

# Constitution of the Principality of Andorra

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## PREAMBLE

The Andorran People, with full liberty and independence, and in the exercise of their own sovereignty,

Conscious of the need to conform the institutional structure of Andorra to the new circumstances brought about by the evolution of the geographical, historical and socio-cultural environment in which it is situated, as well as of the need to regulate the relationship which the institutions dating back to the *Pareatges* (1) shall have within this new legal framework,

Resolved of the need to be endowed with all the mechanisms leading to juridical security in the exercise of the fundamental rights of the individual, which, although always present and respected in the nature of Andorran society, have not received the protection of any kind of general laws,

Eager to use every endeavour to promote values such as liberty, justice, democracy and social progress, and to keep and strengthen the harmonious relations of Andorra with the rest of the world, and especially with the neighbouring countries, on the basis of mutual respect, co-existence and peace,

Willing to bring their collaboration and effort to all the common causes of mankind, and especially to those of preserving the integrity of the Earth and guaranteeing an environment fit for life for the coming generations,

Desiring that the motto "virtus, unita, fortior", which has presided over the peaceful journey of Andorra over its more than seven hundred years of history, may continue to be a completely valid principle and may always guide the conduct of Andorrans,

Approve the present Constitution, in the exercise of their sovereignty.

## **TITLE I**

### **SOVEREIGNTY OF ANDORRA**

#### *Article 1*

1. Andorra is a Democratic and Social independent State abiding by the Rule of Law. Its official name is *Principat d'Andorra*.(2)
2. The Constitution proclaims that the action of the Andorran State is inspired by the principles of respect and promotion of liberty, equality, justice, tolerance, defence of human rights and dignity of the person.
3. Sovereignty is vested in the Andorran People, who exercise it through the different means of participation and by way of the institutions established in this Constitution.
4. The political system of Andorra is that of a parliamentary Coprincipality.
5. Andorra is composed of the Parishes (3) of Canillo, Encamp, Ordino, la Massana, Andorra la Vella, Sant Julià de Lòria and Escaldes-Engordany.

#### *Article 2*

1. Catalan is the official language of the State.
2. The national anthem, the State flag and the coat of arms of Andorra are the traditional ones.
3. Andorra la Vella is the capital of the State.

#### *Article 3*

1. The present Constitution, which is the highest law in the legal system, binds all the public institutions as well as the individuals.
2. The Constitution recognizes the principles of equality, hierarchy, publicity of the judicial rules, non-retroactivity of the rules restricting individual rights or those that are unfavourable in their effect or sanction, juridical security, accountability of public institutions and prohibition of any kind of arbitrariness.

3. The universally recognized principles of international public law are incorporated into the legal system of Andorra.

4. Treaties and international agreements take effect in the legal system from the moment of their publication in the Official Gazette of the Principality of Andorra (4) and cannot be amended or repealed by law.

## **TITLE II**

### **RIGHTS AND FREEDOMS**

#### **Chapter I. General principles**

##### *Article 4*

The Constitution recognises human dignity to be inalienable and therefore guarantees the inviolable and imprescriptible rights of the individual, which constitute the foundation of political order, social peace and justice.

##### *Article 5*

The Universal Declaration of Human Rights is binding in Andorra.

##### *Article 6*

1. All persons are equal before the law. No one may be discriminated against on grounds of birth, race, sex, origin, religion, opinions or any other personal or social condition.

2. Public authorities shall create the conditions in which the equality and the liberty of the individual may be real and effective.

#### **Chapter II. Andorran nationality**

##### *Article 7*

1. The status of Andorran national, as well as its legal effects, is acquired, kept and lost in accordance with the provisions of a Qualified Law.(5)

2. The acquisition or retention of a nationality other than Andorran shall entail the loss of the latter, subject to the terms and periods established by law.

#### **Chapter III. The fundamental rights of the person and public freedoms**

##### *Article 8*

1. The Constitution recognises the right to life and fully protects it in its different phases.

2. All persons have the right to physical and moral integrity. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

3. The death penalty is prohibited.

#### *Article 9*

1 All persons have the right to liberty and security and shall only be deprived of them on such grounds and in accordance with such procedures as are established in the Constitution and the laws.

2. Executive detention shall take no longer than the time needed to carry out the enquiries in relation to the clarification of the case, and in all cases the detained shall be brought before a judge within 48 hours.

3. The law shall establish a procedure so that the detained may request the court to decide on the legality of the detention. Likewise the law shall establish the procedure by which the impaired fundamental rights of any person under detention may be restored.

4. No one shall be held criminally or administratively liable on account of any acts or omissions which were lawful at the time when they were committed.

#### *Article 10*

1. All persons shall have the right to jurisdiction and to have a ruling founded in the law, and to due trial before an impartial tribunal established by law.

2. All persons shall have the right to counsel and the technical assistance of a competent lawyer, to trial within a reasonable time, to the presumption of innocence, to be informed of the charges against them, not to declare themselves guilty, not to testify against themselves and to appeal in criminal causes.

3. In order to guarantee the principle of equality, the law shall regulate the cases in which justice shall be free of cost.

#### *Article 11*

1. The Constitution guarantees the freedom of ideas, religion and cult, and no one is bound to state or disclose his or her ideology, religion or beliefs.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in the interests of public safety, order, health or morals, or for the protection of the fundamental rights and freedoms of others.

3 The Constitution guarantees the Roman Catholic Church free and public exercise of its activities and the preservation of the relationship of special co-operation with the State in accordance with Andorran tradition.

The Constitution recognises the full legal capacity of the bodies of the Roman Catholic Church which have legal status in accordance with their own rules.

#### *Article 12*

Freedom of expression, of communication and of information is guaranteed. The law shall regulate the right of reply, the right of correction and professional secrecy. Preliminary censorship or any other means of ideological control on the part of the public authorities shall be prohibited.

#### *Article 13*

1. The civil status of persons and forms of marriage shall be regulated by law. The civil effects of Canon Law marriage shall be recognised.

2. The public authorities shall promote a policy of protection of the family, which is the basic foundation of society.

3. Both spouses have the same rights and duties. All children are equal before the law, regardless of their parentage.

#### *Article 14*

The right to privacy, honour and reputation shall be guaranteed. All shall be protected by law against unlawful interference in their family and private life.

#### *Article 15*

Inviolability of the dwelling shall be guaranteed. No one shall enter a dwelling or any other premises against the will of the owner or without a warrant, except in case of **flagrante delicto**. The privacy of communication shall also be guaranteed, except upon a reasoned court order.

#### *Article 16*

The right to meet and assemble for any lawful purpose shall be respected. The exercise of the right of assembly requires that the authorities be notified in advance, and shall not prevent the free movement of goods and persons.

*Article 17*

The right to associate for a lawful purpose shall be recognised. A law shall establish a public Registry of the associations which may be constituted.

*Article 18*

The right to form and maintain managerial, professional and trade-union associations shall be recognised. Without prejudice to their links with international institutions, these organizations shall operate within the limits of Andorra, shall have their own autonomy without any organic dependence on foreign bodies and shall function democratically.

*Article 19*

Workers and employers have the right to defend their own economic and social interests. A Law shall regulate the conditions of exercise of this right in order to guarantee the functioning of services essential to the community.

*Article 20*

1. All persons have the right to education, which shall be orientated towards the dignity and full development of the human personality, thus strengthening the respect for freedom and fundamental rights.

2. Freedom of education and of establishing teaching centres shall be recognised.

3. Parents have the right to decide the type of education for their children. They also have the right to moral or religious instruction for their children in accordance with their own convictions.

*Article 21*

1 Everyone has the right to move freely throughout the national territory and to enter and leave the country in accordance with the law.

2. Andorran nationals and lawfully resident aliens have the right freely to choose their place of residence in Andorra.

*Article 22*

A decision on the non-renewal of the residence permit or the expulsion of a lawful resident shall only be made pursuant to the causes and terms determined by law, after a non-appealable court decision, if the interested person exercises his or her right to jurisdiction.

*Article 23*

Everyone with a direct interest has the right to petition the public authorities in the form and with the effects provided by law.

**Chapter IV. Political rights of Andorran nationals**

*Article 24*

All Andorrans of age, in full use of their rights, enjoy the right of suffrage.

*Article 25*

All Andorran nationals have the right of accession to public service and office under the same conditions and in accordance with the requirements determined by law. The exercise of institutional offices is reserved for Andorrans, with the exceptions that may be provided for in this Constitution or in international treaties.

*Article 26*

Andorrans have the right freely to create political parties. Their functioning and organization must be democratic and their activities lawful. The suspension of their activities and their dissolution is the responsibility of the judicial organs.

**Chapter V. Rights, and economic, social and cultural principles.**

*Article 27*

1. Private property and the rights of inheritance are recognised without any limits other than those derived from the social function of property.

2. No one shall be deprived of his or her goods or rights, except upon justified consideration of the public interest, with just compensation by or pursuant to a law.

*Article 28*

The right of enterprise shall be recognised within the framework of the market economy and in accordance with the law.

*Article 29*

All persons have the right to work, to their promotion through work, and to just income which shall guarantee a living befitting human dignity for themselves and their families, as well as to reasonable limitation of the working day, weekly rest and paid vacation.

*Article 30*

The right to health protection and to receive services relative to personal needs shall be respected. With that intent the State shall guarantee a system of Social Security.

*Article 31*

The State has the task of ensuring the rational use of the land and of all natural resources, so as to guarantee a fitting quality of life for all and, for the sake of future generations, to restore and maintain a reasonable ecological balance in the atmosphere, water and land, as well as to protect the autochthonous flora and fauna.

*Article 32*

The State may intervene in the ordering of the economic, commercial, labour and financial system to make possible, within the framework of a market economy system, the balanced development of the society and general welfare.

*Article 33*

The public authorities shall promote the necessary conditions to ensure the right of everyone to enjoy decent housing.

*Article 34*

The State shall guarantee the conservation, promotion and diffusion of the historical, cultural and artistic heritage of Andorra.

*Article 35*

The rights of consumers and users shall be guaranteed by law and protected by the public authorities.

*Article 36*

The State may create media of social communication. In accordance with the principles of participation and pluralism, a law shall regulate their organization and control by the General Council.(6)

## **Chapter VI Duties of Andorran nationals and of aliens**

*Article 37*

All individuals and juridical persons shall contribute to public expenditure according to their economic capacity, by means of a just taxation system, pursuant to a law and founded upon the principles of generality and equitable distribution of tax burdens.

*Article 38*

The State may create by law types of community service to pursue tasks of general interest.

## **Chapter VII. Guarantees of rights and freedoms**

*Article 39*

1. The rights and freedoms recognised in chapters III and IV of this Title bind immediately all public authorities as directly enforceable law. Their content cannot be limited by law and are protected by the Courts.
2. Aliens legally resident in Andorra may freely exercise the rights and freedoms of chapter II of this Title.
3. The rights in chapter V form the basis of the legislation and the actions of the public authorities, but they may only be invoked within the conditions determined by the law.

*Article 40*

The exercise of the rights recognised in this Title may only be regulated by law. The rights in chapter III and IV shall be regulated by means of qualified laws.

*Article 41*

1. The rights and freedoms recognised in chapters III and IV are protected by regular courts through urgent and preferential proceedings regulated by law, which in any case shall be transacted in two instances.

2. A law shall create an extraordinary Procedure of Appeal before the Constitutional Court(7) against acts of the public authorities which may violate the essential contents of the rights mentioned in the paragraph above, with the exception of the case provided for in article 22.

#### *Article 42*

1. A Qualified Law shall regulate states of alarm and emergency. The former may be declared by the Government in case of natural catastrophes, for a term of fifteen days, by notifying the General Council. The latter may also be declared by the Government for a term of thirty days in the case of interruption of the normal functioning of democratic life and this shall require the previous authorisation of the General Council. Any extension of these states requires necessarily the approval of the General Council.

2. Under a state of alarm the exercise of the rights recognised in articles 21 and 27 may be limited. Under a state of emergency the rights covered by articles 9.2, 12, 15, 16, 19 and 21 may be suspended. The application of this suspension to the rights covered in articles 9.2 and 15 must be effected under the control of the judiciary notwithstanding the procedure of protection established in article 9.3.

### TITLE III

#### THE COPRINCES

#### *Article 43*

1. In accordance with the institutional tradition of Andorra, the Coprinces are, jointly and indivisibly, the Head of State, and they assume its highest representation.

2. The Coprinces, an institution which dates from the Pareatges and their historical evolution, are in their personal and exclusive right, the Bishop of Urgell and the President of the French Republic. Their powers are equal and derive from the present Constitution. Each of them swears or affirms to exercise their functions in accordance with the present Constitution.

#### *Article 44*

1. The Coprinces are the symbol and guarantee of the permanence and continuity of Andorra as well as of its independence and the maintenance of the spirit of parity in the traditional balanced relation with the neighbouring States. They proclaim the consent of the Andorran State to honour its international obligations in accordance with the Constitution.

2. The Coprinces arbitrate and moderate the functioning of the public authorities and of the institutions, and are regularly informed of the affairs of the State on their own initiative, or that of the Syndic General (8) or the Head of Government.

3. Except for the cases provided for in this Constitution, the Coprinces are immune from legal action. The acts of the Coprinces are the responsibility of those who countersign them.

#### *Article 45*

1. The Coprinces, with the countersignature of the Head of Government, or when appropriate, of the Syndic General, have the political responsibility for:
  - a) Calling a general election in accordance with the Constitution.
  - b) Calling a referendum in accordance with articles 76 and 106 of the Constitution.
  - c) Appointing the Head of Government following the procedure provided for in the Constitution.
  - d) Signing a decree of dissolution of the General Council following the procedure of article 71 of the Constitution.
  - e) Accrediting diplomatic representatives of Andorra to foreign States. Foreign envoys present credentials to each of the two.
  - f) Appointing the holders of office of the other institutions of the State in accordance with the Constitution and the law.
  - g) Sanctioning and enacting laws in accordance with article 63 of this Constitution.
  - h) Expressing the consent of the State to honour its international treaties under the provisions of chapter III of Title IV of the Constitution.
  - i) Performing such other functions as may specifically be conferred on them by the Constitution.
2. The dispositions provided for in letters g) and h) of this article shall be simultaneously brought to the attention of each Coprince, who shall sanction and enact them or express the consent of the State, as the case may be, and the Coprinces shall order their publication within a period of between eight and fifteen days thereafter.

Within that period the Coprinces, individually or jointly, may address themselves to the Constitutional Court, with a reasoned message, so that this institution may render judgment on the constitutionality of any such act. If the resolution is positive the act may be sanctioned with the signature of at least one of the Coprinces.

3. When there may be circumstances preventing one of the Coprinces from formalising the acts listed in part 1 of this article within the periods constitutionally provided for, his representative shall make it known to the Syndic General, or where appropriate, to the Head of Government. In that case, the acts, norms or decisions in question shall take effect once the aforementioned period has elapsed with the signature of the other Coprince and the countersignature of the Head of Government, or, where appropriate, the Syndic General.

#### *Article 46*

1. The Coprinces may perform the following acts of their free will:
  - a) The combined exercise of the prerogative of grace.
  - b) The creation and structuring of the services considered to be necessary for the performing of their institutional functions, the appointment of the holders of these offices and their accreditation to all effects.

- c) The appointment of the members of the High Court of Justice, in accordance with article 89.2 of the Constitution.
  - d) The appointment of the members of the Constitutional Court, in accordance with article 96.1 of the Constitution.
  - e) The requirement of a preliminary judgment of unconstitutionality on any law.
  - f) The requirement of a judgment on the unconstitutionality of any international treaty, prior to its ratification.
  - g) The lodging of conflict before the Constitutional Court in relation to their constitutional functions, under the provisions of articles 98 and 103 of the Constitution.
  - h) The granting of the agreement for the adoption of the text of an international treaty, in accordance with the provisions of article 66, prior to its parliamentary approval.
2. The acts deriving from articles 45 and 46 are exercised by the Coprinces personally, except for the faculties provided for in clauses e), f), g), and h) of this article, which may be performed by delegation.

#### *Article 47*

The General Budget of the Principality shall assign an equal amount to each Coprince, for the functioning of their services, which amount they may freely dispose of.

#### *Article 48*

Each Coprince appoints a personal representative in Andorra.

#### *Article 49*

In case of the vacancy of one of the Coprinces the present Constitution recognises the validity of the mechanisms of substitution provided for in their respective legal systems, so as not to interrupt the normal functioning of the Andorran institutions.

### **TITLE IV**

#### **THE GENERAL COUNCIL**

#### *Article 50*

The General Council, which expresses the mixed and apportioned representation of the national population and of the seven Parishes, represents the Andorran people, exercises legislative powers, approves the budget of the State and prompts and controls the political action of the Government.

#### **Chapter 1. Organization of the General Council**

#### *Article 51*

1. The Councillors are elected by universal, free, equal and direct suffrage for a four-year term. Their mandate shall cease four years after their election or on the day that the General Council is dissolved.
2. Elections shall be held between the thirtieth and fortieth days following the dissolution of the General Council.
3. All Andorran nationals fully enjoying their political rights are entitled to vote and to be eligible for election.

4. A Qualified Law shall regulate the electoral system and shall provide for the causes for ineligibility or incompatibility of Councillors.

*Article 52*

The General Council consists of a minimum of twenty-eight and a maximum of forty-two General Councillors, half of whom shall be elected in an equal number by each of the seven Parishes and the other half elected on the basis of a national single constituency.

*Article 53*

1. The members of the General Council have equal power of representation, are equal in terms of rights and duties and are not subject to any form of imperative mandate. Their vote is personal and may not be delegated.
2. Councillors may not be called to account for votes cast or any utterances made in the exercise of their functions.
3. Throughout their term Councillors may not be arrested or detained, except in the cases of flagrant delicto. But in that case, their detention and prosecution shall be decided by a plenary session of the Criminal Law Court (9) and the trial shall be conducted by the High Court.

*Article 54*

The General Council draws up and modifies its own Rules of Procedure, with a majority vote of the Chamber, it fixes its budget and regulates the statute of the staff in its service.

*Article 55*

1. The Office of the Speaker (10) is the ruling organ of the General Council.
2. The General Council assembles in its inaugural session fifteen days after the proclamation of the electoral results. The Syndic General, the Subsyndic General and, should this be the case, the other members who may statutorily be part of the Office of the Speaker, shall be elected in that same session.
3. The Syndic General and the Subsyndic General may not exercise their office for more than two consecutive full terms.

*Article 56*

1. The General Council meets in traditional ordinary and extraordinary sessions, convened in the form prescribed in the Rules of Procedure. There shall be two ordinary periods of session throughout the year, as prescribed in the Rules of Procedure. The sessions of the General Council are public, unless otherwise decided by the absolute majority of its members.
2. The General Council functions as a Plenum or in committees. The Rules of Procedure shall provide for the formation of legislative committees such that they represent the composition of the Chamber.
3. The General Council appoints a Permanent Commission to safeguard the powers of the Chamber while it is dissolved or in the period of recess. The Permanent Commission, under the presidency of the Syndic General, shall be formed in a way that will represent the apportioned composition of the Chamber.
4. The Councillors may form parliamentary groups. The Rules of Procedure shall provide for the rights and duties of the Councillors and of the parliamentary groups, as well as for the statute of those Councillors not attached to any group.

#### *Article 57*

1. Resolutions of the General Council shall only take effect when it meets with the minimum attendance of half of the Councillors.
2. Resolutions take effect when approved by the simple majority of the Councillors present, notwithstanding the special majorities prescribed in the Constitution.
3. The approval of the qualified laws prescribed by the Constitution requires the final favourable vote of the absolute majority of the members of the General Council, except for the Qualified Laws of elections and referendums, as well as for those concerning communal competence, and of transference to the Local Councils, (11) the approval of which requires the final favourable vote of the absolute majority of Councillors elected in the parish constituencies and the absolute majority of Councillors elected in the national constituency.

### **Chapter II. Legislative procedure**

#### *Article 58*

1. Legislative initiative corresponds to the General Council and to the Government.
2. Three Local Councils jointly or a tenth part of the electoral roll may present Private Members' Bills to the General Council.
3. Government Bills and Private Members' Bills shall be examined by the Plenum of the Chamber and by the committees in the form prescribed by the Rules of Procedure.

#### *Article 59*

The General Council may delegate the exercise of the legislative function to the Government, by means of a law. This function may not be further delegated. The law of delegation determines the matter delegated, the principles and directives under which the corresponding legislative decree of the Government shall be issued, as well as the term of its exercise. The authorization will provide for the parliamentary forms of control of the delegated legislation.

#### *Article 60*

1. In cases of extreme urgency and need, the Government may present the General Council with an articulated text for approval as a law, in a vote on the whole text, within a period of forty-eight hours.
2. The matters reserved to a Qualified Law may not be subject to legislative delegation or to the procedure provided for in part 1 of this article.

#### *Article 61*

1. The initiative in the Bill of the General Budget corresponds exclusively to the Government, which must submit it for parliamentary approval at least two months prior to the expiry of the previous budget.
2. The Bill of the General Budget shall be given priority over other matters and it will be debated in accordance with a specific procedure, as prescribed in the Rules of Procedure.
3. If the Bill of the General Budget has not been approved by the first day of the corresponding fiscal year, the Budget of the previous year shall automatically be extended until a new one is approved.
4. The Bill of the General Budget may not create taxes.
5. The Finance Committee of the General Council shall make an annual revision of the execution of the Budget.

#### *Article 62*

1. Councillors and the parliamentary groups have the right to amend Government and Private Members' Bills.
2. The Government may request the General Council not to debate those amendments which imply an increase in expenditure or a decrease in revenue in relation to the amounts provided for in the Law of the General Budget. The General Council, by an absolute majority vote of the Chamber, may challenge such a request by means of a reasoned motion.

#### *Article 63*

Once a bill has been approved by the General Council, the Syndic General shall present it to the Coprinces so that they may sanction it, enact it and order its publication in the Official Gazette of the Principality of Andorra

### **Chapter III. International treaties**

#### *Article 64*

1. International treaties shall be approved by the General Council by absolute majority of the Chamber in the following cases:
  - a) Treaties linking the State to an international organization.
  - b) Treaties related to internal security and to defence.
  - c) Treaties related to the territory of Andorra.
  - d) Treaties affecting the fundamental rights regulated in Title II.
  - e) Treaties implying the creation of new burdens on the Public Finances.
  - f) Treaties creating or modifying dispositions of a legislative nature or requiring legislative measures for their implementation.
  - g) Treaties dealing with diplomatic representation or consular functions, or concerning judicial or penitentiary cooperation.
2. The Government shall inform the General Council and the Coprinces of the conclusion of other international agreements.
3. The previous agreement of the absolute majority of the Chamber shall be required for the repeal of international treaties affecting the matters specified in clause 1, above.

#### *Article 65*

For the purpose of furthering the interests of the Andorran people and of international progress and peace, legislative, judicial and executive functions may be relinquished only to international organizations and by means of a treaty which shall be approved by a majority of two-thirds of the members of the General Council.

#### *Article 66*

1. The Coprinces participate in the negotiation of treaties affecting relationships with the neighbouring States when dealing with the matters specified in letters b) c) and g) of article 64.1.
2. The Andorran delegation with the task of negotiating the treaties mentioned in the previous paragraph, shall be composed of members appointed by the Government and by a member appointed by each Coprince.
3. The adoption of the text of treaties shall require the agreement of the members appointed by the Government and of the members appointed by the Coprinces.

#### *Article 67*

The Coprinces are informed of the other drafts of international treaties and agreements, and by request of the Government, they may be associated to the negotiation prior to their parliamentary approval, if the national interest of Andorra so requires.

### **Chapter IV. Relations of the General Council with the Government**

#### *Article 68*

1. After each reelection of the General Council, its first session, which will be held within eight days of the inaugural one, shall deal with the election of the Head of Government.
2. The candidates shall be proposed for nomination by one fifth of the members of the General Council. Each Councillor may only endorse one candidacy.
3. The candidates shall present their programme and after a debate, the General Council shall elect the one that obtains the absolute majority of votes, in the first public ballot after a debate.
4. Should a second ballot be needed, only the two contenders with the best results in the first ballot may maintain their candidacy. The candidate with more votes shall be proclaimed Head of Government.
5. The Syndic General shall present the result of the ballot to the Coprinces so that the elected candidate may be appointed as the Head of Government, and the Syndic General shall countersign the appointment.
6. The same procedure shall be followed in any of the circumstances where the office of Head of Government becomes vacant.

#### *Article 69*

1. The Government as a whole is politically answerable to the General Council.
2. One fifth of the Councillors may sign a reasoned motion of censure in writing against the Head of Government.
3. After a debate to be held between the third and fifth days following the presentation of the motion, there shall be a public and oral vote, in accordance with the Rules of Procedure. The motion shall be carried only if it receives the votes of the absolute majority of the General Council.
4. If the motion of censure is approved, the Head of Government shall be dismissed. Immediately thereafter, the General Council shall proceed as provided for in the article above.
5. No motion of censure may be proposed within six months of the most recent election of the Head of Government.
6. The signatories to a motion of censure may not propose a further one until one year has elapsed.

#### *Article 70*

1. The Head of Government may lodge a motion of confidence before the General Council about his programme, about a declaration of general policy or about a decision of special significance.
2. Confidence shall be considered as granted if it receives the simple majority of votes in a public, oral vote. If the Head of Government cannot obtain this majority he or she shall tender his or her resignation.

#### *Article 71*

1. The Head of Government, after consulting the Government, and under his or her own responsibility, may request the Coprinces to dissolve the General Council prematurely. The decree of dissolution shall call new elections in accordance with article 51.2 of the Constitution.
2. No dissolution may be carried out after the presentation of a motion of censure or under a state of emergency.
3. No dissolution may be made within one year of the most recent elections.

### **TITLE V**

#### **THE GOVERNMENT**

#### *Article 72*

1. The Government consists of the Head of Government and the Ministers, their number being determined by law.
2. Under the direction of its Head of Government, the Government conducts the national and international policy of Andorra. It conducts the State administration and is vested with statutory powers.
3. The Public Administration serves the general interest with objectivity and works in accordance with the principles of hierarchy, efficiency, transparency and full submission to the Constitution, the laws and the general principles of the legal system defined in Title I. All their acts and regulations are subject to jurisdictional control.

#### *Article 73*

The Head of Government is appointed by the Coprinces, following his or her election under the terms provided for in the Constitution.

#### *Article 74*

The Head of Government and the Ministers are subject to the same jurisdictional status as the General Councillors.

#### *Article 75*

The Head of Government or, when appropriate, the competent Minister, countersigns the acts of the Coprinces provided for in article 45.

#### *Article 76*

The Head of Government, with the approval of the majority of the General Council, may request the Coprinces to call a referendum on political matters.

#### *Article 77*

The Government ceases with the dissolution of the legislature, with the resignation, death or permanent disability of the Head of Government, with the approval of a motion of censure or the lack of assent in a motion of confidence. In all such cases the Government shall continue its functions until a new Government is formed.

#### *Article 78*

1. The Head of Government may not hold office for more than two consecutive complete terms.

2. Membership of the Government is incompatible with membership of the General Council, or with the exercise of any public office not deriving from the said membership of the Government.

## **TITLE VI**

### **TERRITORIAL STRUCTURE**

#### *Article 79*

1. The Local Councils, as organs of representation and administration of the Parishes, are public corporations with legal status and with local regulatory powers subject to law by means of ordinances, regulations and decrees. Within the area of their jurisdiction subject to the Constitution, the law and tradition, the Local Councils function under the principle of self-government, recognised and guaranteed by the Constitution.
2. The Local Councils represent the interests of the Parishes, approve and carry out the communal budget, fix and develop their public policies within the bounds of their territory and manage and administer all Parish property, whether in the communal, public, patrimonial or private domain.
3. Their ruling organs are elected democratically.

#### *Article 80*

1. Within the framework of their administrative and financial autonomy, the Local Councils have their powers delimited by a Qualified Law, at least in the following matters:
  - a) Population census.
  - b) Electoral roll. Participation in the management of the electoral procedure and administration under the terms provided for by the law.
  - c) Popular consultations.
  - d) Commerce, industry and professional activities.
  - e) Delimitation of the communal territory.
  - f) Property of their own, and of the communal public domain.
  - g) Natural resources.
  - h) Cadastral register.
  - i) Local planning.
  - j) Public thoroughfares.
  - k) Culture, sports and social activities.
  - l) Communal public services.
2. Within the framework of the State's power to impose taxes, the aforementioned Qualified Law determines the economic and fiscal faculties of the Local Councils required in the exercise of their jurisdiction. These faculties shall deal at least, with the use and exploitation of natural resources, traditional tributes, and with the taxes for communal services, administrative licences, establishment of commercial, industrial and professional activities and real estate.
3. Matters within the jurisdiction of the State may be delegated to the Parishes by law.

#### *Article 81*

In order ensure the economic capacity of the Local Councils, a Qualified Law shall determine the transfer of funds from the General Budget to the Local Councils, and guarantee that a part of these funds be apportioned in equal quantities to each of the

Parishes, and the other part to be shared proportionally on grounds of population, extension of their territory and other indicators.

*Article 82*

1. Conflicts arising from the interpretation or exercise of jurisdiction between the general organs of the State and the Local Councils shall be settled by the Constitutional Court.
2. The acts of the Local Councils shall be directly enforced through the means established by law. Against such acts administrative and jurisdictional appeals may be lodged with the purpose of controlling their conformity with the legal system.

*Article 83*

The Local Councils have legislative initiative and are entitled to lodge appeals of unconstitutionality under the terms provided for in the Constitution.

*Article 84*

The laws shall take into account custom and usage in order to determine the jurisdiction of Districts and Neighbourhoods,(12) as well as their relationship with the Local Councils.

## **TITLE VII**

### **JUSTICE**

*Article 85*

1. In the name of the Andorran people, justice is solely administered by independent judges, with security of tenure, and while in the performance of their judicial functions, bound only to the Constitution and the law.
2. The whole judicial power is vested in a uniform organization of Justice. Its structure, functioning and the legal status of its members shall be regulated by a Qualified Law. No special jurisdiction shall be established.

*Article 86*

1. The rules of jurisdiction and procedure applying to the Administration of Justice are reserved to the law.
2. In all cases, judgments shall be justified, founded in the legal system and publicly declared.
3. Criminal trials are public, notwithstanding the limitations provided for by the law. Its procedure is preferentially oral. The judgment which terminates the first instance shall be rendered by a judicial organ different from the one in charge of the proceedings, and this judgment is always be subject to appeal.
4. The jurisdictional defence of the general interest may be carried out by means of popular action in the cases regulated by the laws of procedure.

*Article 87*

The judicial power is held by the Magistrates,(13) the Magistrates Court, the Criminal Law Court, and the High Court of Justice of Andorra, as well as by the respective presidents of those courts, in accordance with the law.

*Article 88*

Judgments, once final, have the value of res judicata and may not be modified or quashed

except in the cases provided for by the law or when, in exceptional cases, the Constitutional Court, after the corresponding process of Constitutional appeal, decides that they were rendered in violation of certain fundamental rights.

#### *Article 89*

1. The High Court of Justice, as the organ of representation, direction and administration of the organization of Justice, watches over the independence and proper functioning of the Justice. All its members shall be Andorran nationals.
2. The High Court of Justice consists of five members appointed from Andorrans over twenty-five years of age, conversant with the Administration of Justice. One shall be appointed by each Coprince, one by the Syndic General, one by the Head of Government and one by Judges and Magistrates. They hold office for a six-year term and may not be elected twice consecutively. The High Court of Justice is presided over by the member appointed by the Syndic General.
3. The High Court of Justice appoints Magistrates and Judges, exercises disciplinary authority over them and promotes the conditions for the Administration of Justice to carry out its duties with the means available. In order to fulfil this aim it may render its opinion in relation to the drafting of bills affecting the Judiciary or to report on the situation of the latter.
4. The Qualified Law concerning the Judiciary shall regulate the functions and jurisdiction of this High Court.

#### *Article 90*

1. All Judges, whatever their rank, shall be appointed for a renewable six year term, being academically qualified lawyers and with technical capacity for the performance of the judicial office.
2. The Presidents of the Magistrates Court, the Criminal Law Court, and the High Court of Justice are appointed by the High Court of Justice. The length of their term of office and the conditions for their eligibility shall be determined by the Qualified Law mentioned in article 89.4 of the Constitution.

#### *Article 91*

1. The office of Judge is not compatible with any other public post or with the exercise of commercial, industrial or professional activities. Remuneration of Judges is the sole responsibility of the State Budget.
2. While Judges hold office they may not be admonished, displaced, suspended, or removed from their post, unless pursuant to a sanction imposed on grounds of disciplinary or criminal liability, by means of a procedure regulated by the Qualified Law and with the rights of hearing and defence fully guaranteed. The same law shall also regulate cases on the civil liability of Judges.

#### *Article 92*

In accordance with the laws and notwithstanding the personal liability of those who caused them, the State shall cover any damages resulting from a miscarriage of justice or the abnormal functioning of the Administration of Justice.

#### *Article 93*

1. The Office of the Attorney General has the task of watching over the defence and

enforcement of the legal system and the independence of courts, as well as the task of promoting before them the enforcement of the law, in order to safeguard the rights of the citizens and the protection of the general interest.

2. The Office of the Attorney General is composed of members appointed by the High Court of Justice, upon the advice of the Government, for renewable six-year terms, by persons qualifying for appointment as Judges. Their legal status shall be regulated by law.

3. The Office of the Attorney General, presided over by the State Attorney General, functions in accordance with the principles of legality, unity and internal hierarchy.

#### *Article 94*

The Judges and the Office of the Attorney General are in charge of police activities related to judicial matters as provided for by law.

### **TITLE VIII**

#### **THE CONSTITUTIONAL COURT**

#### *Article 95*

1. The Constitutional Court is the supreme interpreter of the Constitution, functions jurisdictionally, and its decisions bind public authorities and individuals alike.

2. The Constitutional Court decides on its own rules of procedure and carries out its functions subject only to the Constitution and the corresponding Qualified Law regulating it.

#### *Article 96*

1. The Constitutional Court is composed of four Constitutional Senior Judges, appointed from persons of known juridical or institutional experience, one by each of the Coprinces and two by the General Council. They may not hold office for more than two consecutive eight-year terms. The renewal of the Constitutional Court will be partial. The system of incompatibility shall be regulated by the Qualified Law mentioned in the preceding article.

2. The Constitutional Court is presided over by the Senior Judge to whom the post corresponds, on the basis of a two-year rotation system.

#### *Article 97*

1. The Constitutional Court takes its decisions by a majority vote. Its votes and its debates are secret. The chairman, always chosen by drawing lots, has the deciding vote in case of a tie.

2. The judgments which partially or wholly uphold an appeal have to determine the scope and extension of its consequences.

#### *Article 98*

The Constitutional Court tries:

a) Appeals of unconstitutionality against laws, executive regulations and the Rules of Procedure of the General Council.

b) Requests of preliminary opinion of unconstitutionality about international laws and treaties.

c) Processes of constitutional appeal.

d) Conflicts of jurisdiction between constitutional organs. To this effect the Coprinces, the

General Council, the Government, the High Court of Justice and the Local Councils are considered as constitutional organs.

*Article 99*

1. Appeals of unconstitutionality against laws or statutory rules may be lodged by one fifth of the General Council, the Head of Government and three Local Councils. One fifth of the General Council may lodge an appeal of unconstitutionality against the Rules of Procedure of the Chamber. The appeal shall be lodged within the thirty days following the publication of the rule.
2. The lodging of an appeal does not suspend the enforcement of the rule under appeal. The Court shall pass judgment within a maximum period of two months.

*Article 100*

1. If, in the course of litigation, a court has reasoned and founded doubts about the constitutionality of a law or a legislative decree, the application of which is relevant to its decision, it shall request in writing the decision of the Constitutional Court about the validity of the rule in question.
2. The Constitutional Court may not admit the transaction of the request without further appeal. If the request is admitted judgment shall be passed within a maximum period of two months.

*Article 101*

1. The Coprinces, under the provisions of article 46.1.f), the Head of Government or a fifth of the General Council, may request an opinion about the constitutionality of international treaties prior to their ratification. Proceedings of this nature shall take priority.
2. The judgment admitting the unconstitutionality of a treaty shall prevent its ratification. In all cases the conclusion of an international treaty including stipulations contrary to the Constitution shall require the previous revision of the latter.

*Article 102*

A constitutional appeal against the acts of public authorities impairing fundamental rights may be lodged by:

- a) Those having been party or accessory to the previous legal proceedings referred to in article 41.2 of this Constitution.
- b) Those having a legal interest relating to non-enforceable provisions or acts of the General Council.
- c) The Office of the Attorney General in case of violation of the fundamental right of jurisdiction.

*Article 103*

1. Conflicts between the constitutional organs shall arise when one of them alleges that another is illegitimately carrying out tasks which are constitutionally under the jurisdiction of the first.
2. The Constitutional Court may provisionally stay the enforcement of rules or acts under appeal, and when appropriate, give orders for the acts which originated the conflict to be stopped.
3. The judgment shall determine and confer jurisdiction on one of the disputing parties.
4. The lodging of a plea of conflict of jurisdiction prevents the matter from coming before

the Administration of Justice.

5. The law shall regulate the cases in which a conflict of jurisdiction may arise on grounds of the non-exercise by constitutional organs of the jurisdiction to which they are entitled.

#### *Article 104*

A Qualified Law shall regulate the legal status of the members of the Constitutional Court, the constitutional proceedings and the functioning of the institution.

### **TITLE IX**

#### **CONSTITUTIONAL REVISION**

#### *Article 105*

The right to initiate the revision of the Constitution shall lie with the Coprinces jointly or a third part of the members of the General Council.

#### *Article 106*

The revision of the Constitution shall require the approval of the General Council by a majority of two-thirds of the members of the Chamber. Immediately after its approval the proposal shall be submitted to ratification in a referendum.

#### *Article 107*

Once the procedure established in article 106 has been carried out, the Coprinces shall sanction the new constitutional text for its promulgation and coming into force.

#### **FIRST ADDITIONAL PROVISION**

The General Council and the Government have the mandate of the Constitution so that, jointly with the Coprinces, they may start negotiations with the governments of France and Spain with the purpose of signing an international tripartite treaty which shall establish the framework of relations with the neighbouring States, on the basis of respect for the sovereignty, independence and territorial integrity of Andorra. (14)

#### **SECOND ADDITIONAL PROVISION**

The post of diplomatic representation of a State in Andorra is not compatible with the holding of any other public office.

#### **FIRST TRANSITIONAL PROVISION**

1. The same General Council which has approved this Constitution shall convene an extraordinary period of sessions to approve at least the Rules of Procedure of the General Council and the qualified laws relating to the electoral system, the jurisdiction and financial system of the Local Councils, the Judiciary and the Constitutional Court. This period of sessions shall end on the thirty-first day of December of 1993.

2. In that period, starting on the first working day following the publication of the Constitution, the General Council may not be dissolved and shall carry out all the functions conferred on it by the Constitution.

3. On the eighth day of September of 1993, the feast day of Our Lady of Meritxell, the Syndic General shall call general elections, which shall be held in the first half of December of this year.

4. The end of this period of sessions shall imply the dissolution of the General Council and

the dismissal of the Government, which shall function ad interim until the forming of the new one, in accordance with the Constitution.

### **SECOND TRANSITIONAL PROVISION**

1. The Qualified Law concerning the Judiciary shall envisage, on a balanced basis, the appointment of Judges and Public Prosecutors from the neighbouring States while it is not possible to do otherwise. This law, as well as the law concerning the Constitutional Court shall regulate the status of nationality of Judges and Senior Judges who are not Andorran.
2. The Qualified Law concerning the Judiciary shall establish the transitional system for the continuity in office of those judges who, at the moment of its promulgation, are not holders of the academic qualifications provided for in the Constitution.
3. The aforementioned Qualified Law concerning the Judiciary shall envisage the systems of conformity of the pending proceedings and causes to the judicial and procedural system provided for in this Constitution, so as to guarantee the right to jurisdiction.
4. The laws and rules valid at the moment the Constitutional Court is established, may be subject to a direct constitutional appeal within a period of three months, following the taking up of office of the Constitutional Judges. The organs entitled to lodge such an appeal shall be the ones provided for in article 99 of the Constitution.
5. In the period of the first term following the coming into effect of the Constitution, the representatives of the Coprinces in the High Court of Justice may not of necessarily be Andorran nationals.

### **THIRD TRANSITIONAL PROVISION**

1. The institutional agencies of the Coprinces, the functions and jurisdiction of which have been conferred by this Constitution on other State organs, shall be transferred to the mentioned organs. With that purpose, a technical commission shall be set up. It shall be composed of a representative of each Coprince, two of the General Council, and two of the Government and shall prepare and address a report to the General Council for it to take the necessary steps in order to make the transfers effective within the period of time mentioned in the First Transitional Provision.
2. The same commission shall carry out the necessary arrangements to place the police services under the exclusive control of the Government within a period of two months following the coming into effect of the Constitution.

### **DEROGATORY PROVISION**

With the coming into effect of this Constitution all previous rules contrary to it are hereby revoked.

### **FINAL PROVISION**

The Constitution shall come into effect immediately upon its publication in the Official Gazette of the Principality of Andorra.

And we the Coprinces, after the adoption of the Constitution by the Council in a solemn session on the second day of February of 1993, and after its approval by the Andorran People in the referendum held on the fourteenth day of March of 1993, make it ours, ratify, sanction and enact it, and, for general cognizance, we do order its publication.

Casa de la Vall, the twenty-eighth day of April of 1993

François Mitterrand  
*President of the French Republic*  
*Coprince of Andorra*

Jordi Farràs Forné  
*Syndic General*

Joan Martí Alanís  
*Bishop of Urgell*  
*Coprince of Andorra*

## NOTES

(1) *Pareatges*: Two thirteenth century arbitral awards which decide on various points of dispute between the Count of Foix and the Bishop of Urgell, concerning the exercise of their feudal powers over the Valleys of Andorra.

(2) Principality of Andorra.

(3) *Parròquies*: the territorial and administrative units of Andorra.

(4) *Butlletí Oficial del Principat d'Andorra*

(5) *Llei qualificada*: A law which, to be passed, requires a higher majority than other laws (see Article 57.3).

(6) *Consell General*: a single chamber parliament with representation divided between the national constituency and the parishes.

(7) Exceptional procedure of appeal to the Constitutional Court: this procedure is known as "*recurs d'empara*".

(8) *Síndic General*: the president of the General Council and the *Sindicatura* (the governing body of the General Council)

(9) *Tribunal de Corts*: the criminal court.

(10) *Sindicatura*

(11) *Comuns*

(12) *Quarts* and *veïnats*

(13) *Batlles*

(14) The Treaty of Good Neighbourliness, Friendship and Co-operation between the Principality of Andorra, the Kingdom of Spain and the French Republic was signed in Paris and Madrid on 1 June 1993 and in Andorra la Vella on 3 June 1993.