



# Guide to the Laws and Legal Literature of Andorra

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**GUIDE TO THE LAWS AND LEGAL LITERATURE OF ANDORRA**

by

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## A. GENERAL BACKGROUND

The Principality of Andorra is located in the Eastern Pyrenees, bounded by France and Spain, and covers an area of 180 square miles. In July 1986 its population was 49,000 but only about 25% were Andorran citizens. The capital is Andorra la Vella which in 1986 had a population of 16,200. The country is also known as the Valleys of Andorra, Les Valls d'Andorra (Catalan), Les Vallées d'Andorre (French), and Principado de Andorra (Spanish).

Andorra has a unique legal status as a co-principality under the joint suzerainty of the President of France and the Bishop of the Diocese of Urgel, Spain.

The official language is Catalan, but French and Spanish are also spoken. Since Andorra has no official currency, the French franc and the Spanish peseta are used. The majority of the population is Roman Catholic (official religion).

## B. LEGAL SYSTEM

Andorra does not have a formal constitutional instrument, and its laws are not codified. For the most part unwritten customs and usages are the basis of Andorran law. Tradition is supplemented where necessary by Canon, Roman, and Catalan law. Concise descriptions of the complex legal system of Andorra, including its legal history and administrative organization are found in the following studies:

[1] A. H. Angelo, "Andorra: Introduction to the Customary Legal System," 14 *The American Journal of Legal History*, No. 2, 95-111 (April 1970).

[2] M. Bez, *Les Vallées d'Andorre. Leur statut juridique, leur organisation judiciaire, leur régime administratif*, Cour d'appel de Limoges. Audience solennelle de rentrée (2 october 1950).

[3] Jean Cougul, *Etude historique, juridique et économique de l'Andorre*. Toulouse, Imp. Clender, 1943. 248 p. [Thesis].

## C. SOURCES OF LAW

### 1. Customs and Legislative Acts

Since custom is the principle source of Andorran law, there are few written provisions.

These have been compiled in:

[4] Christa König, *Das Zivil- und Verfahrensrecht in Andorra und die Probleme seiner praktischen Anwendung*. Frankfurt am Main, Bern, Las Vegas: Peter Lang, 1977. 185 p.

In addition, the political, administrative, penal, and civil usages and customs may be found in the following authoritative sources:

a) Repositories of customary law are recognized as popular tradition. This body of law is consulted as needed by the officers of the law (called *batlles* in Catalan, *battles* in Spanish, *bayles* in French) and members of the General Council. These officials then make a declaration of the customary law called a *decret-avis*.<sup>1</sup>

b) An early six-chapter compilation of local Andorran customs is preserved in:

[5] Antoni Fiter i Rossel, *Manual Digest de las Valls neutras de Andorrà. En lo cual se tracta de sa antiquitat, govern y religió, de sos privilegis, usos,...en lo any del Señor de 1748*. [Manuscript]

c) A second collection of customs was published in 1763:

[6] Abbé Puig (Antoni Puig), *El Politar Andorrà dela Antiquitat, Govern y Religió, dels Privilegis, Usos, Prehèminencias, Consuetuts y prerogativas de las Valls d'Andorra* (1763). [Catalan manuscript]

This collection is actually a condensed version of Rossel's Manual Digest.

d) A 1904 study of Andorran customary law, *La Coutume d'Andorre*, was published under the aegis of the government and reissued in 1965 as part of the *Monumenta Andorrana* series:

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<sup>1</sup> See entry [1], at 101.

[7] Jean Auguste Brutails, *La Coutume d'Andorre*. Paris, Edition Leroux, 1904. 349 p.

See also entry [8].

e) Still another source for customary Andorran law is found in a few special laws as well as the law of Catalonia as enunciated on January 16, 1716, in a Decree of Philip V of Spain, the "*Nueva Planta*."

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f) In the absence of official publications, the *Monumenta Andorrana* series has become a major source of customs, laws, court decisions, and administrative acts. It is a comprehensive and authoritative work that first appeared in 1965 under the editorship of Cebria Baraut:

[8] Jean Auguste Brutails, *La Coutume d'Andorre*. 1 *Monumenta Andorrana*. 2d edition. Andorra, Editorial Casal i Vall, 1965. 349 p.

[9] Carles Obiols i Taberner, *Jurisprudència civil andorrana, Jutjat d'Apellacions: 1945-1966*. 2 *Monumenta Andorrana*. Andorra, Editorial Casal i Vall, 1969. 507 p.

[10] Paul Ourliac, *La Jurisprudence civile d'Andorre. Arrêts du Tribunal Supérieur de Perpignan: 1947-1970*. 3 *Monumenta Andorrana*. Andorra, Editorial Casal i Vall, 1972. 315 p.

[11] Ricard Fiter i Vilajoana, *Introducció al dret administratiu Andorra*. 4 *Monumenta Andorrana*. Andorra, Editorial Casal i Vall, 1974. 382 p.

[12] Ricard Fiter i Vilajoana, *Legislació administrativa Andorrana. Consell General: 1900-1973*. 5 *Monumenta Andorrana*. Andorra, Editorial Casal i Vall, 1973. 996 p.

[13] Nemesi Marquès, *Jurisprudència Administrativa Andorra*. 6 *Monumenta Andorrana*. Andorra, Editorial Casal i Vall, 1978.

[14] Nemesi Marquès, *Lleis i resolucions dels Coprínceps i dels seus delegats (1900-1979)*. 7 *Monumenta Andorrana*. Andorra, Editorial Casal i Vall, 1980. 400 p.

See also entries [49] and [50].

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<sup>2</sup> *International Encyclopedia of Comparative Law*, under the auspices of the International Association of Legal Science. Tübingen, C. B. Mohr. National Reports: Andorra, vol 1, A-30.

The customary law of Andorra has long been the subject of extensive studies by scholars and officials. During the 19th and 20th centuries the following authors published authoritative studies:

- [15] Léon Jaybert, *La République d'Andorre, ses moeurs, ses lois et ses coutumes*. Paris, Edition Durantin, 1865. 87 p.
- [16] Moras (Avocat Général à Toulouse), *Les coutumes du pays d'Andorre*. Cour d'Appel de Toulouse, Audience solennelle de rentrée. Toulouse, 3 novembre, 1882. 62 p.
- [17] Pierre Barbier, *La coutume privée d'Andorre envisagée dans ses sources et dans ses institutions les plus originales*. Paris, Edition Rousseau & Cie, 1938. 157 p.
- [18] Juan E. Roig Santacana, *Andorra, pais de costumbres*. In Themis, Imp. A. Aleu, Barcelona, abril-maig, 1944.
- [19] Albert Puigoriol, *Andorra el meu pais*. Andorra, Consell General de les Valls d'Andorra, 1963. 284 p.

The co-princes exercise legislative power jointly through decrees that become effective upon their formal approval. In recent years, they have limited the exercise of this authority through the promulgation of a few decrees. The General Council of the Valleys (El Consell General de las Valls d'Andorrà) also has some legislative and administrative authority which is, however, subject to the approval of the co-princes. For general discussions of the sources of law, customs and specific legislative acts, one should consult the following works:

- [20] Josep Maria Malagelada, *La Andorra señorial en funciones de justicia. Notas al margen de una ejecución capital*. Barcelona, Ed. Barcelonesa de Publicaciones, S. A., 1943. 15 p.
- [21] Bertrand Bélinguier, *La condition juridique des Vallées d'Andorre*. Préface de Charles Rousseau. Paris, A. Pédone, 1970. 344 p.
- [22] Fernando de los Rios, *Vida e instituciones del pueblo de Andorra. Una supervivència señorial*. Madrid, Tip. de la Rev. de Arch., Bibl. y Museos, 1920. 164 p.
- [23] Clara Vanderbecke, *En los Valles de Andorra*. Andorra, Editorial Casal i Vall, 1963.



## 2. Official Law Gazette

Andorra does not publish an official law gazette. In the absence of such a publication, legislative decrees are normally proclaimed by posting them at the Council House and Seat of Justice (Casa de la Vall), the seat of Andorra's government since 1580.<sup>3</sup> Recently a major collection of the Council's act was made available *in*:

[24] *Actes Consell General, 1961-1982*. Andorra la Vella, 1982. [In mimeograph form]

This was published in the official language, Catalan.<sup>4</sup>

## 3. Parliamentary Records

Andorra does not publish the records of any parliamentary hearings or other meetings.

## 4. Court Decisions

Court decisions are not binding precedents and are, therefore, not considered as a source of Andorran law. As a result, such materials are not officially published. A number of privately published collections of court decisions do, however, exist. These report decisions were made in some particular field of law. A significant effort by the former delegated appeals judge, Carles Obiols i Taberner, to assemble court decisions in the area of civil law resulted in a compilation that includes 95 decisions rendered between December 20, 1945, and March 30, 1966 (*Monumenta Andorrana*, No. 2). *See* entry [9]. Several years later, Paul Ourliac compiled a collection of decisions of the High Court of Andorra at Perpignan, France. This collection concerns cases involving Andorran matters (*Monumenta Andorrana*, No. 3). *See* entry [10].

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<sup>3</sup> *See* entry [1], at 102, note 22.

<sup>4</sup> Before the 14th century, the official language was Latin, *see* entry [1], at 97.

In turn, José Maria Font i Ruis, a professor of history of law at the University of Barcelona, published an analysis of Taberner's work:

[25] José Maria Font i Ruis, *Einleitung zu Obiols' Jurisprudència Civil Andorrana*. n.p., n.d.

Finally, a major collection of decisions rendered by the Criminal Court (Tribunal de Corts) from the decade between 1970 and 1980 was issued:

[26] *Sentencias del Muy Illustre Tribunal de Corts de los Valles Andorra*. Años 1970-1980. n.p., 1982.

## 5. Collections of Laws

Although no official collection of legislative acts has ever been issued on a regular basis, several private collections of such materials have been published by prominent scholars and government officials of both Andorra and Spain. The following are among these:

[27] J. Bartumeu Cassany, M. Mas Ribo, and A. Morell Mora. *L'Estat Andorra. Recull de textos legislatius i constitucionals d'Andorra*. Barcelona, Edition Congrès de Cultura Catalana, 1977. 178 p.

[28] Bonaventura Riberaygua Argelich, *Les Valls d'Andorra. Recull documental*. Barcelona, Ed. Bosch, 1946. 354 p. Revised and supplemented in 1949 by J. E. Roig Santacana, also of Barcelona.

[29] F. Valls i Taberner, *Textes de dret Català. Privilegis y ordinacions de les Valls Pirinenques*. Barcelona, Imp. Casa de Caritat, 1920. Vol. III, Valls d'e Andorra: 379-546.

[30] Antoni Sabater i Tomàs, *Legislació penal*. Andorra la Vella, Erosa, 1982. 398 p.

*See also* entries [12] and [14].

## 6. Collections of International Treaties

Andorra does not publish special collections of the international treaties and conventions to which it is a party.

## 7. Department Bulletins

No departmental bulletins are currently being published in Andorra.

## 8. Indexes

There is a general absence of special indexes to Andorran laws, court decisions, and similar materials. Each volume of *Monumenta Andorrana* does, however, contain a chronological index to its legal sources, an analytical index to the topics covered, a general index to the contents of the volume, and an author index.<sup>5</sup>

## D. LEGISLATIVE MATERIALS AND DOCTRINAL WRITINGS

### 1. Constitutional Law

a. General. The unique political structure of Andorra dates from September 8, 1278, when its status was regulated by an agreement on joint suzerainty by an arbitral award or agreement (*paréage*, *pareatge*) reached in Lerida between Roger Bernat III, the French Count of Foix and Père d'Urg, the Spanish bishop of the nearby Diocese of Urgel (Le Seu de Urgell).<sup>6</sup> The agreement which divided temporal and

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<sup>5</sup> See entries [8-14].

<sup>6</sup> For the text in Latin see entry [29], vol 3, at 414; in Catalan see entry [28]; in French see entries [65], at 159, note 12, and [21], at 269; in English see entry [36], at 176.

spiritual powers was ratified by Pope Martin IV on October 7, 1282.<sup>7</sup> The second arbitral award was signed on December 6, 1288. This period in the history of Andorra is discussed in great detail in:

[31] José Maria Vidal i Guitart (Josep Maria Vidal y Guitart), *Els pariatges d'Andorra*. Barcelona, 1949.

The temporal rights vested in the House of Foix eventually passed through marriage to the French House of Bourbon in 1589, and then to the French crown upon the accession of the French King Henry IV in 1589. Today this sovereignty is still exercised by the co-princes. The president French republic, as heir to the crown lands, directs the temporal affairs of the principality, and the Bishop of Urgel still exercises spiritual power. The French government represents Andorra abroad.

Of the several legal studies that deal with the establishment of the co-principality, the following are of particular interest:

[32] Michel Chevalier, *La République d'Andorre ou une République seculaire, heureuse et stable depuis Charlemagne, jusqu'à nos jours (1790-1848)*. Paris, Ed. Garnot Barba, 1848. 14 p.

[33] José Maria Font i Ruis, *Els orígens del co-senyoriu andorrà*. Zaragoza, Ed. Pirineos, 1955: 77-104.

[34] Jean Bacquer, *La Co-principauté d'Andorre, dernier état féodal*. 2d ed., Barcelona, 1959. 80 p.

[35] Léon Gallet, *Les traités de paréage dans la France féodale*. Paris, Ed. Sirey, 1935. 236 p.

[36] Lewis Gaston Leary, *Andorra, the hidden republic. Its origin and institutions*. London, Ed. T. Fisher, 1912. (English text). [Ed. Uwin, 1913, 191 p.]

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<sup>7</sup> For the text in English see entry [29], at 429; for the text in Latin, see entry [21], at 278.

Although Andorra does not have a formal constitution, the arbitral awards of 1278 and 1288 are considered the basic constitutional documents. The governing agreements have made Andorra administratively independent, but Andorra remains without a clear international status.

Each co-prince maintains a Permanent Delegation for Andorran Affairs. The Prefect of the French Department of the Eastern Pyrenees is the French Permanent Delegate (El Delegat Permanent de S.E. el Copríncep Frances). The Vicar General of the Spanish Diocese of Urgel is the Spanish Permanent Delegate (El Delegat Permanent de S.E. el Copríncep Episcopal). These officials work together as prescribed in the 1278 arbitral award and act in their princes' names. In practice, the princes transfer many of their powers to their Delegates. Ranking below these two officials are the governors (*veguers*). Some authorities rank the governors as parallel to the Delegates. The governors are personally appointed by the co-princes and each maintains offices in Andorra. These officials are responsible for public order and the administration of justice, and they share the right to make decrees. The French president is represented by the French Governor and the Spanish bishop is represented by the Ecclesiastical Governor. These two governors also serve as the heads of the armed forces and the police and sit as judges in the highest criminal court.

The first general observations made on the laws of Andorra were published in 1842:

[37] L. M. de Parella, *Observaciones generales sobre los Valles de Andorra*. Toulouse, Imp. J. Dupin, 1842. 19 p.

Since Parella's seminal work was published, the constitutional issue and Andorran institutions have been the topic of a number of works:

[38] Auguste Teulière, *La constitution de l'Andorre. Les pouvoirs législatif et exécutif*. Foix Gadrat Ainé, 1904. 184 p. [Thesis]

[39] Francisco Pallerola y Gabriel, *El principado de Andorra y su constitución política*. Lleida, Sol y Benet, 1912. 285 p.

- [40] Ignació Romañá y Pujó, *El Principado de Andorra. Su constitución política y su organización administrativa*. Barcelona, Ed. Herederos de Juan Gili, 1918. 78 p. [Thesis]
- [41] Max Gilbert, *Les institutions des Vallées d'Andorre*. Paris, Gigard, 1924.
- [42] Amedeo Eugenio Le Duc d' Astraud, *Les petits Etats d'Europe: Andorre: son histoire, sa constitution et son status international*. Nice, Imp. l'Eclaireur de Nice, 1932. 45 p.
- [43] Jules Six, *Les institutions politiques du Val d'Andorre*. Lille, 1901. 117 p. [Thesis]
- [44] Enric Paris Torres, *Estudi sobre les institucions Andorranes: organitzacio politico, administrativa, organitzacio judicial*. n.p., M. I. Consell General, 1980. 99 p. [Thesis]
- [45] Joan Bacquer, *Le fonctionnement des institutions publiques andorranes*. Marseilles, Edition Université d'Aix, 1967-1968. Memòria.

A general historical survey of Andorra's consitutional development can be found in Font i Ruis' work, entry [33].

In acknowledgement of the princes' sovereignty, Andorra pays a nominal and perpetual biannual tax (*qüèstia*) to the Bishop of Urgel and the President of France. Taken from parish funds, this tax is levied by the General Council on the basis of the number of individuals who have made their first communion and who own livestock.<sup>8</sup> A comprehensive discussion of Andorra as the last feudal state is in:

- [46] F. Koller, *L'Andorre; dernier Etat féodal*. Bruxelles, n.d. 24 p.

An extremely detailed description of Andorran constitutional institutions, agencies, and its unique officials is contained in B. Bélinguier's study (*see* entry [21], at 70-107).

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<sup>8</sup> *See* entry [1], at 99.

As already mentioned, legislative power is held by the co-princes who act jointly. This power is exercised through decrees that take effect only after both princes have given formal approval. However, some legislative and administrative authority is exercised by the General Council, subject to the joint approval of the co-princes. The General Council of the Valleys was established on February 11, 1419, and December 17, 1419, under the name of the Land Council (*Consell de la Terra*). Marcaillou's detailed description of this institution was published early in this century:

[47] d'Aymerich Hippolyte Marcaillou, *L'Andorre et son Conseil Général*. Aix-les-Thermes, Agost, 1907.

Under *La Nova Reforma* of April 22, 1866, the Land Council was renamed the General Council (*Concel General*) under a decree signed by the Ecclesiastical co-prince Bishop José Caixal Estradé with the approval of the French co-prince Emperor Napoleon III on April 12, 1868.<sup>9</sup> Today the General Council is a unicameral body which consists of 28 members (4 from each of the principality's seven parishes). These representatives are elected for four-year terms by and electorate of adult citizens. Half of the Council seats are renewable every two years.

The General Council elects a First Procurator General (*Syndic Procureur Général*) and a Second Procurator General to implement Council decisions. These officials have virtually no discretionary powers, and all policy decisions must be approved by the General Council as a whole. The First Procurator General functions as a chief executive officer for a three-year renewable. He is not paid for his first term,

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<sup>9</sup> Decret de "Nova Reforma," also known as the "Bases of the New Constitution." See entry [21], at 60. Spanish and French texts in *Corpus Constitutionnel*, Leiden, E. J. Brill, 1970, Vol. 1, Fasc. 2, p. 309. English text of the Plan of Reform dated May 31, 1866, in Amos J. Peaslee, *Constitutions of Nations*. The Hague, 1956, Vol. 1, pp. 37-41.

but if he is renominated, the Procurator is paid for his second term. Both Procurators cease to be members of the Council upon assuming office.

The General Council submits motions and proposals to the co-princes' Permanent Delegates. When confronted with questions of exceptional importance or interest to Andorra, the General Council convokes a General Assembly (*Assemblea Magna*), a body formed by the Council together with several representatives from each parish. Its decisions are determined by majority vote.

b. Local Government. Local government functions at the district level through parish councils. These members are also selected by universal suffrage. Local government councils (*communs* and *corts*) serve at a still lower level. The local councils are ten-member bodies, again elected on the basis of universal suffrage. These local councils are submunicipal advisory bodies that function primarily as administrators of communally owned property. A comprehensive discussion of acts which deal with Andorran local government is contained in:

[48] Ricad Fiter i Vilajoana, *Llei communal andorrana*. Barcelona, 1978.

c. Electoral System. Until the 19th century, voting rights in Andorra were limited to the heads of kinship groups (*caps grossos*). All votes were taken by voice (*viva voce*). Then in the 1860s, voting laws changed and all heads of household (*caps de casa*) became eligible to vote. Because of the patriarchal nature of Andorran society, women were not permitted to vote. The Reform of April 22, 1866, provided that "every elector must be Andorran, a resident of the parish in which he votes, the head of his family, over 21, and in full command of his faculties." A foreigner married to a sole heiress (*pubilla*) could vote if he had been a resident of Andorra for at least three years. By the Decrees of July 17, 1933, and August 19, 1933, this legislation was further amended to give the right to vote to all Andorran male citizens over 25 years of age. All Andorran male citizens over 30 were given the right to hold elected public office.



On October 2, 1941, a decree that would have granted universal suffrage was retracted by the two governors, with the argument that "in practice, universal suffrage had perturbed the peace and well-being of the Valleys of Andorra." Again, on August 23, 1947, citizens domiciled in Andorra were given the right to vote after completion of 25 years of age and the right to hold elected office at the age of 30 years.

Women were not enfranchised until April 14, 1970, and they were not given the right to hold elected public office until 1973. Two years later, on September 8, 1975, women were accorded equal rights with men. Second generation Andorrans of foreign parentage over the age of 28 received similar rights in 1977.

Proposals have been made that the electoral system be reformed still further, including the direct election of the two Procurator Generals and General Council members. Representation would be proportional.

d. Nationality. The law of Andorran nationality is covered by the following decrees in chronological order: June 17, 1939; December 26, 1941; January 16, 1942; March 3 and 24, 1958; March 24, 1958 (amendment); April 30, 1958; May 6, 1958; April 7, 1970; December 24, 1974; and March 11, 1977. The texts of these decrees are printed in volume 7 of *Monumenta Andorrana*, compiled by Nemesi Marqu{ }s. See entry [14], at 391.

Children of an Andorran father acquire Andorran nationality even when they are born outside Andorra. Such individuals lose their citizenship if they remain abroad for three generations. A child born in Andorra whose father is a foreigner acquires citizenship if his mother is a citizen or if the child resides permanently in Andorra. If none of these requirements are met, the child may apply for citizenship after a residence of 29 years. The foreign wife or the foreign husband of an Andorran citizen who is the sole heir of this Andorran citizen may also apply for citizenship. Each application for citizenship is considered individually on its merits and must be approved by the co-princes. Andorran nationality is lost

if an Andorran acquires the nationality of another state, joins a foreign army, or has a political affiliation in another country.

Developments regarding citizenship in Andorra up to 1958 are the subject of discussion in the following works by Hecker:

[49] Hellmuth Hecker, *Das Staatsangehörigkeitsrecht der Tälr von Andorra*. Hamburg, 1958.<sup>10</sup>

[50] Hellmuth Hecker, *The Citizenship of Andorra, Liechtenstein, Monaco, San Marino, and the Vatican City*. Frankfurt am Main, A. Metzner, 1958. 110 p.

More recent citizenship issues are covered in B. Bélinguier, entry [21], at 206-220 and:

[51] Ramon Vinas i Farre, *La Nacionalitat Andorrana*. Barcelona, Institut d'Estudis Andorrans, 1980. 133 p.

This latter work discusses the entire legislation on Andorran nationality in great detail. Fiter i Vilajoana's studies, numbers 4 and 5 (entries [11], at 286 and [12], at 557 respectively) of the *Monuments Andorrana* also covers this topic.

e. Political Parties. Political parties are technically illegal in Andorra, but there are some small unrecognized groups. These include the *Agrupament do Joventut d'Andorra* and the *Agrupament Democràtic d'Andorra* (ADA). Both were organized in 1976. In 1979, the ADA was dissolved and its successor, *Partit Democtatic d'Andorra* (PDA), applied to the General Council for legal status. An extremist group, the *Front de Liberation Nationale* (FLN) also exists.

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<sup>10</sup> See also H. Hecker. *Die Staatsangehörigkeitsregelungen in Europa*. Frankfurt am Main, A. Metzner, 1974. p. 8.

## 2. Administrative Law and Procedure

a. General. Andorra has a parochial administration. The country is divided into the seven parishes of Canillo, Encamp, Ordino, La Massana, Andorra La Vella, Sant Julia de Loria, and Les Escaldes - Engordany. The latter was created in June 1978.

These divisions represent both administrative and religious units. The boundaries between the parishes are marked by stones embossed with crosses called *Creus de Terme*. Each parish is managed by local authorities organized into a *commune*, which is in turn headed by two consuls. Originally each town within a parish was managed by a committee of local authorities organized into a *quart*. The communities of Canillo and Encamp are an exception, for they are administered by two consuls. La Massana and Ordino are administered by officials roughly similar to a mayor and secretary (*llevador* and *manador*). Today only two parishes retain the old system of the administrative *quart*.

The boundaries of both the *communes* and *quarts* are well defined and are marked by *sezells* or *segells*. The land belonging to both the *communes* and the *quarts* is collectively owned.

The *quart* is thus the basic administrative unit in Andorra. It is regulated by custom, and its council is chosen on the traditional basis of the *llar*. Above the *quart* is the parish. Ecclesiastical matters are controlled by a priest nominated by the Bishop of Urgel. As far as secular matters are concerned, the parishioners elect 8 to 10 councilors who direct community affairs. The Council is presided over by two officers known as major and minor councils. Above the parish is the General Council of Andorra.

Valuable information on Andorran administrative law is contained in Vilajoana's studies. See entries [11], and [12].

b. Public Services. The administrative organization of certain public services characterizes the legal life of Andorra, including the military and police force, the postal service, public education, social security, the system of concession, and expropriation.

French and Spanish postal offices handle the mail. In 1930, with the approval of the co-princes, an agreement was made by which Andorra began to issue its own stamps.

The Andorran Police Corps was created by a Decree of July 11, 1931. At present the police operate under the provisions of the January 17, 1978, Act of the Veguers. The following two publications pertain to such public services:

[52] René Baulard, *La gendarmerie française dans les Vallées d'Andorre*. Perpignan, Imp. Catalane, 1934. 95 p.

[53] *Codi de la circulació Andorrana*. Andorra, Publicacion del M. I. Consell General, 1976. 201 p. [Earlier edition, 1960].

c. Education. Both the French and Spanish Ministries of Education direct primary and secondary schools in Andorra. The teachers employed by these ministries follow teaching programs similar to those of France and Spain. The French educational system was officially established by a Decree of June 18, 1977. The Spanish system dates from the beginning of the 20th century. Under the present educational structure, the option of being instructed in French, Spanish, or Catalan is open to all students.

d. Tribunals. Andorra has no specialized administrative tribunals with judicial functions. Disputes involving administration are handled by the General Council and may be appealed to the co-princes. The Permanent Delegate of the Mitra for Andorran Affairs, Nemesi Marquès, has compiled a number of documents relating to administrative jurisprudence, and this material is included in the *Monumenta Andorrana* as number 6, entry [13].

### 3. Judicial System and Legal Profession

a. Courts of Justice. The courts in Andorra are classified into civil and criminal jurisdictions. No specialized tribunals exist for labor, administration, or economics. Since there is no labor legislation, disputes arising over administrative or economic matters are handled by the General Council and may be appealed to the co-princes.

On December 30, 1975, the Andorran judicial structure was extended to include a General Prosecutor and a Defending Counsel. The General Prosecutor and his deputy are appointed for a three-year period by the General Council.

b. Civil Justice. The civil courts are organized on three levels: Civil matters in the first instance are heard by four judges (*batlles*), two in each of the two courts of first instance. These judges are assisted by a notary who also acts as a secretary and a court clerk, and a nuncio who acts as a marshal and a sheriff. The plaintiff elects the court in which the proceedings are to be conducted. The choice cannot be changed later. The two judges in each court must be Andorran. One is chosen by each prince or his administrative official from a list drawn up by the General Council on the basis of recommendations from the parishes. In performing their functions, the judges are subordinate to the administrative officials.

A decision handed down by the judges may be appealed to a court of second instance. The appeals judge (*jutge d'appelacions*) is appointed for a term of five years by the co-princes. The co-princes alternate in making these five-year appointments. Even though the court is located in Andorra, a judge may reside abroad. In the third instance (*Terceroc Sala, la tercera sala*) cases are heard in the Supreme Court of Andorra which sits at Perpignan, France, under the chairmanship of the President of the Civil Court of Perpignan. This court was created as a court of final resort by a Decree of July 13, 1888,<sup>11</sup> as modified by

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<sup>11</sup> *Journal Officiel de la République Française*, July 20, 1888.

a Decree of January 19, 1898.<sup>12</sup> The Supreme Court consists of five judges, one of whom must be a lawyer conversant with Andorran customs and the Catalan language.

As an alternative, an appellant may elect to have his case heard by the Supreme Ecclesiastic Tribunal of Mitre, established in 1888 at Urgel, Spain. The present court was formed on September 8, 1974.

c. Criminal Justice. Criminal law is administered by the Tribunal de Corts, which has exclusive jurisdiction and decides in the first and last instance. The two administrative officials and the judge of appeals hear the cases. They are assisted by the notaries, nuncios, and judges, and two representatives of the General Council called *raonadors*. The accused is assisted by an advocate. Since June 4, 1965, public sessions of the Tribunal have been permitted. The Tribunal meets several times a year, and its sentences are implemented either in the French city of Perpignan or in the Spanish city of Seo de Urgel. The historic method capital punishment by strangulation is no longer practiced. The last death penalty was carried out on October 18, 1943.

d. Special Tribunals. The Court of Veeduria (*le Tribunal de Veeduria*)<sup>13</sup> is a specialized court with jurisdiction in disputes over pastures, water, and servitudes both real and personal. At the level of first instance, this Court is composed of two councilors from the appropriate parish. At the next next level it is composed of ten councilors selected from other parishes. At the third instance, the Court is composed of all 28 councilors from the seven parishes. A final appeal may be made to either of the co-princes chosen by the appellant. The Secretary of the General Council acts as the clerk in these proceedings.

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<sup>12</sup> *Id.* January 22, 1898.

<sup>13</sup> *See* entry [1], at 107. *See also Monumenta Andorrana* No. 4, entry [11], at 146.

In every case of violent death, whether it results from a crime or an accident, four officials, including representatives of the state and the medical profession, must examine the body at the place where the death occurred and perform necessary traditional formalities. When the *nuncio* approaches the body, he must call out three times:

"Dead man, get up. The law commands you." Then when there is no answer, the *nuncio* declares: "If you are dead, tell me who killed you." As a last remark, the *nuncio* says: "He is truly dead. He does not answer." The official enquiry then continues in accordance with procedural rules.<sup>14</sup>

e. Legal Profession. There are several defense attorneys in Andorra;<sup>15</sup> however, they do not appear in court since all proceedings are presented in written form only. A change in this practice is currently under consideration, and if implemented, attorneys will be able to present their cases in court orally.

In addition to the defense attorneys, each of the co-princes appoints a notary who assists in the administration of local law. Customary Andorran law, however, does not favor lawyers. The Decree of March 1883 provides:

the customs and usages of the valleys do not permit the exercise of such officials which readily disturb the well-being of families and prevent the friendly settlement of disputes.

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<sup>14</sup> See entry [1], at 106. See also *Monumenta Andorrana* No. 5, entry [12], at 945.

<sup>15</sup> For some information concerning the legal profession, see "Andorra" in Charles Rhine, ed., *Law and Judicial Systems of Nations* 18 (Washington, D.C., 1978), p. 18. See also *Monumenta Andorrana* No. 4, entry [11], at 291; No. 5, entry [12], at 588; and No. 7, entry [14], at 256.

#### 4. Civil Law and Procedure

a. Family Law. The most prominent part of the private law of Andorra is family law. Family law is dominated by the concept of the house (*casa*) and the head of the family (*cap de casa*). By implication at least, the head of the house exercises absolute power within the family. Furthermore, family law is based on the principle of primogeniture (*areu o pubilla*), and canon law regulates family matters. A rather elaborate commentary on the Andorran family is found in:

[54] M. C. Platon, *Du droit de la famille avec ses rapports avec le regime des biens, en droit andorran*. Paris, Imp. Nationale, 1903. 76 p.

b. Property Law. According to Platon, the institution of private ownership at a family level is recognized under Andorran law and hereditary succession is sanctioned.<sup>16</sup> Parishes and communities may also own property. No foreign nationals may own land in Andorra.

c. Civil Procedure. The oldest regulations applicable in the area of civil procedure are contained in the *Manual Digest of 1748*, entry [5] and in *El Politar Andorra of 1763*, entry [6]. In 1740 the courts drew up rules of procedure to be followed by judges dealing with civil and criminal matters. Much later, the Decree of May 1, 1922, provided specific and detailed rules, including ones for initiating proceedings by a complaint in writing, statements of defense, counterclaims, and general proof. Provision is also made for closing arguments to be made either in oral or written form.

In civil matters there are two courts of first instance. The plaintiff may choose which court to use, but he may not request a change at some later date. Thus the judge chosen retains exclusive jurisdiction. The following works contain useful commentaries on this subject:

[55] Jacques Descheemaker, *Quelques aspects du droit et de la procedure en Andorre*. 1965.

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<sup>16</sup> See entry [54], at 49.



[56] José Gramunt y Subiela, *El derecho civil en el Principado de Andorra*. Tarragona, Imp. Llorens L. Cabré, 1923. 149 p. [Thesis]

*See also* entry [4].

## 5. Criminal Law and Procedure

In criminal matters, the Tribunal de Corts is regarded as the highest court in Andorra. It has exclusive jurisdiction and decides cases in the first and last instance. The two *veguers* and the judge of appeals hear the cases. These court officials are assisted by the notaries, other court officials and two representatives of the General Council. After the witnesses and the accused have been heard, the court is addressed on the applicable customary law.

Both Andorran and Spanish scholars note that the Tribunal de Corts is strongly influenced by the Spanish Penal Code. A rather elaborate commentary on Andorran criminal law, including a collection of legal provisions and texts dealing with such matters, is provided by:

[57] Joan-Felip Higuera Guimerà, *El dret penal al Principat d'Andorra (Comentaris i textos legals): Ontroducció*. Barcelona, Bosch, Institut d'Estudis Andorrans, 1982. 194 p.

Although Andorra has neither a penal code nor a code of criminal procedure,<sup>17</sup> a number of provisions dealing with criminal law matters are scattered throughout various decrees. In his treatise, Guimera, who is a professor of penal law at the Faculty of Law of the University of Saragossa, Spain, includes a complete list of the acts in effect in the field of Andorran criminal law and procedure.<sup>18</sup>

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<sup>17</sup> *See* entry [57], at 1.

<sup>18</sup> *Supra* note 16, at 113-186, also including the texts of the legislative acts in this field.

## 6. Commercial and Financial Law

Andorra has no extensive commercial law, and there are specialized commercial courts. A few decrees prohibit the formation of companies with more than one-third foreign participation. Since all memoranda of association must be approved by the General Council, foreigners who wish to establish a commercial enterprise in Andorra must have the consent of this body. Trade and industry generally come under the supervision of the General Council.

Andorra does not have its own currency. The Spanish peseta and the French franc are both in circulation. The country is duty free.

Although the principality has no specific body of laws on industrial property rights and copyright, it is covered by the Universal Copyright Convention.

There is no income tax, and property taxes are low. As a result, Andorra's income and expenditures are not budgeted in the usual way. Revenue for public expenditures is met from profits on certain goods imported exclusively by the government. The General Council itself imports commodities such as flour and meat whenever it considers such imports expedient.

Inasmuch as Andorra has no specialized commercial or economic tribunals, disputes arising in these areas are handled by the General Council and by the co-princes as a final appeal. An extensive study of the economic structure of Andorra may be found in:

[58] J. Y. Perrouin, *Structure économique et développement communautaire de la Vallée d'Ordino (Andorre)*. Toulouse, 1962. 228 p. [Thesis]

## 7. Labor and Social Legislation

Specific labor legislation does not exist in Andorra, and there are no labor courts. Some individual decrees in this field may be found in volume 7 of the *Monumenta Andorrana* on pages 204-214. See entry [14]. Strikes are illegal.

The first social legislation was introduced in January 1966 when a decree of the General Council for establishing a social security system for all salaried workers was submitted to the co-princes. This decree was approved almost two years later on December 29, 1967; and the Caixa Andorrana de Seguretat Social (Social Security Entity, known as CASS) was created on November 25, 1968. Divided into two sections, CASS began its activities on April 1, 1968. Its Health Section covers the payment of benefits for illness, industrial accidents, maternity leave, disability, and death. The Old Age Section handles all transactions connected with pensions. The following studies provide a discussion of Andorra's social structure:

[59] Ll. Guerin, *La constitution sociale de l'Andorre*. Paris, 1884.

[60] Josep Maria Vidal i Guitart, *Instituciones políticas y sociales de Andorra*. Madrid, Ed. Consejo Superior de Investigaciones Científicas, Instituto Francisco de Vitoria, 1949. 502 p.

[61] Michel Lages, *Instauration de la sécurité sociale dans les Vallées d'Andorre*. Ed. Centre d'Etudes Supérieures de S.S. 1970-1971.

## 8. Military Law and Procedure

Andorra has no army, but every Andorran male between the ages of 16 and 60 years must be ready to serve his country and the co-princes.<sup>19</sup> This military duty obliges each household to have at least in theory a rifle in good condition and sufficient ammunition. Once a year every Andorran male must present himself with his arms before the authorities. The representatives of the co-princes, *veguers* are the commanders in chief, and each community elects a captain and lieutenants. The elected captains report to the *veguers* and in addition to their military duties, these officials are responsible for the maintenance of law and order in their parishes. They are also responsible for the general military preparedness of the men assigned to their units and for the notification of their superiors of any crimes committed in their localities. The captains and lieutenants are also authorized to command the heads of the households for an elected term of one year.

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<sup>19</sup> See entry [21], at 126.

### 9. Private International Law

Andorra has no specific system of private international law.

### 10. Public International Law

Andorra's foreign relations are handled almost exclusively by France.<sup>20</sup>

At present, Andorra is a member of UNESCO and the Universal Copyright Convention. These conventions were approved by the Spanish Permanent Delegate on December 30, 1952, and by the French Permanent Delegate on January 22, 1953. Both memberships entered into force on September 16, 1955. Andorra is also a member of the Meteorological Organization Convention, Postal Union, and the 1941 Automotive Convention.

A number of monographic studies on the international status of Andorra have appeared during the last century. Included in chronological order are works by Juan de Dios Trias y Gyro, A. Mérignac, Andre Vilar, Joseph Roca, Raymonde Toureng, Bertrand Bélinguier, and Jordi Font Bares. The two most recent treaties by Bélinguier and Font Bares are regarded as the leading studies on Andorra:

[62] Juan de Dios Trias y Giro, *Constitución política y personalidad internacional del Principado de Andorra*. Barcelona, Imp. Subiranos Hermanos, 1890. 52 p.

[63] André Mérignac, *La condition internationale de l'Andorre*. Paris, 1900. 27 p.

[64] André Mérignac, *Etude sur la situation actuelle des Vallées et leurs rapports avec la France et la Mitre d' Urgel*. Paris, Imp. Nouvelles, 1950. 16 p.

[65] André Vilar, *L'Andorre; étude de droit public et international*. Paris, V. Giard & Brières, 1904. 186 p. [Thesis]

[66] Joseph Roca, *De la condition internationale des Vallées d'Andorre*. Antibes, Ed. Emile Roux, 1908. [Thesis]

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<sup>20</sup> W. Mans, "Zur Einbeziehung Andorras in internationale Verträge," 27 *Recht der Internationalen Wirtschaft* 151-155 (March 1981).

[67] Raymonde Toureng, *Statut juridique des Vallées d'Andorre*. Toulouse, Ed. Pailhès et Chataignier, 1939. 263 p. [Thesis]

[68] Jordi Font Bares, *Le status international des Vallées d'Andorre*. Toulouse, Ed. Université de Sciences Sociales de Toulouse, 1975-1976.

For B. Bélinguier's study, *see* entry [21], part two of the work.

## E. REFERENCE AIDS

### 1. Legal Bibliographies

Andorra does not publish a national bibliography, and there is no comprehensive bibliography covering Andorran affairs. The only major contribution in this field is the work published by the Institut d'Estudis Andorrans, Centre de Perpinya, France, issued to commemorate seven centuries of the existence of the Andorran State, 1278-1978:

[69] Lidia Armengol, Mònica Battle, and Ramón Gual, *comps. Materials per una bibliografia d'Andorra*. Institut d'Estudis Andorrans, Centre de Perpinyà, 1978. 106 p.

This bibliography includes treatises and articles in languages other than Catalan.

In addition to this bibliography, there are a number of treatises on Andorran law that include bibliographic sections with extensive lists of works and articles treating various aspects of Andorran law. A select list includes the following:

[70] Raymonde Toureng. *Le statut juridique des Vallées d'Andorre*. Toulouse, Ed. Pailhès et Chataigner,

*See also*, entries [4], at iv-xii; [21], at 329-337; [39], at 2-4; [57], at 187-194; [60], at 463-498; and [65], at 181-184.

### 2. Legal Dictionaries and Encyclopedias

Although no legal dictionaries and encyclopedias devoted exclusively to Andorra are available, the following works contain useful information:

[71] Francesco de Borja Moll, *Diccionari catala-castella*. 2nd ed. Mallorca, Moll, 1978. xvi, 404 p.

[72] Pedro Elias Y Busqueta, *Canigó. Diccionario catalan-castellano, castellano-catalan*. Barcelona, Ramón Sopena, 1975. 877 p.

[73] Santiago Alberto, *Diccionari castellá-catalá i catalá-castellá*. Barcelona, Alberti, 1978. 180 p.

[74] Carles Castellanos i Lloreç, *Diccionari catalá-francès, francès-catalá*. Barcelona, Enciclopedia Catalana, 1979. 1,095 p.

### 3. Legal Periodicals

No legal periodicals are published in Andorra; however, the following serials issued in France and Spain often contain useful articles on Andorran legal problems:

*Revista Jurídica de Cataluña,*

*Quaderns d'estudis andorrans,* and

*Annals d'Institut d'Estudis Andorrans.*

Also of importance are the two weekly Andorran newspapers:

*Poble Andorra* (Andorra la Vella), and

*Andorra 7* (Andorra la Vella),

published since 1974 and 1978 respectively.

### 4. Law School and National Libraries

At this writing, Andorra maintains no law school. Most Andorrans who desire to follow careers in law attend law schools in France and Spain.

The National Library of Andorra (Biblioteca Nacional, Valls d'Andorra) was founded on December 21, 1974. It also functions as a public library, and its reference and lending sections are open to all. The National Archives of Andorra is also a part of the National Library. The Archives was created

under special rules and regulations as approved by the General Council on December 22, 1975. The Archives is composed of two sections: a) the history archive which contains Andorran documents and manuscripts that are more than 50 years old and were issued or recovered by the authorities; and b) the administrative archive which contains the legislative and administrative materials less than 50 years old that do not have a direct administrative usefulness.

The Andorran Studies Institute Branch in Perpignan (Institut d'Estudis Andorrans, Centre de Perpinyà) was opened on November 16, 1976. Since 1979, this institution has issued its *Anuls*, a yearbook that reflects the activities of the Institute and its publications. This publication also often contains legal items.