



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
17 January 2023  
English  
Original: Spanish  
English, French and Spanish only

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**Committee against Torture**

**Second periodic report submitted by Andorra  
under article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2017\***

[Date received: 9 August 2022]

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\* The present document is being issued without formal editing.



## **I. Replies to the points raised in the list of issues prior to submission of the report**

### **Articles 1–4**

#### **Reply to paragraph 2 of the list of issues (CAT/C/AND/QPR/2)**

1. Perpetrators of crimes of torture are liable to a prison sentence of 4 to 12 years and 15 years' suspension of civic and civil rights, regardless of their status.
2. Any attempt, conspiracy or incitement to commit such crimes is punishable under article 110 of the Criminal Code.
3. Penalties may be increased when the crime is committed using means of torture that cause particularly intense suffering or that pose a danger to the victim's life. In such cases, the court may increase the penalties by up to half of the upper limit (Criminal Code, art. 110).
4. Disciplinary and criminal sanctions are in place to punish acts of torture committed by police and prison officers.
5. The new wording of article 110 of the Criminal Code includes a definition of torture that encompasses the elements contained in article 1 of the Convention:

Torture is committed by an official or public servant who, abusing his or her position, directly or through another person, subjects a person to conditions or procedures that produce severe physical or mental suffering, if at least one of the following purposes or motives is present:

- (a) To obtain from that person or a third person information or a confession;
  - (b) To intimidate or coerce that person or a third person;
  - (c) To punish that person for an act that he or she or a third person has committed or is suspected of having committed;
  - (d) For any motive based on discrimination.
6. Articles 111 and 112 of the Criminal Code are reproduced below:

#### Article 111. Failure to prevent or report torture

Any official or public servant who does not use all the means at his or her disposal to prevent the commission of torture by a subordinate shall be liable to the same penalties provided for torture.

Any official or public servant who, excepting the cases included in the preceding paragraph, does not prevent or report acts of torture of which he or she has direct knowledge shall be liable to the penalties provided for the perpetrators of torture, with the reductions provided for in article 53.

#### Article 112. Degrading treatment

Any official or public servant who, abusing his or her position and except in the cases constituting torture, subjects a person to degrading treatment shall be liable to a prison sentence of 3 months to 3 years and disqualification from holding public office for up to 5 years, without prejudice, where appropriate, to the penalties applicable to the offences committed as a result.

#### **Reply to paragraph 3 of the list of issues**

7. The amended Criminal Code (art. 110) also increased the penalty for the crime of torture to more than 10 years' imprisonment. It now stands at 12 years, in line with the penalties for the crime of genocide.
8. Article 456 of the Criminal Code, on genocide:

1. Anyone who, in execution of a premeditated plan to destroy, in whole or in part, a national, ethnic or religious group, or a particular group defined by any other arbitrary criterion, commits one of the following crimes shall be liable to:

- (a) A prison sentence of 20 to 30 years in the case of homicide or murder;
- (b) A prison sentence of 15 to 20 years in the case of the abduction of members of the group in question and their subsequent disappearance;
- (c) A prison sentence of 10 to 15 years in the case of the forced deportation of all or some of the members of the group in question;
- (d) A prison sentence of 10 to 20 years in the case of the imposition of living conditions likely to bring about the total or partial destruction of the group in question;
- (e) A prison sentence of 8 to 12 years in the case of the imposition of measures on the whole or part of the group in question with intent to prevent or hinder births;
- (f) A prison sentence of 8 to 12 years in the case of inhuman or degrading treatment or reduction to slavery of the whole or part of the group;
- (g) A prison sentence of 8 to 16 years in the case of sexual assault.

9. Article 81 of the Criminal Code, on the statute of limitations, provides that “criminal proceedings for the prosecution of the crime of torture, the crime of genocide and crimes against humanity are not subject to any statute of limitations”. Article 84 of the Criminal Code, on the statute of limitations for punishment and security measures, provides that “the penalties imposed for the crime of torture, the crime of genocide and crimes against humanity are not subject to any statute of limitations”.

## Article 2

### Reply to paragraph 4 of the list of issues

10. Anyone suspected of committing the crime of torture or degrading treatment enjoys, from the moment of arrest, the same guarantees as a person who has committed any other type of crime, according to articles 24 and 25 of the Code of Criminal Procedure. If the statement taken from a witness indicates that he or she participated in the crime, the proceedings will be suspended immediately and conducted in accordance with article 24 of the Code of Criminal Procedure.

11. Any suspect who gives a statement to the police must be informed of the charges against them and the reasons for their possible deprivation of liberty, as well as of their rights (Code of Criminal Procedure, art. 24). They will be asked whether they wish to receive legal assistance, to be examined by a doctor and to communicate with a family member.

12. Article 24 of the Code of Criminal Procedure:

1. Any suspect or detainee who makes a statement to the police, or whose home must be searched or identity checked, shall be informed, immediately and in a form they understand, of the acts giving rise to the investigation and of the reasons for their possible deprivation of liberty, as well as of the following rights:

- (a) The right not to testify;
- (b) The right not to be compelled to testify against themselves or to confess guilt;
- (c) The right to read the statement themselves and to make any changes or clarifications they deem necessary;
- (d) The right to designate a lawyer and to request that the lawyer be present to assist them when their statement is being taken and to intervene in any home searches and identity checks to which they may be subjected. If the suspect or detainee

does not designate a lawyer, or if the designated lawyer does not accept the appointment or cannot be located, and unless they expressly waive this right, the duty lawyer will act on their behalf, provided that the offence under investigation constitutes a crime. At any time, and despite having expressly waived this right, the suspect or detainee may designate a lawyer or request the assistance of the duty lawyer;

(e) The right to have the fact of their detention and the place where they are being held immediately brought to the attention of a family member or a person designated by them;

(f) The right to the assistance of an interpreter free of charge in the case of a foreigner who does not understand or speak the national language or one of the languages of the neighbouring states;

(g) The right to be examined by the forensic doctor and by a physician of their choice – in the latter case at their own expense – who shall appear within 45 minutes and who shall deliver the corresponding report in writing at the end of the examination.

2. The statement made to the police shall state the time of the beginning and end of the taking of the statement and any interruptions.

The suspect should remain at the police station only for the time necessary to make a statement. In any case, in the case of both a suspect and a detainee, the interrogations may not last more than four hours at a time, and there must be a rest period of at least one hour between each interrogation.

A detainee is entitled to enjoy an uninterrupted rest of at least 8 hours for every 24 hours of detention.

13. Police Service Instruction I004 requires that a copy of the duly signed procedural rights sheet be given to every detainee. This signed sheet will be placed in the bag in which the personal belongings of the detainee are kept and will be handed over when these belongings are returned.

14. Article 25 of the Code of Criminal Procedure, on the right to legal counsel:

1. In order to guarantee the right to the assistance of a lawyer referred to in the first paragraph of the preceding article, the police shall inform the suspect or detainee that they may designate a lawyer or, if they prefer, request the immediate assistance of the duty lawyer.

2. Once a lawyer has been designated, or the assistance of the duty lawyer has been requested, the police shall notify the lawyer immediately and must inform them of the nature of the offence under police investigation. The lawyer, from that moment on, may review the procedures carried out, talk in private with the suspect or detainee for 30 minutes and be present at all interrogations; they may also ask the police officer to ask questions on any matters of interest and have any comments they wish to make included in the statement. Likewise, the lawyer may take part and assist in any home searches and identity checks to which the suspect or detainee is subjected, and may have any comments they wish to make included in the record.

If the lawyer does not appear within 45 minutes of being summoned, the proceedings may begin in their absence. However, in an emergency and after duly motivated judicial authorization has been granted, the proceedings may be initiated before this deadline, even if the lawyer who has been summoned is not present.

3. In cases of terrorism, the competent judge, at the request of the police, may rule by means of a reasoned decision that the lawyer designated by the detainee could be prejudicial to the ongoing investigations. In this case, a request must be submitted immediately to the Dean of the Bar Association for the appointment of another lawyer to assist the detainee.

4. Statements made in violation of the provisions of the preceding paragraphs shall be null and void.

5. The Bar Association shall organize a duty roster in order to meet, at all times, the obligations arising from the above provisions.

15. Article 92 of the Code of Criminal Procedure provides that forensic doctors, when examining and performing an autopsy on a corpse, must determine whether it bears signs of torture or rape.

16. Health-care services for inmates of the Prison Centre are regulated by an agreement between the Andorran Health Service, the Department of Penitentiary Facilities and the Andorran Social Security Fund. This agreement is being amended to extend coverage in the field of mental health, as well as general practice.

17. Police Operating Protocol 02/12, which serves as a guide to regulating the treatment of detainees, provides for the following:

(a) (3.2) All movements of detainees are to be recorded in the Cells software program;

(b) (3.7) When there is any movement by the detainees and/or a request from them, and the officer on duty has to leave the control room, the shift supervisor is to be notified and an officer is to be instructed to watch over the detainees, requesting the supervisor's presence if necessary;

(c) (7.2) Except when requested by the physician, the visit between the forensic doctor and the detainee shall be private, without the presence of any officer, in order to protect the detainee's privacy;

(d) (7.4) No detainee shall be given medication that has not been prescribed or verified by a physician requested to do so, whether by the forensic doctor or another physician if the detainee is being held in Pas de la Casa;

(e) (7.5) If the detainee does not reside in the Principality and has a prescription or medication from his or her country of origin, the prescription and dosage must be validated by the forensic doctor on duty, who will validate it or refer the detainee to the emergency department of the Nostra Senyora de Meritxell hospital, to ensure that he or she receives the proper treatment;

(f) (7.6) All medical prescriptions must specify, in addition to the medication, the correct dosage. This information will be recorded in the "Observations" section of the Cells software program;

(g) (7.7) The police officer on duty in the control room of the detention facility is responsible for supplying the medication, giving the person concerned a single dose and making sure that he or she takes it;

(h) (7.8) The rest of the medication is kept out of the detainee's reach in the control room;

(i) (10.2) When the detainee is released, a summary of the actions taken during detention is printed out. This form must be signed by the detainee and by the police officer overseeing the release. This form, together with the completed and signed "Note on detention for counsel" form, must be filed in the folder set aside for this purpose. The detainee must sign the register of detainees held in the cells at the Office;

(j) (12.2) The A.S.P.P.C. commanders on duty in the Central Office will visit the detainees, and the visit will be recorded in the software program by the officer on duty in the control room;

(k) (12.3) The commander on duty shall inform by email the chief and deputy chief of the Citizen Security Unit of any shortcomings detected and shall undertake the appropriate actions to correct them;

(l) (12.4) The A.S.P.P.C. officer-in-charge during the night shift shall ensure that a patrol is carried out at least twice during the week, and once on weekends, in all facilities in the security zone.

**Reply to paragraph 5 of the list of issues**

18. In order to reduce the number of people in pretrial detention, more use has been made of non-custodial measures such as monitoring, weekly or monthly court appearances (Code of Criminal Procedure, art. 102) and medical, psychiatric or psychological treatment.

19. Article 108 of the Code of Criminal Procedure provides for the possibility of extending, by reasoned decision, pretrial detention with the authorized provisional control measures when the crime of torture has been committed:

Pretrial detention or custodial arrest with or without monitoring may not exceed four months.

However, the competent judge may, by means of a reasoned decision, extend this period by the same period, after which, in the case of misdemeanors, conditional release must be granted. In the case of felonies, and only with respect to pretrial detention, no more than two extensions of four months may be granted. A third extension is possible for cases involving homicide, murder, torture, slavery, sexual assault or abuse, drug trafficking, kidnapping, child trafficking, arms trafficking, exploitation of prostitution, terrorism, financing of terrorism, laundering of money or securities, conspiracy to attack the Principality or the constitutional order, and crimes against the international community. Exceptionally, in the case of particularly serious offences, a fourth extension may be granted at the request of the Public Prosecution Service.

In any case, the period of pretrial detention may not exceed half of the maximum penalty provided for in the Criminal Code for the offence or offences with which the defendant is charged, taking into account the system of accumulation of penalties, and the period under arrest may not exceed eight months.

**Reply to paragraph 6 of the list of issues**

20. All interviews with persons deprived of liberty conducted in interrogation rooms are recorded; the recordings are kept for one-and-a-half to three months, as a safeguard against ill-treatment or torture (as well as to protect against unfounded allegations of such practices).

21. In addition, article 24 of the Code of Criminal Procedure establishes a number of guarantees, as shown by the wording of the article reproduced in paragraph 12 above.

22. The Act on the Public Prosecution Service regulates the functions entrusted to the Service, particularly that of receiving complaints which, after it has carried out the relevant verification and ordered – where appropriate – a preliminary investigation, it transmits to the judicial authority if it considers that there are grounds for action.

23. This function is provided for in article 3 of the above-mentioned Act:

Within the scope of the mission entrusted to it, the Public Prosecution Service: ...

3. Directs police action in the investigation of acts that might constitute a criminal offence, may order investigations to obtain evidence and may control the appropriateness and duration of police custody. To this end, it issues instructions to the Director of Police, who designates the officers responsible for carrying them out and ensures that they are carried out. These functions shall cease, in each case, once an investigating judge has opened preliminary or summary proceedings.

24. Both article 5.2 (c) of the Qualified Police Force Act and article 7 (c) of the Qualified Penitentiary Act provide that officers must abide by the principles of hierarchy and subordination and that in no case may due obedience justify carrying out orders that entail the execution of acts constituting a crime or that contravene the Constitution or the law.

25. In addition, articles 97 and 98 of the Qualified Police Force Act allow for the punishment of police officers who have committed acts of torture. Article 97 establishes the following as very serious misconduct:

(t) Infringement of the rights and dignity of detainees and persons in their charge and, specifically, any abusive, arbitrary or discriminatory practice involving physical or mental violence.

(u) Inflicting torture or inhuman or degrading treatment on detainees or other persons under their responsibility.

(x) Violation of the legal norms applicable to the detention of a person.

26. Articles 101 to 111 of the Qualified Police Force Act provide for disciplinary measures and sanctions that, beyond any criminal proceedings that might be opened, are applicable to offences committed by officers.

#### **Reply to paragraph 7 of the list of issues**

27. Chapter V of the Criminal Code covers discrimination offences. Act No. 40/2014 of 11 December 2014, amending Act No. 9/2005 of 21 February 2005 containing the Criminal Code, amended the wording of article 338 to prevent new discriminatory criminal behaviours that had not yet been criminalized. The current article 338.1 includes discriminatory criminal behaviours punishable with a prison sentence of between 3 months and 3 years:

(a) Incitement to violence, hatred or discrimination against a person or group of persons;

(b) Public insult, slander, defamation or threat aimed at a person or group of persons;

(c) The public expression, by any means, of an ideology or doctrine that affirms the superiority of a group of people, or that disparages or denigrates one;

(d) The dissemination or public distribution of any material containing images or statements included in the above behaviours.

28. The public expression of a discriminatory ideology covers not only wide dissemination but also expressions made in private meetings or on the Internet.

29. Article 30 of the Criminal Code, on aggravating circumstances applicable to all crimes, read together with article 19 (incitement), article 115 (aggravated ill-treatment or injury) and article 116 (aggravated assault), ensures that discrimination and incitement to violence against vulnerable groups are penalized.

30. Article 30 of the Criminal Code:

The following circumstances aggravate criminal liability:

1. Executing the act with great cruelty, intentionally increasing the suffering of the victim by causing suffering that exceeds that which is necessary for the execution of the crime.

2. Executing the act with malice aforethought, using means that contribute directly to completion of the action without giving the aggrieved party the chance to defend himself or herself.

3. Abuse of authority, seniority or trust.

4. Seeking or taking advantage of the circumstances of place, time or the presence of other persons that could facilitate the execution or increase the injury to the victim.

5. The particular vulnerability of the victim in view of their age, physical or psychological condition, disability or other similar circumstance.

6. Committing the act with a discriminatory motive. A discriminatory motive consists of the taking into consideration, with respect to a natural person, of birth, national or ethnic origin or membership, colour, sex, religion, philosophical, political or trade union opinion or any other personal or social condition, such as physical or mental disability, lifestyle, customs, language, age, or sexual identity or orientation.

7. Recidivism. Recidivism exists when, at the time of committing the crime, the offender has been convicted by final judgment of a crime carrying the same or a higher penalty, or of several crimes, even if they carry a lower penalty. In any case, only crimes under the same section of the law and of the same nature will give rise to recidivism. The offender's criminal record will not be taken into account when the conditions legally established for the rehabilitation of the offender are met.

With regard to the crimes of drug trafficking, kidnapping and the illegal sale of arms, those related to prostitution, terrorism, counterfeiting of currency and money laundering, and all crimes committed by way of organized crime, and those mentioned in article 8, paragraph 6 (d), past convictions abroad for acts constituting the same crimes as those provided for in this Code will be treated on the same footing as past domestic convictions for the application of this circumstance.

8. Committing the offence by means of payment, promise or reward.

9. If the victim is an official or authority and the criminal offence was committed when he or she was performing his or her duties or by reason of those duties.

31. Andorra has been working for years to eradicate gender inequalities. The national strategy for the promotion of a culture of equality in society and institutions was determined by the adoption of the Parliamentary Decision of 15 January 2015 on the preparation of the White Paper on Equality.

32. Although the Parliamentary Decision referred to the collection of information on the situation regarding gender equality, when the work was begun by the Ministry of Social Affairs, Justice and the Interior and the Institute of Andorran Studies, vulnerable groups were included in the analysis: the elderly, children and youth, immigrants, LGBTIQ people and people with disabilities.

33. Although there was already a chapter dedicated to the situation of women in Andorra, the principle of a gender perspective was taken into account in the preparation of the White Paper. The resulting study came up with 10 priorities in the area of equality:

(a) Draft a law on equality and non-discrimination and define a specific legal framework to respond to the future needs of the most vulnerable groups;

(b) Establish an Equality Observatory to provide information, collect and interpret data, provide resources and carry out studies and evaluations in the area of equality and non-discrimination;

(c) Draft a comprehensive law on child protection to ensure that the current changes require new policies on children to address all aspects of life for this group;

(d) Draw up an equality and non-discrimination programme with various measures aimed at the groups targeted in the White Paper;

(e) Promote a social entities platform to enhance the participation of, and relationship between, citizens, social entities and public authorities;

(f) Run awareness, information, training and promotional campaigns on a culture of equality in all social sectors that make intensive use of the new public spaces for communication based on the use of information and communication technologies;

(g) Design a programme to facilitate the reconciliation of personal and professional life with action designed to increase women's participation in social, political and economic life and eliminate the gender gap;

(h) Draw up a comprehensive plan on access for the most vulnerable groups to the labour market (integrating the current strategy to provide people with disabilities with such access), with the aim of coordinating and monitoring the different paths to social inclusion and access to jobs;

(i) Draw up a programme for the social inclusion of immigrants and for interactions, exchanges and recognition to facilitate their integration;



(j) Incorporate social clauses in government contracts, to involve and share responsibility with the business sector in the fight against inequalities and to promote socially sustainable public procurement policies.

34. Andorra has ratified the Council of Europe Convention against Trafficking in Human Beings of 16 May 2005. In accordance with the recommendations made by the Group of Experts on Action against Trafficking in Human Beings (GRETA), it has introduced in the Criminal Code certain types of conduct that constitute the crime of human trafficking for the purposes of sexual exploitation, slavery or servitude, labour or organ removal, and has adopted Act No. 9/2017 of 25 May 2017, on measures to combat human trafficking and protect victims of it.

35. The Act led to the adoption of the Protocol on Action to Protect Victims of Human Trafficking ([https://www.bopa.ad/bopa/030036/Documents/GV20180607\\_11\\_25\\_30.pdf](https://www.bopa.ad/bopa/030036/Documents/GV20180607_11_25_30.pdf)) and the establishment of the Service for Victims of Human Trafficking, introducing a period of reflection and recovery for victims without legal residence and specifying that they may not be subjected to administrative expulsion measures without a ruling by the police or judicial authorities on their status.

36. The Ministry of Justice and the Interior has set up a working group to adopt and implement a strategic guidance document on the fight against trafficking and the protection of victims, as well as its follow-up. The working group is made up of representatives of the Ministry of Justice and the Interior, the Office of the President and the ministries of social affairs, economy and enterprise, and health, as well as judges and prosecutors. Other governmental or external stakeholders can be added, if necessary. Non-governmental organizations and other civil society organizations may also participate. The working group will meet once a year to follow up on actions taken in relation to the trafficking situations detected and to ensure good inter-institutional coordination. It may also meet in special session at the request of a member, in the event of legislative changes or changing circumstances.

37. In labour matters, it is worth mentioning the adoption of Act No. 31/2008 of 6 December 2008, on labour relations, and Act No. 4/2019, of 31 January 2009, on employment. Both acts include measures on equality and non-discrimination, in the area of both labour relations (equal pay, invalidity of discriminatory decisions) and State planning with regard to employment (joint responsibility of women and men to reconcile work and family life).

38. The adoption of Act No. 13/2019 of 15 February 2019, on equal treatment and non-discrimination, is particularly noteworthy. The purpose of the Act is to provide framework legislation for the application of the principle of equal treatment and non-discrimination as a right, in a comprehensive and cross-cutting manner, using basic definitions of the concept that must predominate in all sectors of social life. For the first time, the reversal of the burden of proof is regulated in the Andorran legal system and, as a pioneering measure, the principle of equal pay is included, with the possibility of rectifying salary differences as soon as discrimination is detected. The legal text culminates in the regulation of a sanctions regime to guarantee compliance with the Act.

39. The implementation of Act No. 13/2019 entails the establishment of an Equality Observatory endowed with adequate finances and resources, and the approval of a four-year plan (a comprehensive plan for equal treatment and non-discrimination, the promotion of employment in line with the new labour relations legislation, a programme for the social integration of immigrants and a programme for true equality between women and men).

40. The department-wide introduction of a gender perspective in programmes, policies and regulations will require training for the technical staff in charge of the different departments. The reform of the Parliamentary Regulations of 7 February 2019 facilitates their application by stating that the bills adopted by the Government must be accompanied by a note explaining how the proposal incorporates a gender perspective.

41. Temporary affirmative action measures are planned to reverse the gender inequalities identified in the White Paper on “Equality: the wage gap and horizontal and vertical segregation, which negatively affect women”.

42. The implementation of a sanctions procedure in the area of equality and non-discrimination requires training for the different inspectors and awareness campaigns to ensure the effectiveness of the sanctions in eradicating discrimination. The campaigns promote a culture of equality, respect for diversity and the full participation of women and men in public and private life.

43. Finally, it is worth mentioning Act No. 6/2022 of March 31 2022, on the effective implementation of the right to equal treatment and opportunities and non-discrimination between women and men, which reflects the political will to eliminate the structural inequality of women in all areas of life, in order to achieve a fairer and more democratic society. The Act is based on the White Paper on Equality, the purpose of which is to analyse information on the situation regarding equality, in order to identify priorities that promote a culture of equality.

44. The Act hinges on five fundamental objectives: (i) mainstreaming the principle of equal treatment and non-discrimination between women and men, in particular by including a gender perspective in the design of all public policies; (ii) a balance between women and men in political representation and public participation; (iii) the implementation of affirmative action measures designed to ensure equal opportunities for women and men in the public and private sectors; (iv) the promotion of a healthy work/life balance and joint responsibility for care-giving tasks in the family sphere; (v) the promotion of balanced participation of women and men in the labour market and equal treatment in labour relations.

45. The Act makes several amendments to the Criminal Code:

#### **Article 30. Aggravating circumstances**

6. Committing the act with a discriminatory motive.

A discriminatory motive consists of unfavorable or exclusionary treatment of a person or group, or treating them as inferior, by reason of birth, nationality or lack of nationality, racial or ethnic origin, sex or female gender, religion, philosophical, political or trade union beliefs or opinion, language, age, disability, sexual orientation, gender identity or expression, or any other personal or social condition or circumstance. ...

#### **Article 114 bis. Gender-based violence**

1. Anyone who uses physical or psychological violence based on discrimination on grounds of sex or gender against a woman simply because she is a woman, which causes or is likely to cause physical, sexual, psychological or economic harm or suffering, as well as the threat of such harm or suffering, coercion or arbitrary deprivation of liberty, whether in public or private, shall be liable to a prison sentence of up to 2 years, without prejudice to the penalties applicable for the harm caused.

2. A spouse, or anyone who is or has been in a similar emotional relationship with a woman, who is violent towards the woman, as a manifestation of the situation of inequality and men's power over women, shall be liable to a prison sentence of 3 months to 3 years, without prejudice to the penalties applicable for the harm caused.

#### **Article 116. Aggravated assault causing bodily harm**

3. Anyone who incites or coerces a person to submit to the acts described in the preceding paragraph shall be liable to the same penalty, which will also be determined according to whether the victim is a minor or of legal age.

4. Anyone who provides a person with the means to submit to any of the acts described in paragraph 2 shall also be punished. The penalty shall be the same as that provided for the perpetrator of the principal act if the means provided are essential for the production of the result and shall be reduced to half of the minimum and maximum limits provided for by law in other cases of incitement.

#### **Article 144. Sexual assault**

1. Anyone who, without consent, or with vitiated consent, or by means of violence or intimidation, forces a person to take part in sexual conduct or relations shall be liable to a prison sentence of 3 months to 3 years.

2. For the purposes of the preceding paragraph, sexual conduct or relations committed on a person who is sensory-deprived, unconscious or incapable of resisting, or with abuse of his or her incapacity, is understood to have been committed without consent or with vitiated consent. However, sexual conduct or relations with persons under 14 years of age are understood to be committed without consent.

3. An attempt is punishable.

#### **Article 146. Aggravated assault**

1. Sexual assault shall be punishable with a prison sentence of 2 to 7 years in the circumstances set out in article 144 and with a prison sentence of 6 to 15 years in those set out in article 145, in any of the following circumstances:

(a) When the act is carried out in a group, with the participation of two or more persons.

(b) When the guilty party cohabits with or is an ascendant, descendant or sibling of the victim or is a person who exercises, de facto or de jure, family authority over the victim.

(c) When the victim is especially vulnerable due to age, disability, illness or situation. In any case, the victim shall be considered especially vulnerable due to age if he or she is under 14 years of age. In this case, the penalties in the upper half of the range shall be applied.

(d) When, due to the nature of the sexual act, the means employed, the specific circumstances or any other reason, the sexual assault is of a particularly degrading and humiliating character for the victim.

(e) When the assault is carried out from a position of authority, superiority or abuse of trust, or in a situation of need or dependence.

(f) When the victim is sensory-deprived.

(g) When the assault puts the victim's life or physical integrity in danger.

(h) When the aggressor directly, or through the intervention of a third party, leaves the victim in a situation of incapacity, defencelessness or unconsciousness with the intention of carrying out the assault without resistance from the victim, by getting the victim to consume an excessive amount of alcoholic beverages, or through the use of pharmaceuticals, drugs or any other natural or chemical substance.

(i) When the assault is broadcast by means of technology and/or social networks.

2. If two or more of the above circumstances concur, the penalties in the upper half of the range shall be applied.

3. An attempt is punishable in all cases. To propose, by means of information and communication technologies, a meeting with a minor under 14 years of age for the purpose of committing the offence described in articles 144 and 145 is considered an attempt if the proposition has been followed by material acts that might lead to such a meeting.

#### **Article 146 bis. Sexual harassment**

Anyone who adopts a behaviour of a sexual, verbal, non-verbal or physical nature towards a person that is unwanted by that person and that has the purpose or effect of violating that person's dignity, shall be punished with light imprisonment.

#### **Third transitional provision**

The amendments to the Criminal Code adopted by the Act on the effective implementation of the right to equal treatment and opportunities and non-

discrimination between women and men do not affect persons who have been previously convicted under the articles that are repealed in the above-mentioned Act, since there is no decriminalization of the conduct, which continues to be classed as an offence in the new articles.

46. Children and education are cross-cutting priorities for the Government of Andorra that were examined in the first National Voluntary Report on the implementation of the 2030 Agenda in 2018, the implementation of which is of particular interest to Andorra. To guarantee the effective exercise of the human rights of children and adolescents, Qualified Act No. 14/2019 of 15 February 2019, on the rights of children and adolescents, was adopted. The Act is aimed at children and adolescents as bearers of rights and obligations, and their families as guarantors of their all-round development; and also the public institutions responsible for their care and protection, as well as private entities, professionals and society in general, in accordance with the principle of the shared social responsibility of the public authorities, family and citizens, with priority being given to prevention. The Act was drafted taking into account the agreements, treaties and conventions ratified by Andorra (in particular the Convention on the Rights of the Child of 20 November 1989 and its optional protocols, including the one on the sale of children, child prostitution and child pornography, and the treaties related to children of the Council of Europe). Both the Convention on the Rights of the Child and its optional protocols have been ratified, and the appropriate legislative amendments, especially those to the Criminal Code, have been made.

47. The Act provides for an advanced system of protection against all types of ill-treatment, through a new framework for action focused on intervention in situations of risk or neglect, with special emphasis on prevention and raising community awareness to ensure a fundamentally safe and healthy living environment. Between 2015 and 2019, Andorra allocated €815,500 of development aid directly to childhood, education and training programmes.

48. As for the strengthening of the rights and guarantees of minors against whom criminal proceedings are being brought, Act No. 15/2019 of 15 February 2019 introduced changes to regulate issues that lacked regulatory protection. In the first place, jurisdiction to try criminal offences committed by minors was transferred to the Criminal Court (in a unipersonal or collegiate composition, depending on the case), making it the sole court of first instance in criminal matters; its judges have greater knowledge and training in this field, meaning that it can offer more guarantees to minors who are being tried on criminal charges.

49. Moreover, in accordance with the Qualified Act on the Code of Criminal Procedure, minors can be tried on the same basis as adults in criminal proceedings. Thus, proceedings can be concluded more quickly and are easier on the child. The Act makes it compulsory for judges and magistrates who try minors to undergo special in-service training.

50. Regulations governing applications for a retrial and for judicial review, the specific detention regime applicable to minors and the specific disciplinary regime applicable to minors when they are in custody have also been adopted in order to provide minors with better guarantees and protection. Andorra's only prison has a unit adapted for minors, which is separate from the adult wings.

51. The style guide of Radio and Television Andorra (RTVA), the State broadcaster, states that professionals must act with the utmost caution in respecting the rights of the weakest and those who suffer from discrimination. They should thus be particularly careful with news or opinions that might be discriminatory or are likely to lead to violence or degrading practices. In 2019, 60 journalists attended training courses organized for the media on children's rights and gender-based violence.

52. In October 2020, the Government and the University of Andorra signed an agreement on an in-service training programme for professionals who deal with victims of gender-based violence. During the first edition of the programme, training was provided to the police, the Association of Psychologists, public health personnel and members of the Bar Association.

53. In September 2021, the High Council of Justice held an in-service training workshop for members of the judicial service (judges, prosecutors, magistrates and court clerks). In

October, 50 members of the Bar Association were trained on gender-based violence, making use of the duty roster services.

54. In January 2022, the National Commission on Gender-based Violence proposed a training course for trainers from the various ministries and institutions involved in cases of gender-based violence to enable them to train their co-workers.

#### **Reply to paragraph 8 (a) of the list of issues**

55. Policies on gender-based and domestic violence were reinforced during the last session of the legislature (2015–2019). The ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), together with the adoption of the law on the eradication of gender-based and domestic violence, provide a legal basis for developing preventive and intervention policies in accordance with the principles of specialization, a gender perspective, comprehensive action and citizen participation.

56. The Comprehensive Care Team for Women was established in the Equality Policies Unit in 2006 to attend to victims of gender-based violence. Subsequently, pursuant to Act No. 6/2014 of April 24 2014, on social and health services, the Team became the current Service for Victims of Gender-based Violence, which, as part of the portfolio of social and health services, provides support free of charge.

57. The Service for Victims of Gender-based Violence offers comprehensive social, psychological and legal assistance to victims. Its operation revolves around the concept of the “focal point” (a social worker or educator), who conducts interviews to assess the risk to the woman and her dependent children. An individual workplan is established and goals are agreed upon for the victim’s recovery. The importance of the social and educational assistance provided to victims cannot be overstated. The focal point, depending on the needs identified and the woman’s wishes, can call for psychological assistance to address any after-effects the woman may be experiencing, as well as legal assistance to ensure that she is aware of the means and resources available for her protection.

58. As well as intervening directly, the Service cooperates with the other institutions involved (the police, the health and justice departments) to ensure that the victim is cared for in accordance with the relevant protocols and to avoid secondary victimization.

59. A lawyer and a mother-and-child psychologist were brought into the Equality Policies Unit in 2016–2017 to assist, respectively, women victims of gender-based violence and children. Under Andorran legislation, the children of women who are victims of gender-based violence are also considered to be victims whose rights are recognized in law. A social worker and a psychologist specialized in dealing with men who commit violence against women have also joined the Unit; they run a programme to encourage non-violent relationships. A person can be referred to the programme by a judge or public service, or can join it at their own initiative. The main objective is to get the man to take responsibility for his violent behaviour and to learn how to have egalitarian and responsible relationships.

60. The integration of the Service into the Equality Policies Unit means that a budget can be allocated to prevention and intervention programmes. There has been a sizeable increase in the number of shelters for women victims of violence and their children.

61. Likewise, training has been improved in departments that work with victims of gender-based violence. In 2016–2019, specialized training was provided to police, health personnel, emergency services such as the Fire Department, teaching staff and so on. Workshops on the prevention of gender-based and domestic violence are organized by the Equality Policies Unit, together with the Ministry of Education, as part of the School Bullying Prevention Plan. The Unit runs public awareness campaigns, which are available at: <https://www.aferssocials.ad/igualtat/campanyes-25n>.

62. The Service has a free hotline (181) and a WhatsApp number (606181), which are operational all day, every day of the year. Outside office hours, they are operated by a roster of social workers with specialized training in dealing with and assisting victims of gender-based violence.

63. On 15 January 2015, Parliament passed Act No. 1/2015 on the elimination of gender-based and domestic violence, which is designed to prevent and combat all such violence. The principles underlying the Act are prevention as a fundamental and cross-cutting issue, comprehensive intervention, gender mainstreaming and citizen participation. In line with the Istanbul Convention, the Act addresses gender-based violence in the broadest sense, not only in the intimate-partner sphere. The Criminal Code defines the conduct constituting gender-based violence as set out in the Convention: domestic abuse (art. 114), gender-based violence (art. 114 bis), female genital mutilation (art. 116.2), forced marriage (art. 171 bis), sexual assault, sexual abuse and sexual harassment (art. 144 et seq.), prostitution and the exploitation of prostitution (art. 150 et seq.), pornography and sexually provocative behaviour (art. 155 et seq.).

64. The Act prioritizes prevention and sets out guidelines in several areas: education (art. 6), social and health care (art. 7), employment (art. 8), advertising and media (art. 9) and public authorities (art. 10). Likewise, the training of professionals to deal with cases of gender-based and domestic violence includes training on how to deal with victims of violence, which has a preventive effect since it makes it possible to distinguish between what might appear to be a conflict between equals and a situation of gender-based violence.

65. Act No. 1/2015 established the National Commission for the Prevention of Gender-based and Domestic Violence as a political and technical body to coordinate the various government ministries and departments involved. One of the functions of the National Commission was to produce a guide to collaboration and coordination in efforts to combat gender-based and domestic violence. On 5 June 2018, the Commission adopted the guide, which ensures that the actions of the government ministries and departments dealing with gender-based and domestic violence are properly coordinated. The guide contains an introduction that puts the phenomenon of violence against women and domestic violence into context as the ultimate expression of historical discrimination between women and men and what the World Health Organization has called a serious public health problem. It has useful information for professionals offering care and assistance to victims and includes a protocol for the early detection of victims of gender-based violence or women at risk of such violence, including detection indicators, harmonized guidelines for action and lists of specialists.

66. Act No. 1/2015 establishes the right to specialized legal assistance for victims of gender-based and domestic violence. In cases of financial need, legal assistance was already guaranteed in the fields of civil, social and administrative law, but in the field of criminal law was reserved for private offences (against honour). For this reason, it was amended by Decree of 12 July 2017, which allows victims to appear in any criminal proceedings, regardless of the action brought by the Public Prosecution Service. Assistance is free of charge in cases of financial need or economic violence.

67. The Government adopted Decree No. 78/2021 of 24 March 2021, adopting the regulations on the right to a defence and legal assistance and recognizing the right to legal assistance for victims of gender-based and domestic violence and victims of human trafficking in all judicial proceedings, including when filing a complaint. This assistance is free of charge for victims of gender-based and domestic violence without financial resources or who suffer economic violence. To publicize the Service for Victims of Gender-based Violence, information brochures are published in the most widely spoken languages in Andorra. In addition to the official language (Catalan), they have been published in Spanish, French, Portuguese and English.

#### **Reply to paragraph 8 (b) of the list of issues**

68. The Criminal Investigation Police record and investigate complaints of domestic violence, including sexual violence and violence against children. Crimes are investigated before any judicial intervention, and the investigative tasks ordered by judges, the courts or the Public Prosecution Service are carried out. It is a top priority of the police to assist judges, courts and prosecutors in the investigation of crimes and in the identification and arrest of offenders, at the request of others or on their own initiative,

69. The Public Prosecution Service directs the police action to verify acts that constitute a criminal offence, orders investigations to obtain evidence, and controls the duration of

police detention. It gives instructions to the Director of Police, who designates the officers to carry them out. These functions cease once an investigating judge has opened preliminary or summary proceedings (Act on the Public Prosecution Service, art. 3.3). It also intervenes in criminal proceedings, requests and participates in the collection of evidence, the conduct of inquiries and the implementation of precautionary measures in order to identify the criminal acts and those responsible for them, qualifies the acts according to the criminal procedure (Act on the Public Prosecution Service, art. 3.5) and ensures the execution of the final decisions issued by the criminal courts (Act on the Public Prosecution Service, art. 3.9).

#### **Reply to paragraph 8 (c) of the list of issues**

70. The last three cohorts of police officers have received training on gender-based violence as part of their initial training. Since 2002, 270 police officers have received training on gender-based violence. Two police officers in positions of responsibility have taken the domestic violence course with the Spanish National Police.

71. The entire police force receives initial and in-service training. Initial training includes the study of human rights and fundamental freedoms recognized in international treaties and emphasizes that the police must respect the free exercise of those rights and the safety of citizens.

72. The staff of the Prosecution Service have attended courses organized by the High Council of Justice on gender-based violence. Court clerks have also attended courses on gender-based violence, human trafficking and prevention of torture, organized by:

- The High Council of Justice, with annual training plans
- The General Council of the Judiciary of Spain (prosecutors only)
- The National School for the Judiciary of France (prosecutors only)
- The Ibero-American Association of Public Prosecutors
- The Council of Europe or the United Nations

73. Likewise, court clerks have participated in committees and working groups of the Ibero-American Association of Public Prosecutors and the Council of Europe.

#### **Reply to paragraph 8 (d) of the list of issues**

74. As has already been explained, violence against women in its various forms, including sexual assault and harassment, is defined as an offence in the Criminal Code.

75. Act No. 1/2015 of 15 January 2015, on the elimination of gender-based and domestic violence, in its article 23 on judicial protection, states that anyone who considers themselves a victim of gender-based or domestic violence may bring the relevant criminal actions, as well as a civil action to obtain judicial protection and put an end to the violation of their rights, take the necessary steps to stop the violation and prevent further violations, and obtain redress or compensation for all the harm caused, including psychological and financial harm.

#### **76. Article 14:**

- (i) To ensure comprehensive intervention, specialized professionals shall provide social, medical, psychological and legal assistance. These professionals shall act collaboratively and in a network;
- (ii) Social, medical, psychological and legal assistance to victims shall be provided on the same premises or nearby, whenever possible, unless the nature of the case makes this inadvisable;
- (iii) The presence of a translator should be guaranteed when necessary, and efforts should be made to ensure that the same translator is used throughout the intervention and recovery process;
- (iv) Social, medical, psychological and legal assistance and other intervention measures are provided regardless of the victim's willingness to take legal action or to testify against the aggressor;

- (v) The relevant government departments and services must draw up protocols which, in addition to setting out the procedures to be followed in the event of an intervention, must establish the procedures to be followed in the collection of evidence in case a judicial process is instigated in the future.

77. The Government manages the shelter facilities. The Service for Victims of Gender-based Violence has five apartments that can each accommodate two families.

#### **Reply to paragraph 9 of the list of issues**

78. The right to life is protected in its different phases by article 8 of the Constitution; violations of it are defined as an offence in articles 107, 108 and 109 (crimes against human life) of the Criminal Code. To decriminalize abortion under certain circumstances, it would be necessary to amend article 8.1 of the Constitution, which requires the approval of a parliamentary majority. In November 2019, Andorra established the Sexual and Reproductive Health Service, a joint project of the State Secretariat for Health; the State Secretariat for Social Affairs, Housing and Youth; and the State Secretariat for Equality and Citizen Participation. The Service provides free personalized information in such areas as education, assistance and health advice. It provides women and their families with information on sexual and reproductive health at all stages of the fertility cycle, including matters related to pregnancy and its termination.

79. The Service became operational in March 2020. It has a permanent presence in the Santa Coloma primary health-care centre, but also offers services on a rotating basis in all the other primary health-care centres in the country, so that the entire territory is covered. The Service is staffed by professionals specialized in sexual and reproductive health who refer the women to medical, legal or psychological specialists. Regarding information on termination of a pregnancy, the professionals follow a procedure initiated at the request of the patient, which involves an interview at which the patient is given all the information they need in view of their age and background. The initial consultation can be held in person or by telephone or email.

80. The Service, hospital emergency departments and the youth clinic of the Andorran Health Service all provide the morning-after pill free of charge. Girls under 16 years of age must be accompanied by their parents or legal guardians to receive the pill, but those over 16 years of age do not need to be accompanied. In all cases, the provision of the pill depends on the assessment of the health professional attending the woman.

#### **Reply to paragraph 10 (a) of the list of issues**

81. The Criminal Code defines the crimes of trafficking in persons, trafficking and sale of children, forced labour and sexual exploitation as follows: trafficking in human beings for the purpose of organ removal (art. 121 bis), trafficking in human beings for the purpose of forced labour or services, slavery and servitude (art. 134 bis), trafficking in human beings for the purpose of sexual exploitation (art. 157 bis), forced labour or services, slavery and servitude (art. 134), trafficking in children with a view to changing their filiation (art. 164), prostitution and the exploitation of prostitution (arts. 151 and 152) and other consequences applicable to legal persons (art. 71).

82. The bill amending Act No. 9/2005 of 21 February 2005 on the Criminal Code, approved for parliamentary processing on 23 February 2022, provides for amendments to various trafficking-related and other offences.

83. According to article 121 bis of the Criminal Code, as amended by article 7 of the bill, on trafficking in human beings for the purpose of organ removal:

1. Any person who recruits, transports, transfers, lodges or harbours one or more persons for the purpose of organ removal shall be liable to a prison sentence of 2 to 6 years, without prejudice, where applicable, to the penalties corresponding to the other offences committed, when at least one of the following means is used:

(a) Violence or other forms of intimidation or coercion or threats of a similar nature.



(b) Fraud, deception, abuse of authority or a situation of vulnerability.

(c) Proposal or acceptance of payments or benefits in order to obtain the consent of a person exercising de jure or de facto authority over another person.

An attempt is punishable.

2. When none of the means mentioned in the previous paragraph are used, the action described above shall be considered to be trafficking in human beings for the purpose of organ removal if it is carried out on a minor, without prejudice, where applicable, to the penalties corresponding to the other offences committed.

An attempt is punishable.

3. In the cases set forth in paragraph 2, and in paragraph 1 if the victim is a minor or is particularly vulnerable due to illness or disability, the penalty imposed shall be in the upper half of the range.

4. In all cases, endangering the victim's life constitutes an aggravating circumstance of criminal liability.

5. Victims of trafficking in human beings are excluded from criminal liability for criminal offences committed in the situation of exploitation provided that their participation was a direct consequence of the situation of violence, intimidation, deception or abuse to which they were subjected, or any of the circumstances that exclude criminal liability provided for in article 27 of this Code are present.

84. According to article 134 bis of the Criminal Code, as amended by article 10 of the bill, on trafficking in human beings for the purpose of forced labour or services, slavery and servitude:

1. Any person who recruits, transports, transfers, lodges or harbours one or more persons for the purpose of forced labour or services, slavery or practices similar to slavery, servitude or begging shall be liable to a prison sentence of 2 to 6 years, without prejudice, where applicable, to the penalties corresponding to the other offences committed, when at least one of the following means is used ...

85. The article continues with the same wording as the preceding article.

86. According to article 157 bis of the Criminal Code, as amended by article 13 of the bill, on trafficking in human beings for the purpose of sexual exploitation:

1. Any person who recruits, transports, transfers, lodges or harbours one or more persons for the purpose of prostitution of others or other sexual offences shall be liable to a prison sentence of 2 to 6 years, without prejudice, where applicable, to the penalties corresponding to the other offences committed, when at least one of the following means is used ...

87. The article continues with the same wording as the preceding articles.

88. According to article 134 of the Criminal Code, as amended by article 9 of the bill, on forced labour or services, slavery and servitude:

1. Any person who subjects a person to forced labour or services, slavery or servitude shall be liable to a prison sentence of 4 to 12 years.

The penalty imposed must be in the upper half of the range if the victim is a minor.

An attempt is punishable.

2. Slavery or servitude is understood to mean the situation of a person over whom another person exercises, including in a de facto manner, all or some of the powers attaching to the right of ownership, such as buying, selling, lending or giving away the person.

3. Forced labour or service is understood to mean the situation of a person who is forced or obliged, by any means and against their will, to perform work or provide a service, whether paid or unpaid.

89. Trafficking in children for any purpose is criminalized in the three previous articles on trafficking. Article 164 of the Criminal Code refers specifically to trafficking in children with a view to changing their filiation:

1. Any person who hands over a minor with a view to changing their filiation shall be liable to a prison sentence of 3 months to 3 years.
2. The same penalty shall apply to any person who receives the minor for the same purpose and to any person acting as an intermediary.
3. If the above acts involve lucrative intent, the penalty to be imposed shall be 2 to 5 years' imprisonment. The same penalty shall apply to any person who receives the minor if financial compensation is offered or given.
4. An attempt is punishable.

90. According to article 151 of the Criminal Code, on prostitution:

1. Any person who recruits for prostitution or promotes, facilitates or aids the prostitution of others shall be liable to a prison sentence of 3 months to 3 years.
2. Any person who, by any means, explicitly or implicitly advertises the prostitution of others, shall be punished with a fine of up to 30,000 euros or up to three times the profit obtained, if higher. Only the directors of the publication or programme in which such advertisement appears are liable for the crime of advertising the prostitution of others.
3. If the offence described in paragraph 1 involves child prostitution or if the victim is a person who is vulnerable due to physical or mental illness or disability, a prison sentence of 2 to 5 years shall be imposed. If the act was committed by persons exercising parental authority or guardianship, the penalty shall be in the upper half of the range.
4. If the offence described in paragraph 1 is committed by an organized group, the maximum penalty may be increased by one half.
5. An attempt is punishable in all cases. To propose, by means of information and communication technologies, a meeting with a minor under 14 years of age for the purpose of committing the offence described in paragraph 1 of this article is considered an attempt if the proposition has been followed by material acts that might lead to such a meeting.

91. According to article 152 of the Criminal Code, on the exploitation of prostitution:

1. Any person who, by means of violence or intimidation, or through abuse of authority, superiority, trust, situation of necessity or dependency, or through sufficient deception, causes another person to engage in prostitution or to continue to do so shall be liable to a prison sentence of 2 to 5 years. An attempt is punishable.
2. In the case of child prostitution or if the victim is a person who is vulnerable due to physical or mental illness or disability, a prison sentence of 3 to 10 years shall be imposed. If the act was committed by persons exercising parental authority or guardianship, the penalty shall be in the upper half of the range.

If the offence is committed by an organized group, the maximum penalty may be increased by one half.

An attempt is punishable. To propose, by means of information and communication technologies, a meeting with a minor under 14 years of age for the purpose of committing the offence described in paragraph 1 of this article is considered an attempt if the proposition has been followed by material acts that might lead to such a meeting.

92. According to article 71 of the Criminal Code, on consequences applicable to legal persons:

1. The court may, on reasoned grounds, impose the following measures at the time of sentencing or in the other cases provided for in the Code of Criminal Procedure:

- (a) Dissolution of the company, association or foundation.
- (b) Suspension of the activities of the company, association or foundation for a maximum of six years.
- (c) Temporary or permanent closure of the business, its premises or facilities.
- (d) Imposition of a fine on the company, association or foundation, in the case of sexual offences, offences against the socioeconomic order or security in legal transactions, corruption, influence-peddling, terrorism and financing of terrorism, and laundering of money or securities, of up to 300,000 euros, or up to four times the profit obtained or intended to be obtained by committing the crime, if higher. The court determines the extent of the fine according to the seriousness of the offence, the assets of the company, association or foundation and the impact on suppliers and workers' rights.
- (e) Appointment of receivers of the business or company.
- (f) Publication of the judgment. The costs of publication shall, in this case, be borne by the convicted person.
- (g) Deprivation of the right of the natural or legal person to enter into contracts with public administrations.
- (h) Exclusion of the natural or legal person from entitlement to public benefits or assistance.

2. The adoption of the measures mentioned in paragraphs (a), (b), (c) and (d) above requires the intervention, as a party to the proceedings, with the same rights recognized by law as accorded to the civilly liable party, of the legal representative of the legal person, or of the person appointed by its competent bodies, from the time the preliminary investigation or pretrial proceedings are initiated.

#### **Reply to paragraph 10 (b) of the list of issues**

93. The Andorran legal framework has been adapted since 2015 to criminalize human trafficking and protect victims. Act No. 40/2014, amending the Criminal Code, introduced the following offences: trafficking in persons for the purpose of organ removal (Criminal Code, art. 121 bis); trafficking in persons for the purpose of slavery (Criminal Code, art. 134 bis); and trafficking in persons for the purpose of sexual exploitation (Criminal Code, art. 157 bis).

94. The bill amending Act No. 9/2005 of 21 February 2005 containing the Criminal Code (adopted by Parliament on 23 February 2022) amends various offences, including those related to trafficking: trafficking in persons for the purpose of organ removal (art. 121 bis); trafficking in persons for the purpose of forced labour or services, slavery or servitude (art. 134 bis); trafficking in persons for the purpose of sexual exploitation (art. 157 bis), forced labour or services, slavery and servitude (art. 134); trafficking in children for the purposes of illegal adoption (art. 164), prostitution and the exploitation of prostitution (arts. 151 and 152); and other consequences applicable to legal persons (art. 71).

95. Act No. 9/2017 of 25 May 2017, on measures to combat trafficking in persons and to protect victims, amends various laws, in keeping with the obligations arising from the ratification by Andorra of the Council of Europe Convention on Action against Trafficking in Human Beings. It sets out the services and assistance to be provided for the physical, psychological and social recovery of victims of trafficking, including the assisted return to the country of origin or to another safe country, if requested by the victim. It also amends Act No. 17/2008, on social security, to ensure that victims of trafficking and their minor children are fully reimbursed for the services they have paid for and are included in special social security schemes.

96. The Protocol on Action to Protect Victims of Human Trafficking sets out protection and support measures for victims, including:

- Risk assessment and adequate measures to protect against any reprisals or intimidation during and following investigations and legal proceedings against perpetrators
- Participation of the victim in criminal proceedings
- Provision of information on all services to which the victim has access, in line with article 8 of Act No. 9/2017 of 25 May 2017, particularly information on possible referral to support services, such as:
  - Access to shelters
  - Medical and psychological support
  - Legal information and advice in a language understood by the victim, and the right to free legal counsel
  - Social support and provision of basic needs
  - Translation and interpretation services

97. The police refer any person that it believes to be a victim of trafficking to the Support Unit for Children and Adolescents, in the case of minors, or to the Department for Equality Policy, in the case of adults, both of which report to the Ministry of Social Affairs. A social worker is then assigned to the victim for the duration of the identification process to ensure that the victim benefits from a period of reflection and other services.

98. Each year, Andorra participates in the Conference of the Alliance against Trafficking in Persons, organized by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, as well as in other conferences and workshops organized by OSCE, United Nations committees and working groups and the Council of Europe. Andorra also aligns itself with all statements made by the European Union within the OSCE related to combating trafficking in human beings and, in 2021, it contributed to the United Nations voluntary trust fund for victims of human trafficking, managed by the United Nations Office on Drugs and Crime.

#### **Reply to paragraph 10 (c) of the list of issues**

99. Training on combating human trafficking has been provided to various actors and will be offered again in the coming years.

100. On 30 July 2019, World Day against Trafficking in Persons, as declared by the United Nations, the Service for Victims of Human Trafficking organized an information campaign aimed at the general public and a training session for all officials involved in the identification and care of victims of trafficking, to enable all those concerned to detect cases of trafficking in persons and to review best practices. The training was attended by 50 professionals working in health care, policymaking, social affairs, immigration, education, mental health, women's associations, and so on. On the same day, a talk aimed at the general public was given on "Trafficking in Human Beings: Prevention and Awareness-raising". The aim of this initiative was to prevent and raise awareness of trafficking in persons through information-sharing.

101. Due to the coronavirus disease (COVID-19) pandemic, no in-person initiatives were carried out for the World Day of Trafficking in Persons in 2020, but a leaflet produced in 2018 was issued explaining what trafficking in persons was and giving advice on prevention and information about the Service for Victims of Human Trafficking. This leaflet and a poster used to raise awareness of trafficking in human beings can be found at: <https://www.govern.ad/dia-mundial-contra-el-traffic-essers-humans>.

102. In 2021, the Ministry of Social Affairs, Youth and Equality organized training to raise public awareness. Because of the COVID-19 pandemic, the talk entitled "Trafficking in Persons: A Modern Form of Slavery" was broadcast online.

103. Every year, the High Council of Justice prepares in-service training in cooperation with court presidents and the Prosecutor General. These bodies have also organized training

for public prosecutors on gender-based violence, trafficking in human beings and torture prevention. As has already been mentioned, members of the police force receive initial and in-service training.

#### **Reply to paragraph 10 (d) of the list of issues**

104. In 2021, just one case of human trafficking for the purpose of sexual exploitation was brought to court. The defendants are a 41-year-old man and a 21-year-old woman. The alleged victim is a 34-year-old woman. The case is pending before the Criminal Court. The Criminal Chamber of the High Court of Justice rejected a request for release filed by one of the defendants, who is currently in pretrial detention.

#### **Reply to paragraph 11 of the list of issues**

105. The possibility of establishing a national institute of human rights, in line with the Paris Principles, has been considered. However, given the size of the country and its public administration, the Government and Parliament have decided to instead strengthen the Ombudsman, an independent institution created by virtue of the Act of 4 June 1998, to ensure that the authorities follow the fundamental principles of defence and protection of the rights and freedoms enshrined in the Constitution, which declares the entry into force of the Universal Declaration of Human Rights in its article 5. The Ombudsman submits an annual report to Parliament. Article 13 of the Act on the Establishment and Work of the Ombudsman allows complaints or claims to be submitted by any natural or legal person with a legitimate interest, irrespective of nationality, age, status or place of residence.

106. Act No. 79/2010, adopted on 25 October 2010 to enact the provisions of the Convention on the Rights of the Child, gives the Ombudsman the power to inform and advise children on their rights and freedoms under the Convention (art. 1) and allows them to submit complaints or claims. Children under 12 years of age or those with disabilities can do so through a legal representative. The website of the Ombudsman specifies that those older than 12 years of age may turn to the Ombudsman without having to go through a legal representative or guardian ([www.raonadordelciutada.ad](http://www.raonadordelciutada.ad)).

107. Following a recommendation made by the European Commission against Racism and Intolerance, Parliament passed Act No. 26/2017 of 23 November 2017 to allow the Ombudsman to receive complaints of racial discrimination in both the public and the private sphere.

### **Article 3**

#### **Reply to paragraph 12 of the list of issues**

108. Despite having no law that gives effect to the right to asylum enshrined in the Constitution, Andorra wished to join in efforts to help during the humanitarian crisis arising from the conflict in Syria and to meet the demands of society in that respect. Accordingly, Act No. 4/2018 of 22 March 2018, on temporary and transitory protection on humanitarian grounds, was passed ([https://www.bopa.ad/bopa/030022/Documents/CGL20180411\\_10\\_27\\_12.pdf](https://www.bopa.ad/bopa/030022/Documents/CGL20180411_10_27_12.pdf)).

109. A proposal to grant temporary protection on humanitarian grounds is submitted for approval at a biennial meeting of the Government, whose decision is communicated to the United Nations High Commissioner for Refugees. Priority is given to those in a situation of vulnerability (children, especially unaccompanied children; persons with a disability; older persons; pregnant women; single-parent families with minor children; victims of human trafficking; victims of gender-based or domestic violence; persons with a serious illness; or those who have suffered from torture, abuse or other forms of psychological, physical or sexual violence).

110. The Government introduced a temporary stay procedure for displaced persons from Ukraine and established a registration and reception mechanism for those fleeing the conflict. Efforts are being made to regularize their situation and to attend to their needs during their stay.

111. The Ministry of Social Affairs, Youth and Equality, together with the justice and interior ministries, assesses the situation of each person. The Ministry of Social Affairs coordinates the response to specific needs in terms of accommodation, living costs, education and social and health-care benefits. There are plans to establish a legal framework for this, in line with the provisions of the Qualified Act on Immigration and the Act on Temporary and Transitory Protection on Humanitarian Grounds. A solidarity fund has also been set up to contribute to the accommodation and living costs of refugees.

## Articles 5–9

### Reply to paragraph 13 of the list of issues

112. Article 8 of the Criminal Code, on the territorial scope of criminal law, extends the criminal jurisdiction of Andorran courts to cover offences committed within its territory (art. 8.1) and abroad in the case of offences such as torture (art. 8.8).

1. Andorran criminal law is applicable to offences attempted or committed within the territory of the Principality and to related or indivisible offences attempted or committed outside the territory of Andorra.

Andorran criminal law is applicable to offences attempted or committed on board Andorran ships, fixed platforms and aircraft and in Andorran airspace. It is also applicable when an aircraft lands in Andorran territory.

2. Andorran criminal law is applicable to any offence attempted or committed outside the territory of the Principality of Andorra by a person of Andorran nationality.

3. Andorran criminal law is applicable to any offence attempted or committed outside the territory of the Principality of Andorra if the victim is of Andorran nationality.

4. In the cases described in paragraphs 2 and 3 above, the criminal offence may only be prosecuted if the following conditions are met:

(a) The offence is a crime in the State in which it has been committed and is not time-barred.

(b) The perpetrator has not been acquitted, pardoned or convicted of the offence and, in the latter case, has not served the full sentence. In the latter scenario, the sentence served may not exceed the maximum sentence prescribed for the same crime in this Code, after the time served abroad has been deducted.

(c) There has been a report or complaint from the Public Prosecution Service.

5. Andorran criminal law is applicable to any crime attempted or committed outside the territory of the Principality of Andorra against the Constitution or the security of the Principality, its institutions or authorities and to the offences of falsification of official Andorran documents, currency or seals.

6.

(a) Andorran criminal law is applicable to any criminal offence attempted or committed outside the territory of the Principality of Andorra when an international treaty attributes jurisdiction to the Andorran courts.

(b) Under the treaties and in relation to the offences mentioned in (d) below, Andorran criminal law is applicable to any criminal offence attempted or committed outside the territory of the Principality of Andorra by a person of foreign nationality who is a legal resident, or when the victim is a person of foreign nationality who is a legal resident, or by a person of foreign nationality who may or may not be a resident if an Andorran public official or authority is implicated in the offence.

(c) In the cases set out in the treaties and in relation to the offences mentioned in (d) below, the criteria set out in subparagraphs (a) and (c) of paragraph 4 of this article are not applicable when the perpetrator of an offence is of Andorran nationality, of foreign nationality and a legal resident in the Principality of Andorra, of foreign nationality and not resident but present in Andorra and cannot be extradited due to his or her nationality, or of foreign nationality and either resident or non-resident if an Andorran public official or authority is implicated in the offence.

(d) The treaties and offences referred to in subparagraphs (b) and (c) above are as follows:

- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, done at Lanzarote on 25 October 2007, concerning sexual offences against children
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, done at Istanbul on 11 May 2011, concerning offences against women's integrity, freedom and sexual freedom and family relations
- Criminal Law Convention on Corruption, done at Strasbourg on 27 January 1999, concerning offences of corruption and influence-peddling

7. Heads of foreign States shall enjoy immunity while in the territory of the Principality of Andorra for acts committed in the exercise of their duties, except war crimes, crimes against humanity and other crimes set out in any international treaty in force in the Principality.

Accredited foreign diplomatic representatives enjoy immunity as set out in the international treaties in force in the Principality of Andorra.

8. Andorran criminal law is applicable to crimes attempted or committed outside the territory of the Principality of Andorra which, under Andorran law, carry a maximum prison sentence of more than six years and which may be classified as genocide, torture, terrorism, drug trafficking, arms trafficking, counterfeiting currency, money laundering, piracy, illegal takeover of aircraft, slavery, trafficking in children, sexual offences against children and other crimes as set out in any international treaty in force in the Principality, provided that the perpetrator has not been acquitted, pardoned or convicted of the offence or, if convicted, has not served the sentence. If a sentence has been partially served, the sentence handed down shall be reduced accordingly.

#### **Reply to paragraph 14 of the list of issues**

113. Andorra has not signed any bilateral extradition treaties, but, as a member of the Council of Europe, it has ratified the European Convention on Extradition and its Additional Protocol, which were signed on 11 May 2000 and entered into force on 11 January 2001. At the domestic level, the Qualified Act on Extradition of 28 November 1996, as amended in 2005, is based on the provisions of the European Convention on Extradition and provides guarantees for persons to be extradited. The Act on International Cooperation in Criminal Matters is also in force.

#### **Reply to paragraph 15 of the list of issues**

114. Multilateral treaties:

(1) European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted in Strasbourg on 26 November 1987 (Official Gazette 5/1997, 15 January) and its Protocols Nos. 1 and 2, adopted in Strasbourg on 4 November 1993 (Official Gazette 22/2002, 20 March)

(2) Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, adopted in Strasbourg on 8 November 1990 (Official Gazette 28/1999, 25 May)

- (3) European Convention on Mutual Assistance in Criminal Matters, adopted in Strasbourg on 20 April 1959 (Official Gazette 25/2005, 23 March)
- (4) Criminal Law Convention on Corruption, adopted in Strasbourg on 27 January 1999 (Official Gazette 98/2007, 21 November) and its Additional Protocol, adopted in Strasbourg on 15 May 2003 (Official Gazette 65/2014, 12 November)
- (5) Convention on Cybercrime, adopted in Budapest on 23 November 2001 and its Additional Protocol, concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems, adopted in Strasbourg on 28 January 2003 (Official Gazette 38/2016, 29 June)
- (6) European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children
- (7) United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, adopted in Vienna on 20 December 1988 (Official Gazette 28/1999, 25 May)
- (8) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984 (Official Gazette 49/2006, 21 June)
- (9) United Nations Convention against Transnational Organized Crime, adopted in New York on 15 November 2000 (Official Gazette 41/2011, 22 June)
- (10) Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, adopted in The Hague on 18 March 1970 (Official Gazette 77/2016, 22 December)
- (11) Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, adopted in The Hague on 15 November 1965 (Official Gazette 77/2016, 22 December)
- (12) European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights, adopted in Strasbourg on 5 March 1996 (Official Gazette, Year 11, No. 3, 13 January 1999)
- (13) Convention on the Transfer of Sentenced Persons, adopted in Strasbourg on 21 March 1983 (Official Gazette, Year 12, No. 50, 6 September 2000)
- (14) European Convention on Extradition, adopted in Paris on 13 December 1957, and its Additional Protocol (Official Gazette, Year 13, No. 7, 17 January 2001)
- (15) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted in New York on 25 May 2000 (Official Gazette, Year 14, No.19, 13 March 2002)
- (16) International Convention for the Suppression of the Financing of Terrorism, adopted in New York on 9 December 1999 (Official Gazette, Year 20, No. 54, 16 July 2008)
- (17) Treaty on the Electronic Transmission of Requests for International Legal Cooperation among Central Authorities, adopted in Medellín on 25 July 2019 (Official Gazette, Year 2019, No. 111, 30 December 2019)
- (18) International Convention for the Suppression of Terrorist Bombings, adopted in New York on 15 December 1997 (Official Gazette, Year 16, No. 29, 12 May 2004)
- (19) Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted in New York on 10 June 1958 (Official Gazette, Year 2015, No. 12, 11 February 2015)
- (20) Convention on the Recognition and Enforcement of Decisions relating to Maintenance Obligations, adopted in The Hague on 2 October 1973 (Official Gazette, Year 23, No. 4, 19 January 2011)
- (21) Convention on the Civil Aspects of International Child Abduction, adopted in The Hague on 25 October 1980 (Official Gazette, Year 23, No. 4, 19 January 2011)



(22) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted in New York on 14 December 1973 (Official Gazette, Year 16, No. 29, 12 May 2004)

(23) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted in Rome on 10 March 1988 (Official Gazette, Year 18, No. 30, 12 April 2006)

(24) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted in Montreal on 24 February 1988 (Official Gazette, Year 18, No. 5, 18 January 2006)

115. Bilateral agreements:

(1) Agreement between the Principality of Andorra and the Kingdom of Morocco on assistance to detainees and the transfer of sentenced persons, of 11 July 2001 (Official Gazette, Year 13, No. 66, 18 July 2001)

(2) Agreement between the Governments of the Principality of Andorra and the United States of America regarding the sharing of confiscated proceeds and instrumentalities of crimes, of 14 February 2012 (Official Gazette, Year 25, No. 26, 5 June 2013)

(3) Agreement between the Principality of Andorra and the Kingdom of Spain on cooperation in crime prevention and security, of 3 December 2015 (Official Gazette, Year 2015, No. 87, 23 December 2015)

116. There have been no cases of torture or ill-treatment to date and so no data can be provided.

## Article 10

### Reply to paragraph 16 (a) of the list of issues

117. With regard to judges and prosecutors, please refer to the information provided above in reply to paragraph 8 (c) of the list of issues.

118. A training course on human rights and a module on relevant legislation are included in the initial training for staff of the Department of Penitentiary Facilities. Human rights training is delivered by a member of the Council of Europe Trainers Pool and is also provided for staff who have not participated in initial training. It is made up of three modules: the first is on understanding human rights (history and human rights texts); the second is on human rights and prison management; and the third, on human rights control and monitoring, introduces the main international organizations (the United Nations and the Council of Europe), national and international monitoring mechanisms and the mechanisms of the Council of Europe (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment).

119. The police force also receives initial and in-service training.

### Reply to paragraph 16 (b) of the list of issues

120. Training for prison staff is evaluated by means of a written assessment of their skills during initial training and the probationary period.

121. The evaluation of the human rights training module for prison officers and staff is carried out by the teacher for certification purposes during the training period.

### Reply to paragraph 16 (c) of the list of issues

122. Training on detecting physical and psychological evidence of torture is provided to doctors who attend to detainees in the Prison Centre or in police cells.

123. Training on the prevention and early detection of ill-treatment is also provided to Andorran Health Service staff.

## Article 11

### Reply to paragraph 17 of the list of issues

124. Article 53 of the Qualified Penitentiary Act (No. 4/2007 of 22 March 2007) addresses punishments for prisoners:

1. The following punishments may be imposed for a disciplinary offence:
  - (a) Solitary confinement, which may not exceed 14 days;
  - (b) Limitation of oral communications and visits for a maximum period of two months;
  - (c) Deprivation of the right to engage in recreational and leisure activities for a maximum period of one month;
  - (d) Deprivation of the right to make telephone calls for a maximum period of one month;
  - (e) Prohibition from receiving packages from the outside for a maximum period of one month;
  - (f) Deprivation of the right to have a television set for a maximum period of two months.
2. The punishment referred to in subparagraph (a) of the previous paragraph may be imposed only in cases of very serious offences. Other penalties may be imposed in cases of serious or minor offences, in accordance with the principle of proportionality.
3. Depending on the gravity and circumstances of the acts, and the record and personality of the offending inmate, a maximum of two of the punishments provided for in paragraph (1) of this article may be imposed jointly.

125. Article 54 of the Qualified Penitentiary Act, on solitary confinement, states:

1. Pregnant women may not be held in solitary confinement.
2. The use of solitary confinement shall be subject to a prior favourable medical report to be issued by a physician from outside the prison health services.
3. During solitary confinement, a physician from outside the prison health services shall supervise confinement on a daily basis and may, where necessary, propose suspending or changing the punishment when this is warranted on health grounds.
4. Where solitary confinement is not possible under paragraphs (2) and (3) of this article, it shall be replaced by another punishment.

### Reply to paragraph 18 of the list of issues

126. Police officers must interrogate juvenile detainees in accordance with the Code of Criminal Procedure and Qualified Act No. 15/2019 of 15 February on the criminal responsibility of minors.

127. The delegation of the European Committee for the Prevention of Torture (CPT) found that the notification of custody of an adult to a member of his or her family, or another person of his or her choice at his or her request, was prompt and correctly recorded, and signed by the person concerned. Foreigners could exercise their consular rights if they so wished, and this was duly recorded.

128. Interrogations take place in rooms equipped for this purpose, located in secure areas of the central police station with video and audio recording. Minors are questioned on the

premises of the juveniles unit of the police, which are more welcoming and better suited to them. Police Operating Protocol 02/12 specifies that persons deprived of their liberty must be interrogated in one of the five rooms equipped for this purpose.

129. Circular No. 390/03 issued by the Police Directorate on 18 November 2003 regulates the interrogation procedure. It provides that the person being questioned must: (a) remain seated during questioning; (b) have the possibility to sleep eight hours a day; (c) have one hour of rest after four hours of questioning; (d) be aware of the identification numbers of the officers questioning him or her and writing down the statement; and (e) have the opportunity to correct and amend the statement. Furthermore, during the CPT visit, the Director of Police explained the efforts undertaken to train officers, especially on human rights and police ethics, and the implications of specific legal instruments such as the Constitution and the European Convention on Human Rights.

130. The CPT delegation noted that the questioning of persons deprived of their liberty in interrogation rooms was recorded and that the recordings were kept for a variable length of time (between one-and-a-half and three months). This is a safeguard against ill-treatment or torture and a mechanism to refute unfounded allegations of such practices.

131. Police Operating Protocol 02/12 states:

(4) Detainees' yard

(4.1) Any adult who has been held in police custody for more than 24 hours shall have the right to use this space for one hour under the supervision of a police officer.

(4.2) This same right shall apply to juvenile or older detainees (over 65 years of age) when they have been in custody for more than 12 hours.

(4.3) If the detainee waives this right, a record will be kept of this in the Cells software program.

(5) Detainees' meals

(5.1) All detainees are entitled to the appropriate meals.

(5.2) Mealtimes: breakfast between 8 a.m. and 8.30 a.m.; lunch between 1 p.m. and 2 p.m.; and evening meal between 8.30 p.m. and 9.30 p.m.

(5.3) The first meal shall be a sandwich and the second a hot meal.

(5.4) In the case of juvenile and older detainees, and where medically prescribed, only hot meals shall be provided.

(5.5) The police officer in charge will take into account the detainee's religion and health problems (those with a medical prescription in the latter case) when ordering meals.

(5.6) At the end of mealtimes, the officer in charge shall ensure that utensils and rubbish are removed from the cells.

(6) Detainees' hygiene

(6.1) Detainees have the right to maintain bodily hygiene, depending on the facilities available in the detention area.

(6.2) Detainees who have been in the cells for 12 hours or more shall be allowed access to the available personal hygiene facilities before being brought before a court.

(6.3) The police officer on duty in the control room shall inform the detainee of this right and provide him or her with the necessary hygiene products from the control room storage unit.

(6.4) The detainee's decision to accept or refuse shall be recorded in the remarks section of the Cells software program.

## Articles 12 and 13

### Reply to paragraph 19 of the list of issues

132. The latest report of the CPT delegation states that no allegations of torture of persons detained by the police or ill-treatment of detainees by Andorran prison staff have come to its attention, and that no evidence of such treatment has been found.

133. Both the Ministry of Justice and the Prosecution Service of Andorra state that, to date, no complaints of acts of torture have been registered and no judicial proceedings have been initiated with respect to acts of torture or other cruel, inhuman or degrading treatment or punishment.

134. In the Criminal Code, the crime of ill-treatment (art. 113 et seq.) is not directly related to the crime of torture, since in the Andorran system “torture and ill-treatment” are understood as the crimes contained in the chapter on “Torture and offences against moral integrity involving abuse of power”, which does not include the crime of ill-treatment, which belongs to another order of crimes.

135. The offence of “torture and ill-treatment” could therefore be likened to the offence of “torture and degrading treatment” contained in the Criminal Code.

### Statistics provided by the police

Year 2021				
Offence	Age	Sex	National origin	Place of detention
Torture	-	-	-	-
Total: 0				
Ill-treatment	18-21: 5	Women: 6	Spain: 15	Canillo: 1
Total: 40	22-29: 12	Men: 34	Andorra: 9	Encamp: 3
	30-39: 9		Portugal: 7	Pas de la Casa: 5
	40-49: 5		France: 2	Ordino: 1
	50-59: 8		Ireland: 2	Andorra la Vella: 20
	+60: 1		United Kingdom: 2	Sant Julià de Lòria: 1
			Argentina: 1	Escaldes-Engordany: 9
			Italy: 1	
			Equatorial Guinea: 1	
Human trafficking	18-21: 1	Women: 1	Spain: 1	Andorra la Vella: 2
Total: 2	40-49: 1	Men: 1	Equatorial Guinea: 1	
Domestic violence	18-21: 9	Women: 19	Andorra: 23	Canillo: 7
Total: 85	22-29: 15	Men: 66	Spain: 22	Encamp: 9
	30-39: 28		Portugal: 14	Pas de la Casa: 3
	40-49: 22		France: 5	Ordino: 5
	50-59: 11		Colombia: 4	La Massana: 4
			Peru: 3	Andorra la Vella: 33
			United Kingdom: 2	Sant Julià de Lòria: 6
			Argentina: 2	Escaldes-Engordany: 18
			Brazil: 2	
			Italy: 1	
			Ukraine: 1	
			Czechia: 1	
			Australia: 1	
			Morocco: 1	
			Chile: 1	
			China: 1	
			Equatorial Guinea: 1	

<i>Year 2021</i>				
<i>Offence</i>	<i>Age</i>	<i>Sex</i>	<i>National origin</i>	<i>Place of detention</i>
Sexual offences	< 18: 2	Women: 1	Andorra: 5	Canillo: 1
Total: 12	18-21: 1	Men: 11	Spain: 2	Encamp: 1
	22-29: 1		France: 2	Pas de la Casa: 2
	40-49: 5		Portugal: 2	Andorra la Vella: 5
	50-59: 3		Equatorial Guinea: 1	Escaldes-Engordany: 3
<i>Year 2020</i>				
<i>Offence</i>	<i>Age</i>	<i>Sex</i>	<i>National origin</i>	<i>Place of detention</i>
Torture	-	-	-	-
Total: 0				
Ill-treatment	< 18: 2	Women: 6	Andorra: 14	Canillo: 2
Total: 32	18-21: 8	Men: 26	Spain: 5	Encamp: 4
	22-29: 7		Portugal: 5	Pas de la Casa: 3
	30-39: 10		France: 2	Andorra la Vella: 13
	40-49: 4		United Kingdom: 2	Sant Julià de Lòria: 1
	50-59: 1		Argentina: 1	Escaldes-Engordany: 9
			Colombia: 1	
			Morocco: 1	
			Côte d'Ivoire: 1	
Human trafficking	-	-	-	-
Total: 0				
Domestic violence	< 18: 1	Women: 28	Andorra: 38	Canillo: 8
Total: 97	18-21: 9	Men: 69	Portugal: 19	Encamp: 11
	22-29: 38		Spain: 16	Pas de la Casa: 5
	30-39: 24		France: 4	La Massana: 10
	40-49: 17		Peru: 4	Andorra la Vella: 39
	50-59: 7		Chile: 4	Sant Julià de Lòria: 3
	> 60: 1		Argentina: 3	Escaldes-Engordany: 21
			Colombia: 2	
			United Kingdom: 1	
			Bolivia: 1	
			Paraguay: 2	
			Russian Federation: 1	
			Morocco: 1	
			Dominican Rep.: 1	
Sexual offences	< 18: 3	Women: 0	Andorra: 3	Canillo: 1
Total: 14	22-29: 4	Men: 14	Portugal: 3	Encamp: 2
	30-39: 3		Spain: 2	Pas de la Casa: 2
	40-49: 3		United Kingdom: 2	La Massana: 1
	50-59: 1		France: 1	Andorra la Vella: 5
			Argentina: 1	Escaldes-Engordany: 3
			Morocco: 1	
			Peru: 1	

<i>Year 2019</i>				
<i>Offence</i>	<i>Age</i>	<i>Sex</i>	<i>National origin</i>	<i>Place of detention</i>
Torture	-	-	-	-
Total: 0				
Ill-treatment	18-21: 8	Women: 5	Spain: 11	Canillo: 3
Total: 39	22-29: 21	Men: 34	Andorra: 12	Pas de la Casa: 6
	30-39: 6		Portugal: 6	La Massana: 1
	40-49: 4		France: 2	Andorra la Vella: 14
			Algeria: 2	Sant Julià de Lòria: 8
			Argentina: 2	Escaldes-Engordany: 7
			Colombia: 2	
			United Kingdom: 1	
			South Africa: 1	
Human trafficking	40-49: 2	Women: 1	Andorra: 1	Andorra la Vella: 1
Total: 2		Men: 1	Ukraine: 1	Sant Julià de Lòria: 1
Domestic violence	18-21: 13	Women: 21	Andorra: 37	Canillo: 6
Total: 89	22-29: 24	Men: 68	Spain: 18	Encamp: 12
	30-39: 20		Portugal: 14	Pas de la Casa: 5
	40-49: 18		France: 7	La Massana: 10
	50-59: 9		Brazil: 3	Andorra la Vella: 35
	> 60: 5		Ukraine: 2	Sant Julià de Lòria: 5
			Morocco: 2	Escaldes-Engordany: 16
			United Kingdom: 1	
			Argentina: 1	
			Philippines: 1	
			Peru: 1	
			Chile: 1	
			Russian Federation: 1	
Sexual offences	18-21: 1	Women: 1	Andorra: 4	Pas de la Casa: 1
Total: 10	22-29: 1	Men: 9	Spain: 2	Andorra la Vella: 4
	30-39: 3		France: 1	Sant Julià de Lòria: 1
	40-49: 4		Portugal: 1	Escaldes-Engordany: 4
	> 60: 1		Ukraine: 1	
			Pakistan: 1	

*Statistics provided by the judicial authorities*

<i>Offence</i>	<i>Age</i>	<i>Sex</i>	<i>National origin</i>	<i>Action by Criminal Chamber of High Court of Justice</i>
Torture	/	/	/	/
Human trafficking	21	Female	Guinea	Rejected defendant's request for release
Ill-treatment	20 and 50	Male	United Kingdom	Rejected appeal against conviction
	55	Male	Morocco	Rejected application to lift restraining order
	24	Male	Andorra	Rejected application to revoke suspended sentence
	25	Male	Colombia	Rejected application to revoke suspended sentence

<i>Offence</i>	<i>Age</i>	<i>Sex</i>	<i>National origin</i>	<i>Action by Criminal Chamber of High Court of Justice</i>
Domestic violence	45	Male	Spain	Rejected appeal against conviction
	23	Male	Andorra	Rejected Public Prosecution Service's appeal against acquittal
	17(minor)	Male	Andorra	Upheld appeal based on minor's age and acquitted defendant
	50	Female	Andorra	Upheld appeal against sentence and acquitted defendant
	26	Female	Andorra	Rejected appeal against conviction
	42	Male	Andorra	Rejected application to lift restraining order.
	25	Male	Andorra	Rejected application to lift restraining order
	36	Female	Argentina	Complaint withdrawn: custodial leave granted
	41	Male	Andorra	Partially upheld appeal against revocation of suspended sentence
	29	Male	Andorra	Partially upheld Public Prosecution Service's appeal against revocation of suspended sentence
Sexual violence	47	Male	Portugal	Pending resolution; finding of civil liability
	55	Male	Portugal	Rejected appeal against conviction
	40	Male	Portugal	Rejected defendant's application for release
	42	Male	Andorra	Application for annulment ruled inadmissible – case shelved

## Article 14

### Reply to paragraph 20 of the list of issues

136. To date, there have been no cases of torture, so no data can be provided.

137. Victims of torture and their families, like victims of other criminal offences, may claim damages. Article 90 of the Criminal Code, on civil liability arising from criminal offences, states that damages arising from an act constituting an offence or a crime must be compensated as provided for in the Criminal Code and, subsidiarily, as provided for in civil law.

138. Article 91 of the Criminal Code:

The civil liability established in the preceding article comprises:

1. Restitution or, if this is not possible, appropriate reparation or compensation.
2. Reparation of the damage.
3. Compensation for moral and material damage.

Article 92 of the Criminal Code, on interest:

A sentence of monetary payment entails the payment of legal interest as from the date set by the court or, failing that, as from 30 days after the date when the judgment, or the order issued during enforcement of the sentence to establish the amount, becomes final.

Article 94 of the Criminal Code, on civil liability:

Any person criminally responsible for a criminal offence is also civilly liable if the offence gives rise to damages. If two or more persons are responsible, the courts will indicate the share for which each one is liable in proportion to that person's involvement and guilt, without prejudice to their joint liability towards the injured third parties.

Perpetrators and accomplices, each in their own category, are jointly and severally liable for their shares and, subsidiarily, for the shares of the other liable parties.

Subsidiary liability shall be applied first to the assets of the perpetrators and then to those of the accomplices.

Both in the case of joint liability and in the case of subsidiary liability, whoever pays has the right of recourse against the others for the shares owed by each.

139. Article 98.4 of the Criminal Code:

The following are subsidiarily liable:

... Public or private corporations or government bodies, for damages arising from criminal offences committed by the authorities, officials or employees in the performance of their duties, obligations or services.

140. Government bodies may thus be obliged to compensate victims. As no complaints of torture or other inhuman or degrading punishment have been recorded since 2012, there are no recorded data on compensation measures. Given that torture is not practised but rather condemned in Andorra, there are no specific rehabilitation programmes for victims of torture. If a case of torture were to occur, the victim would receive psychological support paid for by the State, since acts of torture are, by definition according to the Criminal Code, acts of ill-treatment inflicted by State officials. Measures other than compensation may be adopted to restore respect for the dignity of the victim and their right to security, to protect their health, to prevent repetition of the acts and to facilitate their reintegration into society.

141. Social workers and Ministry of Health specialists working with children and adolescents, women and the elderly prioritize the at-risk cases among those persons who seek their support, particularly in relation to ongoing court cases, and provide expert opinions to judges. They arrange social assistance for such persons and their families, including through measures that promote rehabilitation and reintegration into the community and workforce and by providing the psychosocial support they may require.

## Article 15

### Reply to paragraph 21 of the list of issues

142. The preliminary provisions set forth in chapter 1, article 1, of the Code of Criminal Procedure state that the principle of good faith must be upheld in all court proceedings and that evidence obtained either directly or indirectly as a result of the violation of fundamental rights and freedoms shall be deemed invalid (Code of Criminal Procedure, art. 1.2).



143. Article 1 of the Code of Criminal Procedure:

1. No one may be convicted of a criminal offence except in accordance with the provisions of this Code or specific legislation and by means of a judgment handed down by the competent court.

2. The principle of good faith must be upheld in all types of procedure. Evidence obtained either directly or indirectly as a result of violations of a person's fundamental rights or freedoms shall be invalid.

3. Judges and courts shall always rule on the claims brought before it on the basis of the facts and the law. Cases can only be dismissed on formal grounds for reasons established by law.

144. Article 9.3 of the Qualified Act on Justice provides that "evidence obtained either directly or indirectly as a result of violations of a person's fundamental rights and freedoms shall be inadmissible and invalid".

145. No complaints of evidence being obtained under torture have been reported; if such a case were to occur, the evidence would be declared null and void, and proceedings would be opened against the alleged perpetrators.

## **Article 16**

### **Reply to paragraph 22 of the list of issues**

146. For security reasons, comprehensive searches remain in force for persons deprived of liberty receiving conjugal or family visits. To avoid degrading treatment and ensure privacy, the search is conducted in two parts: first the upper part and then the lower part of the body.

### **Reply to paragraph 23 of the list of issues**

147. During the period under review, the coercive method of administering an electric shock with a Taser was not used. In line with the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in its report of 15 October 2012, the Government adopted regulations on 19 November 2014 on the carrying and use of firearms and on coercive methods authorized for use in prisons, which came into force on 27 November 2014. These regulations classify electrical discharge weapons as a coercive method of defence to be used only by authorized members of prison staff, who are to be selected on the basis of their ability to withstand stress and their capacity for discernment. These personnel undergo continuous training on coercive methods of defence, the use of which is subject to successful completion of the training. The carrying of such weapons in prison facilities is subject to conditions of use and they are not included in the standard day-to-day equipment.

148. The use of a Taser is reserved for cases of serious active resistance by a prisoner where there is also a serious threat of bodily harm to the prisoner, prison staff or third parties. Its use on minors and pregnant women is prohibited and it can never be used as a control or security measure. A clear advance warning of the intention to use such a weapon must be given, and the prisoner must be given time to take the warning into consideration. If the prisoner intentionally prolongs the situation, whenever possible the established order of procedure must be followed: before an electrical discharge weapon is used, efforts must be made to physically restrain the prisoner by means of handcuffs or expandable and rigid batons.

149. The use of this type of weapon must be recorded in a special register, and a full report must be submitted to the Ministry of the Interior, the Public Prosecution Service and the judiciary. The prisoner must undergo a medical examination immediately following the use of the authorized coercive method.

150. The regulations provide for the establishment of a technical committee, which must include a doctor, to evaluate and monitor coercive methods. The committee is tasked with:

- Establishing how and in what circumstances each coercive method may be used, taking into consideration the risks to the physical and psychological integrity of prisoners
- Determining the number and intensity of the electrical shocks that can be delivered
- Checking the data on the memory chips of electrical discharge transmitters regarding the number of times they have been used, the exact time and the number of shocks and the duration and intensity of each shock, and checking these data against the entries in the register
- Evaluating and determining, upon the arrival of an inmate, whether the use of one or more coercive methods on that individual should be prohibited or restricted in the light of his or her medical examination
- Evaluating the impact of coercive methods on the health of a prisoner and extending, restricting or prohibiting the use of such methods, on the basis of the medical tests carried out

#### **Reply to paragraph 24 of the list of issues**

151. In recent years, the Criminal Code has been amended several times to address the issue of domestic violence. In 2014, the word “corporal” was added to article 476, in which it had not previously appeared, to avoid possible misunderstandings.

152. Parliament adopted Qualified Act No. 14/2019 on the rights of children and adolescents. Article 59 refers to protection against any type of abuse:

1. The public authorities, within the scope of their remit, must protect children and adolescents against any type of abuse, in order to guarantee their well-being and their full and healthy development.

2. The child and adolescent protection system covers all actions, measures and services aimed at prevention, detection, notification, referral, intervention, the provision of care and the facilitation of recovery and social reintegration, as appropriate, in relation to any form of abuse that children and adolescents may suffer.

3. Abuse is understood to mean any type of physical or psychological violence, such as corporal punishment, neglect, sexual abuse and gender-based, domestic or family violence, as well as sexual, labour or any other type of exploitation, including when it is carried out by means of information and communication technologies, regardless of the environment, person or institution at the source of it. A failure to provide for a child’s basic needs in a way that impacts their development is also considered abuse.

153. Article 80 defines situations of risk:

(a) A failure by parents or persons who have guardianship or custody to provide physical or psychological care to a child or adolescent, which may cause a degree of harm to his or her physical or emotional health or hinder the exercise of his or her rights;

(b) The use of physical or emotional punishment on a child or adolescent that is not severe and does not constitute a chronic pattern of abuse.

154. Article 112 regulates corrective measures in residential foster care.

155. Corporal punishment, deprivation of food, deprivation of the right to visits and contacts with relatives or friends, interception of oral or written communications, deprivation of the right to education and school attendance, deprivation of the right to health care, and any other measure that violates the dignity of the child or adolescent in foster care are prohibited.

156. The laws of Andorra prohibit the corporal punishment of a minor in any form. Abuse and grievous bodily harm are criminal offences under article 476 of the Criminal Code. The second chapter of the Code, on crimes against human health and integrity, includes the general offence of abuse resulting in injury (art. 113) and a separate, more serious offence of abuse in the home (art. 114). There is also an “aggravated” offence, where a victim’s greater

vulnerability due to age, disability or any similar condition is considered an aggravating circumstance (art. 115). The Code also sets out the consequences for harming a fetus (art. 120).

157. The child protection system is responsible for ensuring the welfare of minors and to this end, in the event of any situation of risk, abuse, neglect or abandonment of minors, it must open a protection file ex officio or upon referral from a person, service or institution.

158. Parliament adopted Act No. 1/2015 on the elimination of gender-based and domestic violence, which recognizes individuals of any age who experience such violence, as well as their minor children, as victims.

159. In November 2020, the regulations on the procedure for immediate action in cases where there is evidence or a well-founded suspicion of abuse, sexual assault or severe physical abuse of children and adolescents were adopted, together with the Protocol for Immediate Action (Decree of 11 November 2020) implementing the provisions of title II of Qualified Act No. 14/2019 of 15 February 2019, on the rights of children and adolescents, especially those related to the system for protection from any type of abuse and for prevention, effective coordination to prevent abuse and action related to detection, notification and referral. Abuse is defined as any type of physical or psychological violence, such as corporal punishment, neglect, sexual abuse and gender-based, domestic or family violence, as well as sexual, labour or any other type of exploitation, including when it is carried out by means of information and communication technologies.

160. Also noteworthy is the Qualified Act on the Criminal Responsibility of Minors, which:

- Provides for transferring jurisdiction over criminal offences committed by minors, and the execution of sentences and orders (art. 40.1), to the Criminal Court, with cases of infractions heard by a single judge and cases of misdemeanours and felonies heard by a panel of judges (art. 2).
- Expressly establishes for the first time who is responsible for handling criminal proceedings against minors (investigation units) (art. 3).
- Strengthens minors' right to privacy during oral proceedings (art. 8).
- Establishes the role of the ad hoc guardian – not the minor's lawyer – if the legal guardian is not intervening in the criminal proceedings as a result of a judicial decision (art. 9).
- Clarifies the right to be informed of the acts under investigation and of the suspect's rights, and the right to legal representation and technical assistance (arts. 10 and 11.3 and 4).
- Provides for extending detention from 24 to a maximum of 48 hours for the serious offences of homicide, murder, torture, slavery, sexual assault, sexual abuse if the act consists of rape, drug trafficking, kidnapping, child trafficking, arms trafficking, exploitation of prostitution, terrorism, financing of terrorism, laundering of money or securities, and conspiracy to attack the Principality, the constitutional order or the international community. During this extended period, the detained minor will be placed in a special unit of the prison (art. 12.2).
- With regard to the applicable procedure, provides for minors to have recourse to penalty order procedures, which are a quicker remedy that allow for lesser penalties and provide greater guarantees.
- Increases the statute of limitations for felonies and infractions, establishes the registry of criminal proceedings against minors, and regulates the detention and disciplinary conditions in detention centres.
- Establishes that police officers, judges, magistrates, prosecutors and court clerks involved in criminal proceedings against minors must undertake specific and ongoing training.

161. Strictly speaking, the Act is a criminal law, but in practice it has an educational function, in terms of both the procedure and the measures applied to minors, giving a

primordial role to special prevention measures. Andorran legislation places special emphasis on the idea of avoiding de-socialization, which is linked to the principle of minimum intervention. Juvenile justice systems must guarantee children and young people all the rights recognized to all other persons, as well as protection appropriate to their age and stage of development.

162. Mention should be made of the educational rehabilitation programme for minors, as an alternative to the penalty of a fine for the consumption or possession of alcoholic beverages or other intoxicating drugs by minors. This educational measure offers an alternative to financial penalties, the aim being to avoid or reduce the risks associated with the consumption of alcoholic beverages or other intoxicating drugs. The idea is to promote a preventive approach and the early detection and treatment of problems related to the consumption of these substances.

163. The programme consists of a personalized educational work plan for each minor, to make them aware of their own consumption and the associated risks. In addition, it aims to reduce or eliminate the risk factors that could lead the minor to start consuming alcoholic beverages or other intoxicating drugs, and thereby enhance the personal, family and social protection enjoyed by the minor.

164. The purpose of the programme is to offer a personalized educational intervention to minors who have committed an administrative offence by consuming alcoholic beverages or other intoxicating drugs, or by being in possession of these substances, in order to reduce the risks associated with drug use. The aim is for the child to take responsibility for his or her actions and to get the child's family involved.

165. The educational intervention lasts from three to ten hours; it is carried out by clinical psychologists in sessions with the child and/or the child's parents. Completion of the programme commutes the penalty. The programme is open to minors who have committed any of the offences provided for in article 59 (11) of the Qualified Act on Public Safety.

## II. Other issues

### Reply to paragraph 25 of the list of issues

166. Given its small size, Andorra does not have an anti-terrorism strategy. The Government maintains close cooperation with the French and Spanish anti-terrorist units. The police have good relations with INTERPOL and the anti-terrorist services of other countries. To date, there have been no arrests or convictions of suspected terrorists.

167. Since 2014, Andorra has signed cooperation agreements with the following institutions:

- National Anti-Mafia and Anti-Terrorist Directorate of Italy (8 March 2017), with an express reference to the fight against terrorism
- Public Prosecution Service of Portugal (11 April 2018), with a specific mention of the fight against terrorism and the financing of terrorism
- Public Prosecution Service of Panama (11 June 2018), on combating gender-based crime
- Public Prosecution Service of Peru (27 June 2018), on combating transnational organized crime.
- Public Prosecution Service of Mexico (8 September 2018), with a specific mention of the fight against terrorism and the financing of terrorism
- Public Prosecution Service of Chile (4 February 2019), with a specific mention of the fight against terrorism and the financing of terrorism
- Public Prosecutor's Office attached to the Toulouse Court of Appeal (4 November 2019), with a specific mention of the fight against terrorism, radicalization and the financing of terrorism

- Public Prosecution Service of Argentina (16–30 June 2020), with a specific mention of the financing of terrorism
- Public Prosecution Service of Paraguay (21 October 2020), with a specific mention of the financing of terrorism
- Agreement on cooperation between the Attorney General’s Office of Uruguay and that of Andorra
- In addition, the High Council of Justice of Andorra has signed cooperation agreements with:
  - General Prosecution Service of Spain (17 July 2014), on organized crime, which made it possible for Andorran prosecutors to receive training at the Special Prosecutor’s Office of the National Court of Spain
  - National Financial Prosecutor’s Office of France (13 October 2017)

168. As an OSCE member State, Andorra is aligned with the commitments to combating terrorism adopted by States members of that organization at ministerial meetings. As a matter of policy, Andorra adheres to the declarations relating to the fight against terrorism and responds to questionnaires on the subject. The Permanent Mission of Andorra to the United Nations Office at Vienna also participates in conferences on terrorism (most recently, the OSCE-wide Counter-Terrorism Conference 2020).

169. The Andorran police patrols in urban areas serve a preventive purpose and the police give talks to teachers to help the latter detect any signs of terrorism or radicalization among young people. The police have a group called the Operational Analysis and Technical Investigation Methods Group (GAOI) which is competent to deal with terrorism-related issues. This group receives information from INTERPOL and has access to international terrorist databases. There is a consolidated terrorist watch list that can be accessed by border control officers, officials who issue passports, and immigration officers processing applications for legal residency and citizenship. Andorran officials also have access to the United States list of foreign terrorist organizations and the European Union list.

170. Members of the Police Force must participate in professional development activities designed to ensure the proper performance of their duties. To prevent the movement of known and suspected terrorists, some police officers have attended counter-terrorism seminars with a view to improving border controls.

171. Article 61 of the Police Act provides as follows:

1. Members of the Police Force shall receive initial training, as well as continuous and specialized training, to ensure they have the professional training necessary for the proper performance of the functions entrusted to them, in accordance with the principles of objectivity and equality of opportunity, and without prejudice to the fact that the training must be adapted to the specific needs of each post.
2. The training plan for members of the Police Force, which will include initial training, continuous training and specialized training, shall be approved by the Minister of the Interior, at the proposal of the Director of the Police Force in accordance with the regulations.
3. The Police Department shall defray the cost of training the members of the Force. Nevertheless, regulations may require members of the Force to cover these costs in exceptional cases, or to remain in the same post for a certain period of time after the end of the training.

172. In order to achieve the training objectives referred to in article 61 (1), the Minister of the Interior, or the Director of the Police Force with the prior authorization of the Minister of the Interior and, where appropriate, of the Government, may enter into agreements with national and foreign public or private entities and persons, provided that they meet the requirements established in international treaties.

## Counter-terrorism legislation and regulations in Andorra

### *Criminal Code and Code of Criminal Procedure*

173. Andorra is a party to various international instruments to combat terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)
- Convention for the Suppression of Unlawful Seizure of Aircraft (1970)
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973)
- International Convention against the Taking of Hostages (1979)
- Convention on the Physical Protection of Nuclear Material (1980)
- 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)
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)
- Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)
- International Convention for the Suppression of Terrorist Bombings (1997)
- International Convention for the Suppression of the Financing of Terrorism (1999)
- Council of Europe Convention on the Prevention of Terrorism (2005)
- European Convention on the Suppression of Terrorism, done at Strasbourg on 27 January 1977
- Protocol amending the European Convention on the Suppression of Terrorism, done at Strasbourg on 15 May 2003
- Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism, done at Riga on 22 October 2015.

### **Reply to paragraph 26 of the list of issues**

174. The Ministry of Foreign Affairs reports that, due to the small size of the Andorran Administration, accession to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment will take place during the next legislative session, beginning in May 2023.

175. Thought has been given on several occasions to ratifying the Optional Protocol, which has established a subcommittee to conduct periodic visits to places where people are deprived of their liberty in order to prevent torture and make recommendations. However, on 6 January 1997, Andorra ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which provides for the establishment of a committee with functions and objectives similar to those of the United Nations Subcommittee on Prevention of Torture. Given that it has only one prison and a limited number of holding cells in police stations, Andorra believes that the international conventions that it has already signed in this connection cover the purpose of the Optional Protocol. Andorra has an independent national mechanism (equivalent to an Ombudsman) who ensures there are regular visits to the prison. In addition, both the Prosecutor General and the President of the Court of First Instance conduct regular, unannounced visits to the prison. Although Andorra already meets the objectives of the Optional Protocol, it does not rule out the possibility of acceding to it, but it prefers to avoid duplication of the oversight mechanisms to which States are subject pursuant to their membership of international organizations.

### III. General information on other measures and developments relating to the implementation of the Convention in the State party

#### Reply to paragraph 27 of the list of issues

176. Signature, accession and ratification of human rights treaties between 2015 and 2021:

- Ratification of Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms (17 May 2019)
- Acceptance of the Convention against Discrimination in Education (13 March 2018)
- Ratification of the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (16 November 2016)
- Accession to the Statute of the Hague Conference on Private International Law (11 June 2015)
- Accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (17 September 2015)
- Ratification of Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms (27 May 2015)
- Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (14 December 2021)

177. The Family Visitation Service is a specialized social service set up in 2018 to help establish and enforce visitation schedules in situations involving separation, divorce or other family conflict where the relationship between children and a parent or family member has been disrupted or is problematic.

178. In accordance with article 10 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) and article 20 of Act No. 1/2015 on the elimination of gender-based and domestic violence, a decree regulating the National Commission for the Prevention of Gender-based and Domestic Violence was approved in 2016. This is a collegiate body responsible for coordination and cooperation between the various government departments involved in preventing and combating gender-based and domestic violence. Cooperation guidelines were also drawn up to ensure the orderly planning of actions by the government departments concerned. The guidelines include a protocol for the early detection of gender-based and domestic violence, and provide a framework for cooperation between the different departments to ensure appropriate care for victims and to avoid secondary victimization.

179. Act No. 14/2019 of 15 February 2019, on the rights of children and adolescents, establishes the rights and duties of children and adolescents in a way that is practical and adapted to the reality of their lives, prioritizing preventive aspects to promote their healthy, harmonious and positive growth. It also provides a regulatory framework for protection that offers an immediate, safe and decisive response for the child or adolescent at risk or suffering from neglect, in accordance with best practices under the most advanced systems of comparative law.

180. The National Commission for Childhood and Adolescence was established in 2019 as a collegiate body attached to the social affairs and education ministries, to coordinate the policies and actions of the different bodies of the Administration dealing with issues related to childhood and adolescence. It prepares, coordinates and rolls out the National Plan for Children and Adolescents and assesses their actual situation, especially as regards the impact of regulations, policies, plans, programmes and protocols that might affect their rights.

181. It is worth mentioning the Protocol for Immediate Action in cases where there is evidence or reason to suspect that children or adolescents are being subjected to abuse, sexual aggression or physical mistreatment (Regulation governing the Protocol for Immediate Action, November 2020), the Protocol for Social Action in situations where children or adolescents are at risk (Regulation governing the Protocol for Social Action, November 2020)

and the Commission for Care of Children and Adolescents (June 2021), which is part of the Ministry of Social Affairs and whose task is to evaluate the files of children and adolescents and approve technical proposals for intervention in cases of serious risk, as well as to make proposals for intervention and protection to judicial bodies, in cases of children and adolescents suffering from neglect.

182. The Unit for Services and Programmes for Children, Adolescents and Young People was set up to provide ongoing support to young people between the ages of 12 and 25 who are or have been wards of the State, or who are vulnerable or at risk of social exclusion, to guide them in their day-to-day lives and guarantee their full autonomy and social integration. The Unit's activities cover prevention, individual and community intervention, and support for emancipation and social inclusion.

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