

Law 45/2022, of December 22, qualified as a modification of the Law 9/2005, of February 21, qualified as the Criminal Code

Given that the General Council in its session on December 22, 2022 approved the following:

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Statement of reasons

The Internet and the consequent emergence of new technologies have also led to the emergence of new types of infractions and crimes that were not foreseen in our legal system. In recent years, an exponential growth in crimes related to new technologies has been detected. In this sense, it is considered necessary to adapt the existing regulatory framework to these new criminal forms in order to protect citizens and companies in the country from any type of cyber attack, as well as guarantee the confidentiality, integrity and availability of information systems.

In this way, this Law incorporates the crimes provided for in Directive 2013/40/EU of the European Parliament and of the Council, of 12 August 2013, on attacks against information systems, while adapting the Andorran criminal regulatory framework to the Convention on Cybercrime, opened for signature in Budapest on 23 November 2001.

On the other hand, on November 24, 2011, the General Council approved the ratification of the Monetary Agreement between the Principality of Andorra and the European Union, which is accompanied by an annex that has been updated periodically and that indicates the legal acts and regulatory provisions of the European Union that the Andorran State has undertaken to implement in its legal system in the terms established in article 8 of the aforementioned Agreement.

Thus, by virtue of this Monetary Agreement, Andorra has committed to implementing, among other aspects, in its legal system Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on the fight against fraud.

and the counterfeiting of non-cash means of payment and which replaces Council Framework Decision 2001/413/JHA, as well as Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by means of criminal law.

Additionally, the Principality of Andorra signed the Council of Europe Convention on Action against Trafficking in Human Beings on 17 November 2005, ratified by the General Council on 14 October 2010. The Council of Europe, through the Group of Experts on Action against Trafficking in Human Beings (GRETA), is responsible for monitoring the implementation of the Convention by the parties and for

drafting reports that evaluate the measures taken by each state party. The second report on the implementation of the Convention by Andorra was adopted by GRETA at its 34th plenary meeting, which took place in the first quarter of 2019. In relation to this report, GRETA notes that, since the adoption of the first report in 2014, Andorra has made significant progress in several areas, and makes a series of recommendations to improve the implementation of the Convention in the country, which require amending the Criminal Code.

Likewise, this matter also responds to the need to adhere to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which complements the United Nations Convention against Transnational Organized Crime, which is configured as a universal instrument that addresses all aspects of human trafficking.

Otherwise, the need to adapt Andorran criminal legislation to ratify the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism also makes this legislative modification necessary.

Thus, in accordance with everything that has been stated, the adaptation of current national regulations to the aforementioned international conventions, as well as to European regulations, requires modifications to the Andorran criminal legal framework.

On the other hand, this modification is used to introduce changes to certain crimes against traffic safety in the text.

Finally, article 484 is modified in accordance with the ruling of the Constitutional Court, of January 17, 2022, which declares article 484 of the Criminal Code unconstitutional and null and void in the wording provided by the first final provision of the Law 13/2020, of October 29, qualified as a modification of the Law 30/2018, of December 6, qualified as public security.

This Law is divided into 51 articles, which modify, in whole or in part, 41 articles and incorporate 10 new articles. Finally, three final provisions are established.

The first final provision establishes the replacement of the terms "incapacity" or "incapable" by "disability" or "person with a disability", respectively, the second final provision entrusts the Government with presenting to the General Council the drafts of the corresponding consolidated texts and the third final provision determines the date of entry into force of this Law.

Article 1. Modification of article 30 of the Law 9/2005

Article 30 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted as follows:

“Article 30. Aggravating circumstances

These are circumstances that aggravate criminal liability:

1. Carrying out the act with cruelty, intentionally increasing the suffering of the victim by causing them suffering that exceeds that necessary for the execution of the crime.
 2. Execute the act with treachery, using means aimed directly at ensuring the action without the risk that may arise from the defense by the offended party.
 3. Abuse authority, superiority or trust
 4. Seeking or taking advantage of circumstances of place, time or the presence of other people that facilitate the execution or increase the grievance against the victim.
 5. Being a particularly vulnerable victim taking into account age, physical or mental condition, disability or other similar circumstance.
 6. Committing the act for a discriminatory motive. A discriminatory motive is the unfavorable, inferior or excludable treatment given to a person or group by reason of birth, nationality or lack of nationality, racial or ethnic origin, sex or female gender, religion, philosophical, political or trade union conviction or opinion, language, age, disability, sexual orientation, gender identity or expression, or any other personal or social condition or circumstance.
 7. Recidivism. Recidivism occurs when, at the time of committing the crime, the guilty party has been convicted by final judgment for a crime that carries an equal or higher penalty, or for several crimes even if they carry a lower penalty. In any case, only crimes included in the same title and of the same nature generate recidivism. Criminal records are not taken into account when the legally established conditions for the rehabilitation of the offender are met.
- In the crimes of drug trafficking, kidnapping, illegal sale of weapons, those related to prostitution, terrorism, counterfeiting of currency, money laundering and all crimes committed in the form of organized crime, and in those mentioned in letter d of section 6 of article 8, the record of conviction abroad for acts constituting the same crimes provided for in this Code must be equated with the national record for the application of this circumstance.
8. Committing the offense through a price, promise or reward.

9. That the taxable person is a civil servant or authority and the criminal offence was committed when said subject was in the exercise of his or her position or by reason of that position.

10. The display or dissemination of the infringement through any means of communication or social network.”

Article 2. Modification of article 33 of the Law 9/2005

Article 33 of the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 33. Disability

For criminal purposes, disability is considered to be a situation in which a person has long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with other people, regardless of whether they are provided with support measures for the exercise of their capacity.”

Article 3. Addition of a new article 34 bis to the Law 9/2005

A new article 34 bis is added to the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 34 bis . Computer data

For the purposes of this Code, computer data is considered to be any representation of facts or information in a manner suitable for communication, interpretation or processing that allows its treatment by an information system.”

Article 4. Addition of a new article 34 ter to the Law 9/2005

A new article 34 ter is added to the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 34 ter. Information system

For the purposes of this Code, an information system is considered to be the set of physical (hardware and communications) and logical (software) units, which through the interaction, storage and automatic processing of computer data, treated, retrieved or distributed, produces the results necessary for its operation, use, protection and maintenance.

Article 5. Modification of article 36 of the Law 9/2005

Article 36 of the Law 9/2005, of February 21, qualified as the Penal Code, which is drafted as follows:

“Article 36. Main penalties for minor crimes

The penalties that can be imposed for a misdemeanor are:

1. Prison for up to two years.
2. Holiday time arrest up to twenty-four weekends or equivalent time units.
3. House arrest for up to six months.
4. Daily partial arrest for up to six months.
5. Fine of up to 60,000 euros or up to three times the value of the thing stolen, the damage caused, the prejudice caused or the benefit obtained or that was intended to be stolen, caused or obtained by the commission of the crime, whichever is higher.
6. Work for the benefit of the community for a period not exceeding one year, except for that arising from the application of article 65 .
7. Disqualification for up to two years from exercising public rights, public office, family rights, profession or position.
8. Suspension for up to two years for the exercise of public rights, public office, family rights, profession or position.

9. Driving license suspension for up to six years.

10. Deprivation of the weapon permit for up to six years.

11. Deprivation of the hunting or fishing license for up to six years.

12. Prohibition from issuing checks or using credit cards for up to six years.

13. Prohibition of contracting with public administrations for up to six years.

14. Those that derive from the application of the rules for the substitution of penalties provided for in article 65.”

Article 6. Modification of article 105 of the Law 9/2005

Article 105 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 105. Induction and cooperation in suicide

Anyone who induces another person to commit suicide must be punished with a prison sentence of four to eight years.

The same penalty shall be imposed on anyone who actively cooperates in the suicide of a person. When cooperation reaches the point of carrying out the death penalty, it shall be punishable by imprisonment for five to ten years.”

Article 7. Addition of a new article 118 ter to the Law 9/2005

A new article 118 ter is added to the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 118 ter. Crimes against moral integrity

1. Anyone who treats another person in a degrading manner, seriously disregarding their moral integrity, must be punished with a prison sentence and a fine of up to 6,000 euros.
2. The same penalty shall be imposed on anyone who repeatedly carries out hostile or humiliating acts that constitute serious harassment against the victim.
3. If the acts are committed against one of the persons defined in article 114 or a minor or a vulnerable person due to illness or physical or mental deficiency, the penalty shall be imprisonment for up to two years.
4. In the event that the conduct provided for in the previous sections is carried out in a sustained manner over time, the penalty increases to the upper half.
5. The same penalty as that established in sections 1 and 2 shall be imposed on anyone who uses a means of social communication, the Internet or other information and communication technologies to spy on or harass another person, or to advertise or otherwise disseminate messages or recordings of harassment or aggression, and seriously alter the development of the victim's daily life. If the victim is one of the persons defined in article 114 or a minor or a vulnerable person due to illness or physical or mental deficiency, the penalty shall be imprisonment for up to two years.
6. If the cases referred to in the previous sections are accompanied by the sixth aggravating circumstance of article 30 or by damage to the physical or mental health of the victim which, in order to recover, requires follow-up medical treatment after the first aid, the penalty shall be imprisonment for a period of three months to three years. The attempt is punishable if the sixth aggravating circumstance of article 30 is present.”

Article 8. Modification of article 121 bis of the Law 9/2005

Section 3 is modified and a new section 5 is added to article 121 bis of the Law 9/2005, of February 21, qualified as the Criminal Code, which are drafted in the following terms:

“Article 121 bis. Trafficking in human beings for the purpose of organ removal

[...]

3. In the cases established in section 2, and in section 1 if the victim is a minor or is especially vulnerable due to illness or disability, the penalty shall be imposed in the upper half.

[...]

5. The victim of human trafficking is excluded from criminal liability for criminal offenses committed in the situation of exploitation provided that their participation was a direct consequence of the situation of violence, intimidation, deception or abuse to which they were subjected or if any of the circumstances excluding criminal liability provided for in article 27 of this Code are present.”

Article 9. Modification of article 128 of the Law 9/2005

Article 128 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 128. Experimentation and commercialization

Anyone who markets or experiments with fertilized human eggs for a purpose not authorized in current legislation must be punished with a prison sentence of one to five years and disqualification from exercising any health profession or one related to scientific research for up to eight years.

The penalty provided for in the previous paragraph shall be imposed in the upper half if the marketing of fertilized human eggs for a purpose other than procreation has been carried out through social media, the Internet or other information and communication technologies, so that the marketing is made accessible to a large number of people.

The attempt is punishable.”

Article 10. Modification of article 134 of the Law 9/2005

Article 134 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 134. Forced labor or services, slavery and servitude

1. Whoever subjects a person to forced labor or services, slavery or servitude shall be punished with a prison sentence of four to twelve years.

The penalty must be imposed in the upper half when the victim is a minor or a person with a disability.

The attempt is punishable.

2. Slavery or servitude is understood to be the situation of a person over whom another exercises, even in fact, all or some of the attributes of the right of ownership, such as buying, selling, lending or giving it.

3. Forced labor or service is understood to mean the situation of a person who is subjected to or compelled, through any means and against their will, to perform work or provide a service, whether paid or not.”

Article 11. Modification of article 134 bis of the Law 9/2005

Article 134 bis of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 134 bis. Trafficking in human beings for the purpose of forced labor or services, slavery, servitude or begging

1. Whoever, for the purposes of forced labour or services, slavery or practices similar to slavery, servitude or begging, recruits, transports, transfers, lodges or shelters one or more people shall be punished with a prison sentence of two to six years, without prejudice, where applicable, to the penalties that correspond to other offences committed, when at least one of the following means is used:

a) That violence or other forms of intimidation or coercion are resorted to, or under the threat of doing so.

b) That there is fraud, deception and abuse of authority or a situation of vulnerability.

c) That payments or advantages are proposed or accepted to obtain the consent of a person who exercises authority, in fact or in law, over another.

The attempt is punishable.

2. When none of the means mentioned in the previous section is used, the commission of the action described therein is considered trafficking in human beings for the purpose of forced labor or services,

slavery or practices similar to slavery, servitude or begging, if it is carried out on a minor, without prejudice, where applicable, to the penalties that correspond to the other offenses committed.

The attempt is punishable.

3. In the cases established in section 2, and in section 1, if the victim is under eighteen years of age or is especially vulnerable due to their physical or mental condition or a disability, the penalty shall be imposed in the upper half.

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

5. The victim of human trafficking is excluded from criminal liability for criminal offenses committed in the situation of exploitation provided that their participation was a direct consequence of the situation of violence, intimidation, deception or abuse to which they were subjected or if any of the circumstances excluding criminal liability provided for in article 27 of this Code are present.”

Article 12. Amendment of article 139 bis of the Law 9/2005

Article 139 bis is modified Law 9/2005 , of February 21, qualified as the Penal Code, which is drafted as follows:

"Article 139 bis. Harassment

Anyone who repeatedly and continuously carries out psychological, physical or verbal actions on a person that undermine the latter's self-esteem or lead to social exclusion or isolation will be punished with a prison sentence of up to one year or arrest.

The penalty must be imposed in its upper half when the conduct has been carried out in a group, on a minor or in front of a minor.”

Article 13. Modification of article 146 of the Law 9/2005

Paragraph 3 of article 146 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 146. Qualified assaults

[...]

3. Attempt is punishable in all cases. The proposal through social media, the Internet or other information technologies and communication of a meeting with a minor under fourteen years of age with the purpose of committing the offense described in articles 144 and 145 is considered an attempt if the proposal has been followed by material acts that lead to said meeting.”

Article 14. Modification of article 151 of the Law 9/2005

Article 151 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 151. Promoting prostitution

1. Whoever recruits for prostitution, promotes, facilitates or favors the prostitution of others shall be punished with a prison sentence of three months to three years.

2. Whoever promotes, advertises, facilitates, favors, disseminates or incites prostitution through social media, the Internet or other information and communication technologies, in such a way that prostitution becomes accessible to a large number of people, must be punished with the same penalty in the upper half.

3. If the offence relates to child prostitution or the victim is a vulnerable person due to illness or physical or mental deficiency, a prison sentence of two to five years shall be imposed. If the act is committed by the holders of parental authority or guardianship, the sentence shall be imposed in the upper half.

4. If the offence is committed within the framework of an organised group, the maximum limit of the penalty provided for may be increased by half.

5. Attempt is punishable in all cases. The proposal via the Internet or other technologies through social media, the Internet or other information technologies and the communication of a meeting with a minor under 14 years of age with the aim of committing the offence is considered an attempt if the proposal has been followed by material acts leading to said meeting.”

Article 15. Modification of article 157 of the Law 9/2005

The title and section 2 of article 157 of the Law 9/2005, of February 21, qualified as the Criminal Code, which are drafted in the following terms:

“Article 157. Dissemination of pornography in relation to minors or a person with a disability

[...]

2. Whoever promotes, advertises, exhibits, disseminates or sells child pornographic material or any sexual content of a minor, real or with the appearance of reality, or a person with a disability, through social media, the Internet or other information and communication technologies, in such a way that this material becomes accessible to a large number of people, shall be punished with a prison sentence of one to four years.

The same penalty shall be imposed on anyone who promotes, advertises, exhibits, disseminates or sells pornographic material to minors or people with disabilities using the means referred to in the previous paragraph.”

Article 16. Amendment of article 157 bis of the Law 9/2005

Section 3 is modified and a new section 5 is added to article 157 bis of the Law 9/2005, of February 21, qualified as the Criminal Code, which are drafted in the following terms:

“Article 157 bis. Trafficking in human beings for the purpose of sexual exploitation

[...]

3. In the cases established in section 2, and in section 1 if the victim is a minor or is especially vulnerable due to illness or disability, the penalty shall be imposed in the upper half.

[...]

5. The victim of human trafficking is excluded from criminal liability for criminal offenses committed in the situation of exploitation provided that their participation was a direct consequence of the situation of violence, intimidation, deception or abuse to which they were subjected or if any of the circumstances excluding criminal liability provided for in article 27 of this Code are present.”

Article 17. Addition of a new article 157 ter to the Law 9/2005

A new article 157 ter is added to the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 157 ter. Use of social media, the Internet or other information and communication technologies

1. Anyone who promotes, advertises, exhibits, disseminates or sells to third parties images or audiovisual recordings or any other material of intimate content through social media, the Internet or other information and communication technologies without the authorization of the affected person must be punished with a prison sentence of up to one year and a fine of up to 6,000 euros or double the benefit obtained or intended to be obtained if this is greater than 6,000 euros.

2. Whoever deceives or threatens, through social media, the Internet or other information and communication technologies, another person to obtain sexual satisfaction through erotic, pornographic images or any other sexual information of the victim must be punished with a prison sentence of up to one year and a fine of up to 6,000 euros.

3. Whoever carries out the acts referred to in the previous section towards minors or people with disabilities to obtain sexual satisfaction through erotic, pornographic images or any other sexual information of the minor or disabled person is punished with the same penalty in the upper half.

4. The attempt is punishable.”

Article 18. Modification of article 175 of the Law 9/2005

Article 175 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 175. Concept of advertising

Slander, defamation and insult are considered committed with publicity when they are expressed through the press, broadcasting or another means of expression or social communication, via the Internet or using other information and communication technologies, in such a way that the communication is made accessible to a large number of people.”

Article 19. Modification of article 184 of the Law 9/2005

Article 184 of the is modifiedLaw 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 184. Illicit obtaining or use of automated personal data

Anyone who, without authorization and to the detriment of a third party, carries out one of the following actions shall be punished with a sentence of two to five years in prison:

a) Create or use clandestine electronically automated personal data files in violation of the provisions of the legal regulations on the protection of personal data.

b) Collect or access personal data for electronic automation purposes or automate them in contravention of the legal regulations on the protection of personal data.

c) Use, modify, alter, cross-reference or exploit automated personal data in contravention of the legal regulations on the protection of personal data.

The attempt is punishable.”

Article 20. Modification of article 185 of theLaw 9/2005

A new section 4 is added and the current section 4 is renumbered, which becomes 5, of article 185 of theLaw 9/2005 , of February 21, qualified as the Criminal Code, which are drafted in the following terms:

“Article 185. Qualification for disclosure

[...]

4. The penalties provided for in the previous sections shall be imposed in the upper half if the acts have been committed through social media, the Internet or other information and communication technologies, so that the communication is made accessible to a large number of people, or if the disclosure, transfer or transmission has been made with a profit motive.

5. The attempt is punishable.”

Article 21. Modification of article 188 of the Law 9/2005

Article 188 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 188. Crime of disclosure

Anyone who, with knowledge of an illicit origin and without having taken part in the conduct described in articles 182, 183 and 184, reveals to third parties the data or facts discovered, the images captured, or the personal data, shall be punished with a prison sentence of three months to three years.

The penalties provided for in accordance with what is established in the previous paragraph must be imposed in the upper half if the disclosure to third parties has been committed through social media, the Internet or other information and communication technologies, so that the communication is made accessible to a large number of people, or if the disclosure has been made with profit motives.”

Article 22. Addition of a new article 192 bis to the Law 9/2005

A new article 192 bis is added to the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 192 bis. Qualification for disclosure

Whoever commits the acts provided for in articles 190 and 191 through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people, or with a profit motive, shall be punished with the penalties provided for the acts in the upper half.

Article 23. Modification of article 209 of the Law 9/2005

Letter c of section 1 of article 209 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 209. Qualified fraud

1. [...]

c) That it is made by check, credit or debit card, other material or immaterial means of payment other than cash, promissory note, blank bill of exchange or fictitious exchange transaction.

[...]"

Article 24. Modification of article 210 of the Law 9/2005

Article 210 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 210. Computer fraud

1. Whoever, with the intention of profit and using some computer manipulation or similar artifice, makes a non-consensual transfer or disposal of any patrimonial asset that causes a third party a patrimonial loss exceeding 600 euros must be punished with the penalties provided for fraud or qualified fraud if any of the assumptions in sections e or f of point 1 of article 209 occur. Whoever causes an illicit patrimonial loss to a third party by carrying out a transfer of money, monetary value or virtual currency, obstructing or unduly interfering with the operation of an information system or by introducing, altering, erasing, transmitting or unduly suppressing computer data, when doing so intentionally, without authorization and with the intention of obtaining an illicit economic benefit, for himself or for a third party, must respond with the same penalty.

2. The attempt is punishable."

Article 25. Modification of article 212 of the Law 9/2005

Article 212 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 212. Fraud in the use of telecommunication fluids or systems

1. Anyone who, by altering the indications or metering devices or using clandestine mechanisms or secret codes, commits fraud for a value greater than 600 euros in the use of electrical energy, gas, water or other forms of energy or fluids belonging to others, or telecommunications systems, shall be punished with a penalty of arrest or a fine of up to three times the damage caused.

2. Anyone who manipulates electronic devices, computer programs or other electronic means so that, either individually or jointly, the operation or exploitation of telecommunications services is altered, diminished or prevented, in whole or in part, without the consent of their owner, and causes the latter economic damage with the intention of obtaining an economic benefit for themselves or a third party, shall be punished with the penalty of arrest or a fine of up to three times the damage caused.

3. The attempt is punishable.”

Article 26. Modification of article 225 of the Law 9/2005

Article 225 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 225. Attacks against information systems

1. Whoever, by any means, intentionally and without authorization, accesses the whole or part of an information system, in violation of at least one security measure, when the result produced is serious, shall be punished with a prison sentence of three months to three years.

2. Whoever, by any means, intentionally and without authorization, hinders or interrupts the operation of networks or information systems by introducing, transmitting, damaging, erasing, deteriorating, altering, suppressing or making computer data inaccessible, when the result produced is serious, shall be punished with a prison sentence of three months to three years.

3. Whoever, by any means, intentionally and without authorization, erases, damages, deteriorates, alters, suppresses or makes inaccessible computer data contained in an information system, when the result produced is serious, shall be punished with a prison sentence of three months to three years.

4. Whoever, by any technical means, intentionally and without authorization, intercepts non-public transmissions of computer data to an information system, from an information system or within an information system, including electromagnetic emissions from an information system containing said computer data, when the result produced is serious, shall be punished with a prison sentence of three months to three years.

5. Whoever intentionally produces, sells, acquires for use, imports, distributes or otherwise makes available the following instruments without authorization, and with the intention that they be used for the purpose of committing the acts referred to in the previous sections, shall be punished with a prison sentence of three months to three years:

a) A computer program, device or equipment designed or adapted primarily to commit the acts referred to.

b) A computer key, access code or similar data that allows access to all or part of an information system.

6. A prison sentence of three to six years and a fine of up to four times the damage caused is imposed when any of the following circumstances occur in any of the conduct described in the previous sections:

a) It has been committed within the framework of an organized group.

b) Particularly serious damage has been caused.

c) The operation of essential public services or the provision of basic necessities has been seriously harmed.

d) It has been committed against a network or information system of a critical infrastructure.

e) A situation of serious danger to the security of the State has been created.

7. For the purposes of this article, all services offered by an entity whose type falls within the essential entities provided for in the legislation on measures for the security of networks and information systems in force at any given time, which are necessary for the maintenance of basic social functions, the health, safety, social and economic well-being of citizens or the effective functioning of State institutions and public administrations, which depend on them to provide themselves with networks and information systems, and which may seriously affect the continuity of their services in the event of cyber incidents and, consequently, cause serious social and economic damage to the Principality of Andorra, are considered essential public services.

8. For the purposes of this article, critical infrastructure is considered to be all assets, systems or parts of these systems necessary to provide an essential service and which are indispensable and do not allow alternative solutions, so disrupting or destroying them would have significant detrimental effects on the provision of one or more essential services.”

Article 27. Modification of article 229 of the Law 9/2005

Article 229 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 229. Crimes against intellectual property

1. Anyone who, for profit and to the detriment of a third party, and without the authorization of the owner or assignee of the intellectual property right in question, shall be punished with a prison sentence of three months to three years and a fine of up to three times the profit obtained:

a) Reproduce, copy, distribute, transform or publicly communicate, in whole or in part, a literary, artistic, scientific work or any other work protected by intellectual property rights, or its interpretation or artistic performance fixed on any medium or communicated through any means, or any other provision subject to intellectual property rights.

b) Within the framework of the provision of information technology services, it actively and non-neutrally facilitates, without limiting itself to a merely technical treatment, access to or location on the Internet of works or services that are the subject of intellectual property rights, especially when it offers ordered and classified lists of links to the works and services, even if these links had been initially provided by the users of its services.

c) Exports or stores copies of works, productions or performances or other services protected by intellectual property rights, including digital copies, when it is proven that they are intended to be reproduced, distributed or communicated publicly.

d) Import goods protected by intellectual property rights to reproduce, distribute or communicate them publicly, whether or not these acts are legal in the country of origin of these goods.

In cases of particular gravity, the court may impose a sentence of one to four years in prison and, in addition, the temporary or permanent closure of the convicted person's establishment or the publication of the sentence.

2. Whoever eliminates, modifies, evades or facilitates the circumvention of technological protection measures for works or services established by the holders or assignees of intellectual property rights over the same works or services shall be punished with the penalty corresponding to half of the minimum and maximum limits provided for the conduct set out in section 1.

The same penalty shall be imposed on anyone who manufactures, imports, puts into circulation or possesses for commercial purposes any type of means or device designed, produced, adapted or made specifically to facilitate the unauthorized deletion or neutralization of any technical device used to protect works or services that are the subject of intellectual property rights.

3. In relation to the cases provided for in the previous sections, the mayor or the court may order the removal of the works or services that are the subject of the infringement. When the contents or services that are the subject of intellectual property rights referred to in the previous sections are exclusively or predominantly disseminated through an Internet access portal or an information society service, the interruption of the provision of the service in question must be ordered, and the court may agree to any precautionary measure that aims to protect intellectual property rights.

Exceptionally, when there is a repetition of the conduct and when it is a proportionate, efficient and effective measure, the court may order the blocking of the corresponding access.”

Article 28. Addition of a new article 235 bis to the Law 9/2005

A new article 235 bis is added to the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 235 bis. Qualification for disclosure

The penalties provided for in articles 233, 234 and 235 shall be imposed in the upper half if the acts provided for in the aforementioned articles are committed through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people, or with a profit motive.”

Article 29. Modification of article 236 of the Law 9/2005

Article 236 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 236. Misleading indications

1. The manufacturer, distributor or trader who offers products or services on the market with false, misleading or misleading indications or representations regarding the nature, composition or substantial quality of the products or services offered shall be punished with a penalty of arrest. The court may also impose a fine of up to 12,000 euros.

2. The penalty shall be imposed in the upper half when the false, misleading or erroneous indications or representations have been formalized through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people.”

Article 30. Addition of a new article 267 bis of the Law 9/2005

A new article 267 bis is added to the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 267 bis. Aggravated type

Whoever traffics in the goods provided for in articles 264, 265, 266 and 267 through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people, must be punished with the penalties provided for the acts in the upper half.

Article 31. Modification of article 268 of the Law 9/2005

Article 268 of the is modified Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 268. Driving under the influence of drugs

1. Anyone who drives a vehicle on roads and land that are within the scope of application of the law regulating the Traffic Code, under the influence of alcoholic beverages, drugs or substances with similar effects or with a blood alcohol level higher than 0.8 g/l, shall be punished with a prison sentence of up to one year or arrest, and deprivation of the driving license or prohibition from driving vehicles, as appropriate, for up to three years. In addition to the penalties provided for, a fine of 300 euros up to 3,000 euros shall be imposed.

2. Anyone who drives a public transport vehicle with passengers, a vehicle with a maximum total weight exceeding 3,500 kilograms, a train, an aircraft, an installation or a cable transport vehicle, under the influence of alcoholic beverages, drugs or substances with similar effects, or with a blood alcohol level exceeding 0.5 g/l, shall be punished with a prison sentence of up to two years and deprivation of the driving license for up to four years. In addition to the penalties provided for, a fine of 1,200 euros up to 6,000 euros and the complementary penalty of disqualification from exercising the profession or position for up to four years shall be imposed.

Article 32. Modification of article 269 of the Law 9/2005

Article 269 of the is modifiedLaw 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 269. Refusal to submit to the test

Anyone who refuses to submit to a drug or alcohol test when legitimately requested by an officer of the authority and does not accept to submit to a blood test shall be punished with a prison sentence of up to one year or arrest, and deprivation of the driving license for up to three years and up to four years in the case of the second point of the previous article. In addition to the penalties provided for, a fine of 600 euros to 3,000 euros shall be imposed in the case of the first point of the previous article and of 1,200 euros to 6,000 euros in the case of the second point of the previous article.”

Article 33. Modification of article 270 of theLaw 9/2005

Article 270 of the is modifiedLaw 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 270. Reckless driving

1. Whoever drives a vehicle on roads and land that are within the scope of application of the law regulating the Traffic Code, with manifest recklessness, shall be punished with a prison sentence of three months to three years and deprivation of the driving license or a prohibition to drive vehicles, as appropriate, for one to six years. In addition to the penalties provided for, a fine of 300 euros to 6,000 euros shall be imposed.

2. Whoever drives a public transport vehicle with passengers, a vehicle with a maximum total weight exceeding 3,500 kilograms, a train, an aircraft, an installation or a cable transport vehicle, under the conditions previously expressed, shall be punished with a prison sentence of three months to three years and deprivation of the driving licence or the corresponding driving certificate for one to six years. In addition to the penalties provided for, a fine of 1,200 euros up to the amount of 6,000 euros and the penalty of disqualification from exercising the trade or position for up to four years shall be imposed.

3. When the conduct provided for in the previous sections is accompanied by any of the following circumstances, penalties of imprisonment of six months to three years, deprivation of the driving license or deprivation of the right to drive vehicles, as appropriate, for two to six years and a fine of 3,000 euros to 60,000 euros shall be imposed:

a) When the life or health of people has been put in specific danger.

b) When damage has been caused to other vehicles, or to public or private property.

c) When the driver has publicly disseminated the act of reckless driving through any means of social communication, the Internet or other information and communication technologies.

d) When the driver shows a lack of compliance with the rules of the traffic code.”

Article 34. Modification of article 272 of the Law 9/2005

Article 272 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 272. Confiscation of the vehicle

In crimes against traffic safety involving motor vehicles, the vehicle used may be considered the instrument of the crime for the purposes of the provisions of article 70.

The court may order its confiscation provided that this measure is not disproportionate taking into account the seriousness of the crime and the current value of the vehicle.”

Article 35. Addition of a new article 277 bis to the Law 9/2005

A new article 277 bis is added to the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 277 bis. Aggravated type

Whoever commits the acts provided for in articles 273, 275, 276 and 277, section d, through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people, must be punished with the penalties provided for the acts in the upper half.

Article 36. Modification of article 325 of the Law 9/2005

Article 325 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 325. Crimes against the prestige of institutions

1. Anyone who, with knowledge of their falsehood or reckless disregard for the truth, publicly makes accusations regarding the actions of the General Council, the Government, the High Council of Justice, the judicial bodies, the Public Prosecutor's Office or the local authorities that may harm their prestige shall be punished with a fine of up to 30,000 euros and disqualification from holding public office for up to four years, without prejudice to the penalties that, where applicable, correspond to attacks against the honor of individuals.

2. Whoever carries out the acts referred to in the previous section through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people, must be punished with the penalty in the upper half.

Article 37. Modification of article 338 of the Law 9/2005

Section 1 of article 338 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 338. Discrimination

1. Anyone who, for discriminatory reasons: shall be punished with a prison sentence of three months to three years.

a) Publicly incites the commission of crimes against life, physical and psychological integrity, moral integrity, equality, freedom or sexual freedom, humanity and crimes of damage and genocide, against a person or group of people. In the event that the crime whose commission is incited has a penalty of equal or lesser severity, the qualified penalty reduction is imposed.

b) Publicly insults, slanders, defames or threatens a person or group of people.

c) Publicly expresses, by any means, an ideology or doctrine that affirms the superiority of a group of people, or that despises or denigrates them.

d) Publicly disseminates or distributes any material that contains images or expressions included in the previous conduct.

The attempt is punishable.

[...]"

Article 38. Modification of article 364 of the Law 9/2005

Paragraph 3 of article 364 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 364. Other offences with terrorist intent

[...]

3. Anyone who travels to a territory other than that of their nationality or residence with the purpose of committing, participating in, planning or preparing any act of terrorism, or contributing to its commission, or with the purpose of organizing, facilitating or receiving training, instruction or instruction for terrorist purposes, shall be punished with a prison sentence of two to five years.

The same penalty shall be imposed on anyone who, with knowledge of the terrorist purpose, organizes or facilitates the commission of the conduct described in the previous section in any way other than its financing, including acts of recruitment.

The attempt is punishable."

Article 39. Addition of a new paragraph 4 to article 377 of the Law 9/2005

A new section 5 is added to article 377 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 377. Disclosure of secrets

[...]

5. In the event that the acts provided for in the previous sections are committed through social media, the Internet or other information and communication technologies, in such a way that the communication is made accessible to a large number of people, or with a profit motive, whoever commits the acts must be punished with the penalty that corresponds to the act committed in question in the upper half.

Article 40. Amendment of article 409 of the Law 9/2005

Paragraph 1 of article 409 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 409. Money or securities laundering

1. Whoever converts or transmits funds that come, directly or indirectly, from any criminal activity, knowing their origin, with the purpose of hiding or disguising their illicit origin or of helping any person who has participated in the commission of the crime to evade the legal consequences of their acts, shall be punished with a prison sentence of one to five years and a fine of up to three times their value.

[...]"

Article 41. Modification of article 410 of the Law 9/2005

Article 410 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 410. Qualified type

1. A prison sentence of three to eight years shall be imposed when any of the following circumstances occur:

a) When the crime is committed by an organized group.

b) When the subject opens it habitually.

c) When the perpetrator of the money laundering has the status of an obligated party in accordance with the applicable regulations on the prevention of money laundering and terrorist financing, or acts within the framework of a banking or financial establishment, a real estate agency or an insurance

company. In this case, the court may also impose the penalty of disqualification from exercising the profession or position for up to ten years.

d) When the funds being laundered come from any crime related to illicit associations, terrorism, human trafficking, crimes against sexual freedom, illegal trafficking in toxic drugs or corruption.

2. Attempt, conspiracy and provocation are punishable.”

Article 42. Modification of article 426 of the Law 9/2005

Article 426 of the is modified Law 9/2005 , of February 21, qualified as the Penal Code, which is drafted as follows:

"Article 426. Professional disloyalty

"Without content."

Article 43. Modification of article 428 of the Law 9/2005

Article 428 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 428. Receipt of sentence, provisional imprisonment or detention

1. A prisoner or detainee who, through physical force or escalation, violates his prison sentence, provisional imprisonment or detention, must be punished with a prison sentence of up to one year.

2. When, in the case of the previous section, violence or intimidation is used against people or by taking part in a riot, a prison sentence of one to four years shall be imposed.

3. A prisoner or detainee who, outside the cases provided for in sections 1 and 2 above, violates his prison sentence, provisional imprisonment or detention, must be punished with a prison sentence of up to eight months.

4. Anyone who violates the penalty of expulsion from the Principality must be punished with a prison sentence of up to eight months unless article 65 point 3 is not applicable.

5. Anyone sentenced to a prison sentence who violates the imposed sentence must be punished with a prison sentence of up to eight months.

6. Anyone convicted of a crime not included in the previous sections who violates the sentence imposed on him must be punished with a prison sentence.”

Article 44. Modification of article 430 of the Law 9/2005

Paragraph 3 of article 430 of the Law 9/2005, of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 430. Concept of currency

[...]

3. The payment instrument must also be considered currency, understood as any device, object or protected material or immaterial record, or a combination of the latter, with the exception of legal tender, which by its specific nature allows, by itself or together with another instrument, the holder or user to send money or a monetary value, including through digital means of exchange, and which is protected against imitations or fraudulent use, by means of the type of paper or printing, the design, a code, a signature or any other element aimed at preventing or hindering its falsification, imitation or fraudulent use.”

Article 45. Modification of article 431 of the Law 9/2005

Sections 1, 2 and 3 of article 431 of the Law 9/2005, of February 21, qualified as the Criminal Code, which are drafted in the following terms:

“Article 431. Creation and circulation of inauthentic currency

1. Shall be punished with a prison sentence of one to eight years and a fine of up to three times the apparent value of the currency:

a) Whoever manufactures inauthentic currency. For the purposes of this section, currency manufactured in facilities or with legal materials, but without the due authorizations, is also considered inauthentic currency.

b) Anyone who alters currency already issued by varying its apparent value or making signs of unusability disappear.

The same penalty shall be imposed on anyone who fraudulently falsifies or alters a material or immaterial payment instrument other than cash.

The attempt is punishable.

2. Whoever, with knowledge of its inauthenticity, puts the coin into circulation, shall be punished with a prison sentence of one to five years and a fine of up to three times the apparent value of the coin.

The same penalty shall be imposed on anyone who fraudulently uses a material or immaterial payment instrument other than cash that has been forged or altered.

The attempt is punishable.

3. Anyone who, without having participated in the conduct described in sections 1 and 2 of this article, receives, procures, imports, exports, transports, sends or possesses currency knowing that it is inauthentic, with the purpose of putting it into circulation or having it put into circulation, shall be punished with a prison sentence of one to five years and a fine of up to three times the apparent value of the currency.

The same penalty shall be imposed on anyone who possesses or obtains, for fraudulent use, and with knowledge of its origin, a material or immaterial payment instrument other than cash that has been the object of theft or other form of illicit appropriation, forgery or alteration.

The attempt is punishable.

[...]"

Article 46. Modification of article 432 of the Law 9/2005

Article 432 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 432. Punishable preparatory acts

The manufacture, transfer, sale or possession of instruments, materials, substances, machines, computer programs, devices or other implements, as well as computer data, specifically aimed at the manufacture of inauthentic currency or the alteration of currency already issued, as well as security elements such as holograms, watermarks or other components of the currency that serve to protect it against counterfeiting, must be punished with a prison sentence of up to two years, provided that a danger to monetary traffic may arise.

The attempt is punishable.”

Article 47. Addition of a new article 446 bis to the Law 9/2005

A new article 446 bis is added to the Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

"Article 446 bis. Computer fraud

1. Anyone who deliberately and illegitimately deletes, introduces or alters computer data in a way that misleads as to its authenticity is punishable by a sentence of up to two years in prison, regardless of whether the data is directly legible and intelligible or not.

2. When the conduct described in the previous section refers to the falsification of an IP address with the aim of passing it off as a legitimate address, or to the modification of the appearance of an existing and legitimate web page with the aim of carrying out fraudulent or vandalistic activities, the penalty in the upper half shall be imposed.

3. Anyone who, through materials, equipment or electronic devices, computer programs or information systems, copies, clones or markets information contained in magnetic strips, chips or other electronic devices supported on credit, debit, payment or similar cards is punishable by a penalty of up to two years in prison or a fine of up to double the benefit obtained or intended to be obtained.

4. Anyone who imports, manufactures, possesses, sells or distributes in any way computer programs, passwords, access codes or similar, or equipment or devices, to commit the acts provided for in the previous sections, shall be punished with a penalty lower in degree than that referred to in the previous section.

5. The attempt is punishable.”

Article 48. Amendment of article 447 of the Law 9/2005

Article 447 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 447. Use of false or altered computer data

Anyone who uses computer data created in the manner described in the previous articles must be punished with a prison sentence of up to two years.”

Article 49. Modification of article 478 of the Law 9/2005

Paragraph 3 of article 478 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 478. Minor coercion and threats

[...]

3. Anyone who makes telephone calls, sends emails or electronic messaging or communicates over the Internet or any other system through the use of information and communication technologies, repeatedly, with the aim of causing distress, anxiety or fear to a person, must be punished with a penalty of arrest or a fine of up to 3,000 euros.”

Article 50. Modification of article 479 of the Law 9/2005

Article 479 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 479. Mild defamation

Anyone who commits defamation against a person without seriously harming their self-esteem or reputation must be punished with a prison sentence or a fine of up to 3,000 euros.

In order to prosecute defamation, a complaint must be filed by the person offended by the offense or by the legal representative. The provisions set forth in articles 174 to 181 of this Code are also applicable to these criminal offenses.”

Article 51. Modification of article 484 of the Law 9/2005

Article 484 of the is modified Law 9/2005 , of February 21, qualified as the Criminal Code, which is drafted in the following terms:

“Article 484. Damages

1. Whoever causes damage of an amount not exceeding 600 euros shall be punished with community service for up to one month or a fine from 300 euros to double the damage caused.

If it involves damage to property of special interest as provided for in article 309, the facts must in any case be considered a crime.

2. Anyone who, without authorization, makes inscriptions, paints or attaches posters or other objects to buildings or street furniture, must be punished with a fine equivalent to twice the amount of the repair or work for the benefit of the community.

3. The attempt is punishable.”

First final provision. Modification of the terms “incapacity” and “incapable”

Based on article 2 of this Law, all references to “incapacity” or “incapable” will need to be replaced by “disability” or “person with a disability”, respectively, in the Qualified Law of the Criminal Code, to which the second final provision of this Law refers.

Second final provision. Publication of the consolidated text

The Government is entrusted, in the terms provided for in article 116 of the Regulations of the General Council, to present to the General Council the project for the consolidation of the Law 9/2005 , of February 21, qualified as the Criminal Code, integrating the current legislation on the regulated matter.

Third final provision. Entry into force

This Law enters into force the day after it is published in the Official Gazette of the Principality of Andorra .

Casa de la Vall, December 22, 2022

Roser Suñé Pascuet

General Ombudsman

We, the co-princes, sanction and promulgate it and order its publication in the Official Gazette of the Principality of Andorra.

Emmanuel Macron Joan Enric Vives Sicily

President of the French Republic Bishop of Urgell

Co-Prince of Andorra Co-Prince of Andorra