

**THE LEGAL SYSTEM
OF THE
PRINCIPALITY OF ANDORRA**

By

JACK E. BIRD

C.P.A., J.D.

CHAPTER TWO

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CHAPTER TWO

**THE LEGAL SYSTEM
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Andorra, high in the Pyrenees Mountains between France and Spain, is one of the world's smallest countries with an area of only 460 square kilometers. Located on the south slope of the eastern Pyrenees, it is bounded on the north and east by the French departments of Ariège and Pyrenees-Orientales and on the south by the Spanish province of Lerida. Most of Andorra's rugged terrain consists of gorges, narrow valleys, and deep defiles, surrounded by mountain peaks rising higher than 2,900 meters above sea level.

The Valira River, splitting into a Y-shape at the capital, Andorra-de-Villa, divides Andorra into three regions: the valleys of northern Valira, of eastern Valira, and of the Gran Valira. The climate is dry and sunny with severe winters which, at times, block the high mountain passes from France and Spain. Andorra is not accessible by either rail or air.

The population is concentrated in seven urbanized valleys that form Andorra's political districts. Approximately 37,000 people (1981) live in Andorra, but only about 25% are Andorran citizens. Most of the rest are Spanish or French citizens. The official language is Catalan, a romance language spoken by more than six million people in the region that comprises French and Spanish Catalonia. The official religion is Roman Catholic.

§ 1.2. History.

The origins of the people who inhabit Andorra can be traced to Roman times when a tribe referred to as the Andosians settled there. It is said that Charlemagne drove the Moors from the territory which is now Andorra in 806 A.D., and created a buffer state to keep the Muslims from advancing into Christian France. His grandson, Charles II, designated the Count of Urgel as the ruler of Andorra, and a descendant gave these lands to the Bishop of Urgel in 954 A.D. Through marriage, the French Count of Foix became heir to the Count of Urgel, and the Count and the Bishop clashed over the region. In 1278, they reached an agreement (the Parentge) to recognize each other as co-princes of the Andorran valleys. This compact gave the small state its political form and territorial extent which continues to the present day.

In 1589, the Count of Foix became King Henry IV of France; and from that time on, the ruler of France acted as co-Prince of Andorra. This traditional rule was renounced by the French revolutionary government in 1793, but was restored by Napoleon in 1806, upon the petition of the Andorrese.

Andorra's isolation and its dual relationship with Spain and France have enabled it to avoid the major wars of Europe. Its ties with France allowed it to remain neutral during the Spanish Civil War, while its ties with Spain helped it remain neutral during both World Wars.

§ 1.3. Economy.

Starting in the 1950's, Andorra's economy changed from one based on farming and sheep-raising to one based primarily on tourism. Tourists are attracted during the

summer to the mountain scenery, the cool climate and the seclusion from the outside world. During the winter, Andorra is a favorite location for many French and Spanish snow skiers. More than 250 hotels and restaurants, as well as many shops, cater to tourists and employ a growing portion of the domestic labor force. There is also an active trade in imported manufactured items which are less expensive in Andorra than in neighboring countries because they are duty free. As a result, smuggling is commonplace.

Andorra also has light manufacturing, including cigars, cigarettes, and furniture for domestic and export markets.

§ 1.4. Political System.

The political party system does not exist in Andorra. Candidates for political office usually run as independents.

§ 1.5. Government.

§ 1.5(A). Co-Princes.

The President of France and the Bishop of Seo de Urgel, Spain, as co-Princes, are charged with the conduct of foreign affairs, defense, and the judicial system. As an acknowledgment of their powers, the Andorrese must pay a tribute every two years to the Bishop of Urgel and the President of France. The Bishop receives 460 pesetas, 12 hams, 12 cheeses, and 12 chickens. The President receives 960 francs. The co-Princes are represented in Andorra by *veguers* (designated representatives) and *battles* (magistrates).

§ 1.5(B). General Council.

The country has no formal Constitution, although "recompilations of customs" were passed in 1748 and 1763. A "Plan of Reform," passed in 1866, established the present governmental system. This consists of a General Council of 28 members (four from each parish). Members of the Council serve four-year terms with half of the Council being elected every two years. Women were granted the right to vote in 1970.

The General Council meets periodically throughout the year. Traditionally, it must meet at Easter and Christmas. The members must wear cocked hats, long black gowns, and black ties to the meetings. The senior members from each parish are guardians of the keys to the government archives. The archives consist of an old cupboard with six keyholes. The cupboard cannot be opened unless all six keepers of the keys are present.

§ 1.5(C). *Sindic* and *Subsindic*.

A *sindic* (manager) and a *subsindic* are elected by the Council to implement its decisions. They serve three-year terms and may be re-elected once. *Sindics* have virtually no discretionary powers, and all policy decisions must be approved by the Council. *Sindics* receive an annual salary while General Council members are paid for each meeting they attend.

§ 1.6. Legal System.

§ 1.6(A). Supreme Court.

The judicial system is handled jointly by the co-Princes, who appoint two civil judges

and alternately appoint an appeals judge, who serves for a five-year term. There are two Supreme Courts, one is the Perpignan Superior Court at Perpignan, France, and the other is the Episcopal Superior Court of Seo de Urgel, Spain.

§ 1.6(B). Tribunal de Corts.

Criminal law is administered by the Tribunal de Corts, a court consisting of the two veguers (representatives of the co-Princes) and the judge of appeals. .

§ 1.7. Army and Police Force.

Andorra has no defense forces and only a small internal police force. All able-bodied men who own firearms must serve, without pay or uniforms, in the small army that represents Andorra on ceremonial occasions. The army, which has not fought for more than 700 years, is unique in that all of its men are treated as officers. France has the right to send police into Andorra to maintain law and order. In every European crisis since 1870, the French gendarmes have crossed into Andorra, usually on the pretense of preserving order on the border between Spain and France.

§ 1.8. Foreign Relations.

Andorra's foreign relations are handled by the co-Princes. Andorra is a member of UNESCO but has not signed any major treaties or international agreements. It is covered, however, by the Universal Copyright Convention, the 1941 Automotive Convention, and the Meteorological Organization Convention.

§ 1.9. Recent Developments.*

§ 1.9(A). Signing of EC Treaty.

On March 15, 1990, Andorra approved a Free Trade Agreement with the European Community. This is the first international treaty Andorra has signed in 700 years.

On July 1, 1991, this Agreement was given effect whereby Andorra established formal links with the EC. Although not a Community member, Andorra will mesh its customs procedures with those of the EC. All trade obstacles have been removed between Andorra and the Community. Customs duties on industrial products have been eliminated. Andorra will apply the common customs tariff to goods imported from non-Community countries.

These provisions arose pursuant to a number of technical decisions made by the European Community/Andorra Joint Committee. By joining the European Community Customs Union, Andorra's sparse supplies of agricultural products will now enter the Community duty free.

§ 1.9(B). First Constitution.

In June of 1990, the Legislature, also known as the General Counsel of the Valleys, unanimously agreed to draft a Constitution for Andorra. This is the first Constitution for Andorra since its birth in 1278.

* The editors wish to thank Liz Higginbotham, J.D. candidate, for her work on this update.

Under the proposed Constitution, the two co-princes would maintain their positions but their powers would be reduced. As of September 1990, it was speculated that it could take up to two years for the Constitution to be drafted. However, in light of the other major changes taking place in Andorra, it would not be unusual for work on the Constitution to progress at a faster pace. Moreover, Andorra is feeling pressure from the Council of Europe and France; the Council will admit Andorra only after it has a Constitution in place.

§ 1.9(C). First Penal Code.

The proposed Constitution represents only one of many major changes taking place in the Andorran legal system. On September 1, 1990, Andorra obtained its first Penal Code. The Code replaces a previous mix of Roman and customary law. Among the several crimes punished in the Code are pornography, prostitution, abortion, and money laundering. The crime of prostitution carries with it a sentence of up to six years; the crime of distribution of pornography carries with it a sentence of up to thirty months. Persons who carry out abortions may be jailed up to six years and mothers would be sentenced to two and one-half years in jail.

The Code acknowledges the unavailability of the death penalty and prescribes the maximum sentence of thirty years for murder.

§ 1.9(D). Democratic Reform.

In 1989, the co-princes passed a law that established a civil rights framework. Since that time, four or five very small political parties have emerged. One of the parties, called Democracia Andorana, realized a small victory in February of 1992 with a favorable ruling by Andorra's Administrative Tribunal. The Tribunal declared that the party would be allowed to exist but "could not be authorized" as there was not yet a law that allowed for authorization of the party. Other events leading to democratic reform are taking place at the present time.

In March of 1992, new general elections were held two years early. Heavily opposed were draft laws which would ease Andorra's heavy restrictions on granting citizenship. Under the current law, Andorra denies citizenship to any person in the principality except those whose parents were born there. Subsequently, Andorran natives now comprise only about fifteen percent of the population. Because foreigners cannot own more than one-third of a company and cannot vote, a few wealthy families enjoy great power in running the country.

Reform in these areas is a slow process. In May 1990, a draft law was issued which provided that only Andorrans could join political parties. In addition, only Andorrans or foreigners in residence for twenty years are permitted to hold union offices. Hence, the government has been accommodating but cautious.

The decision to hold early general elections was affected by protestors, who defied the ban on demonstrations and gathered outside government headquarters to demand Parliament's dissolution. These political protests mark the first in Andorran history.