2004 Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified See Country factsheet Andorra