



General Assembly

Distr.
GENERAL

A/HRC/WG.6/5/MCO/1
18 February 2009

ENGLISH
Original: FRENCH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
Fifth session
Geneva, 4-15 May 2009

**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1***

Monaco

* The present document was not edited before being sent to the United Nations translation services.

Introduction

1. The Principality of Monaco, an independent and sovereign State, covers an area of 2.02 square kilometres. Its territory is largely surrounded by that of France, with one side open to the Mediterranean. French is the official language, but Italian and English are also widely understood and spoken. The apostolic Roman Catholic religion is the religion of the State.
2. Monaco has a population of about 32,000. It is made up of some 126 nationalities, including 8,221 Monegasques (25 per cent),¹ 8,592 French (35.5 per cent), 5,509 Italians (23 per cent) and 2,292 British (9.5 per cent). The Swiss, German, Belgian, Portuguese and North American (United States and Canadian) communities are also well represented.
3. Aware of the importance of human rights in their universal scope, the Princely Government has endeavoured to meet the Human Rights Council's expectations in setting out as accurately as possible the following developments, with a view to showing that Monaco has done its utmost to meet its treaty obligations.

I. METHODOLOGY AND PROCESS FOLLOWED FOR THE PREPARATION OF THE REPORT

4. Monaco is submitting its first report on the situation of human rights in accordance with General Assembly resolution 60/251 adopted on 15 March 2006.
5. This report is based on the initial and periodic reports submitted by Monaco to various United Nations bodies, the recommendations of these bodies and the reports drafted by Council of Europe treaty monitoring committees.
6. Monaco has adopted a consultative and participatory methodological approach to drafting its international reports in general and the present report in particular, in accordance with the guidelines set out in Human Rights Council resolution 5/1. An interdepartmental working group has been set up accordingly, coordinated by the Department of International Affairs of the Department for External Relations and composed of representatives from five Government departments, the Judicial Services and the Human Rights Unit. Work sessions were organized to muster information, observations and recommendations on what to include in this report.
7. The report was drafted in consultation with the Economic and Social Council, the Monegasque Red Cross and an NGO, the World Association of Children's Friends (AMADE) in Monaco, two organizations that play a particularly active and prominent role in charitable and humanitarian work on the international scene.

II. NORMATIVE FRAMEWORK

8. The political and institutional system of Monaco is governed by the Constitution of 17 December 1962 as amended by Act No. 1.249 of 2 April 2002. This fundamental law of the State defines the Government's nature and the authorities' organization and relations. It also enshrines the public rights and freedoms of Monegasque and foreign nationals alike.
9. Monaco is a hereditary, constitutional monarchy. The rule of law is upheld in all institutions, and the separation of the State's legislative, executive and judicial functions is established. The Constitution enshrines the sovereignty and independence of the Principality.

10. The Constitution states that “the Principality is a State under the rule of law committed to respect for liberties and fundamental rights”. These are enumerated in chapter III and correspond to numerous rights set out in the principal international human rights instruments, in particular the 1948 Universal Declaration of Human Rights.

11. The Supreme Court guarantees the constitutional rights of persons on trial and censures any laws or regulations that encroach on human rights.

12. Article 14 of the Constitution specifies that the following may only be ratified in accordance with the law:

- (a) International treaties and agreements affecting the constitutional order;
- (b) International treaties and agreements whose ratification entails amending existing legal provisions;
- (c) International treaties and agreements involving Monaco’s membership of an international organization whose operation requires the participation of members of the National Council;
- (d) International treaties and agreements whose implementation results in a public expenditure of a kind or for a purpose not provided for under the budget law.

13. After consulting the Crown Council, the Prince signs and ratifies international treaties and conventions. He transmits them to the National Council (parliament) through the Minister of State before their ratification. The Prince has also worked towards Monaco’s membership of several international organizations and encouraged international scientific organizations such as the International Commission for the Scientific Exploration of the Mediterranean Sea, the International Hydrographic Organization and the International Atomic Energy Agency Marine Environment Laboratory to set up their headquarters in Monaco.

14. Monaco is a party to the majority of international conventions governing human rights, ensures that its periodic national reports on the implementation of its commitments are submitted regularly and remains mindful of the recommendations made.

15. Before any international agreements are signed, State agencies assess whether they may be appropriately applied in the territory.

16. In addition, taking into account Monaco’s specific features, it regularly reconsiders reservations and/or declarations made at the time of ratification or accession.

17. Monaco has recognized the jurisdiction of the European Court of Human Rights to receive individual applications.

18. A human rights and fundamental freedoms unit was established within the Department of External Relations in 2005. It is engaged in fundamental rights training and outreach activities. Technical conferences for magistrates, lawyers and police officers are organized in collaboration with the Directorate of Judicial Services. Lectures are also regularly given before school audiences.

19. The Human Rights and Fundamental Freedoms Unit was established in accordance with the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It is therefore designed to deal with reported violations of the Convention’s provisions.

Furthermore, it is systematically consulted on bills affecting fundamental rights in order to propose appropriate amendments. Judicial or administrative practices are also analysed from a human rights perspective.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Women's rights

1. Political parity

20. There is no gender-based restriction on or legal obstacle to women's participation in national and communal elections. Article 53 of the Constitution of 17 December 1962 recognizes women's right to vote.

21. Articles 53, 54 and 79 of the Constitution lay down the conditions for voting and standing for public office and make no distinction between men and women.

22. Women's participation in political life has changed over time. Since gaining the right to vote in 1962 and the opportunity to stand for national and communal elections, women have thus been actively engaged in the debates that shape future political, economic and social trends.

23. Monegasque women are fairly well represented in the elected assemblies and the Government: they hold 4 of the 15 seats in the Communal Council and 6 of the 24 seats in the National Council (parliament), which accounts for 25 per cent and corresponds to the world average.

24. Within the Government there are no women on the Government Council, which is made up of only five members. However, today, many women hold the post of chief of service (which would have a ministerial rank in larger States).

25. It is also worth pointing out that courts of law that rule on civil, commercial and criminal cases, namely the District Court, the Court of First Instance and the Court of Appeal, are all presided over by women. Furthermore, the Union of Monaco Trade Unions, the main workers' union, is also headed by a woman.

2. The situation of women on the labour market

26. Women have the same rights as men in pursuing an occupational activity. Act No. 978 of 19 April 1974 and its implementing order No. 5.392 of 4 July 1974 provides that all employees, regardless of gender, must receive equal pay for equal work or work of equal value. The civil service statute also explicitly prohibits any discrimination on the basis of gender. Labour inspectors or, if necessary, other officials may require businesses to provide various pieces of information to help them to determine salaries. They may also set up inquiries of various parties during which employers and employees may be accompanied by a person of their choice.

27. The following are measures that protect women and children in particular:

(a) Ministerial order No. 58-168 of 29 May 1958 determines health and safety measures concerning women's and children's labour; it prohibits certain dangerous work and limits the weight of loads that may be carried, pulled or pushed by them;

(b) Act No. 870 of 17 July 1969, as amended by Act No. 1.245 of 21 December 2001, on the employment of pregnant or nursing mothers provides that:

- (i) No woman employee may be dismissed once her pregnancy has been medically certified or during the work contract suspension periods to which women are entitled by way of maternity leave;
- (ii) The employer may not seek information concerning the pregnancy;
- (iii) The employer may not invoke the pregnancy to refuse to fill a vacancy, cancel a work contract during a probationary period or order a job transfer;
- (iv) The job candidate is not required to disclose her pregnancy;
- (v) When her maternity leave period is at an end, the employee must be reinstated in her previous post or given a similar post with at least equivalent pay;
- (vi) When her maternity leave is at an end, the mother may refrain from resuming work and request to be re-employed the following year, with all the benefits and advantages acquired at the time of her taking leave.

28. The social security agreements entered into with France on 28 February 1952 and with Italy on 11 October 1961 enable women who are employed in Monaco but domiciled in those neighbouring countries to enjoy the same social welfare and medical benefits provided by Monaco's social welfare funds² as residents of the Principality, and subsequently to draw a retirement pension in their country of residence.

3. Equality within the family

29. All restrictions relating to the transmission of Monegasque nationality to children whose mother has obtained nationality through naturalization have been repealed by Act No. 1.276 of 22 December 2003.

30. Act No. 1.278 of 29 December 2003 amending certain provisions of the Civil Code, Code of Civil Procedure and Commercial Code establish equality between men and women within the household by revising certain provisions of the Civil Code (joint support of the family, conjugal life and place of residence jointly selected). The notion of paternal authority has been removed from the Civil Code and replaced by parental authority (article 301 of the Civil Code). This law also specifies that: "A child born out of wedlock has, in his or her non-proprietary relations with his or her father or mother, the same rights and obligations as a legitimate child."

31. The Monegasque State also adopted legislation relating to paternity leave to enable fathers to exercise more extensive rights in this area.

4. International policy on women

32. In accordance with its policy on official development assistance and the Millennium Development Goals, Monaco has taken action to promote gender equality through the empowerment and integration of women as agents in charge of their own development. Several projects funded by Monaco have thus been implemented in the Niger, Morocco, Burkina Faso and Mali.

33. As a State Member of the United Nations and the Council of Europe and a party to the Convention on the Elimination of All Forms of Discrimination against Women, Monaco participates in the work of the United Nations Commission on the Status of Women and of the Council of Europe Steering Committee for Equality between Women and Men.

5. Domestic violence

34. Domestic violence does not give rise to separate offences under domestic law, as the provisions of the Criminal Code concerning homicide, intentional assault and battery and violence do not make distinctions on the basis of the status of the victim (gender, or marital connection with the perpetrator).

35. To date Monaco has not adopted any specific legislation on domestic violence against women. However, domestic violence is already punishable under the provisions concerning intentional assault and battery (articles 236-249 of the Criminal Code), where the choice of sentence will take account of the domestic nature of the violence.

36. Nevertheless, draft legislation on combating domestic violence was adopted by the National Council in a public session on 28 April 2008 and is currently being considered by the Government with a view to being tabled as a bill.

37. Support mechanisms for victims have been in place since January 2005 within the Health and Social Affairs Department and the Public Security Department (Police Service).

38. The Health and Social Affairs Department brings together a team of social service workers with various professional training (social workers, special education instructors, family mediators) and a psychologist on duty during business hours.

39. The family mediation service, established in January 2004, provides shelter for victims of domestic violence. The service works in collaboration with police caseworkers. The family mediator is responsible for welcoming, counselling, guiding and proposing family mediation measures if the situation requires such an intervention.

40. This network is assisted by:

(a) The proximity of the service providers in the light of Monaco's small territory;

(b) The personalized treatment of each case of violence, which is made possible by the low number of reported cases.³

B. Rights of the child

41. The protection of the rights of the child, in particular against violence of any kind, is a familiar topic. Monaco has had a longstanding commitment to the issue at the national and international level.

1. Definition of the child

42. The definition of the child under article 1 of the Convention corresponds to the definition under Monegasque civil law even though there is a preference under Monegasque law for the term "minor" rather than "child".

43. Minors in Monaco were once deemed to be any person under the age of 21. This rule was amended by Act No. 1.261 of 23 December 2002 lowering the age of majority to 18 years and by sovereign order No. 15.973 of 25 September 2003 on the application of that Act. Furthermore, article 298 of the Civil Code defines minors as follows: “Persons who have not reached the age of 18 years are minors.”

44. The age of criminal liability is established under article 46 of the Criminal Code as follows: “If it is decided that there must be a criminal conviction of a minor between the age of 13 and 18 years, the sentence may not exceed 20 years’ imprisonment in the case of a crime. In the case of a misdemeanour, the penalty may not exceed half of the penalty that would have applied to an 18 year-old adult.”

45. With respect to improving the Code of Criminal Procedure, a debate has been launched to introduce the notion of age of sexual majority, which is not legally defined under positive law. However, sexual crimes against minors under 16 are severely punished.

2. National level

(a) Educational assistance

46. The social policy instituted by the Government to mitigate the economic and social difficulties faced by certain persons and to improve their living standards consists in providing the following allowances: the non-working mother’s allowance; the head of household mother’s allowance; the birth allowance; family loans; national housing assistance; unemployment benefits; and medical coverage.

47. Assistance is also provided to professionally active persons in Monaco (prenatal and family allowances, a housing allowance, education grants, a one-off allowance for the start of the school year, an end of the year allowance, a holiday assistance voucher and day-care and child-minding vouchers).

48. All these guarantees and this assistance ensure a decent standard of living for parents to enable them to raise their child or children under the best possible circumstances.

(b) Education

49. Monaco adopted Act No. 1.334 on education on 12 July 2007, in place of a previous law that recalls that access to education is a national service and that school is mandatory for both boys and girls between the ages of 6 and 16.

50. Children participate in the education system in the following ways:

- (a) The school rules have been drawn up with the students;
- (b) Class representatives represent their classmates at staff meetings and disciplinary committees;
- (c) The Council of Europe campaign entitled “All different, all equal”, which stresses participation, was run in schools in 2006;
- (d) In 2002, a United Nations Educational, Scientific and Cultural Organization club was set up within secondary schools (for the last three forms);

(e) In general, the education system includes clubs (theatre, cinema, computer and recreational clubs) led by students.

51. Concerning the participation of young persons in civil life, one of the most significant measures taken is the establishment of a youth advisory commission (by sovereign order No. 16.121 of 6 January 2004), which aims at promoting a dialogue between the authorities and young persons to include them as much as possible in the youth policymaking process. It usually meets once a year at the request of its Chairperson. Each meeting has an agenda, proposed in collaboration with youth representatives, and is presided over by senior State officials.

52. In addition, an economic and social youth council was established in 2007. It is intended to put forward proposals to the Economic and Social Council on everyday or long-term issues (the environment, transport and public and social policy). The council is composed of 36 young delegates elected by their classmates within the schools.

53. Starting at the primary school level, a thorough sustainable development study programme has been implemented, including pilot projects such as the classification of schools according to European eco-school environmental standards.

54. The three-year Council of Europe programme entitled “Building a Europe for and with Children” was launched at a conference of the Council held in Monaco in April 2006 and presided over by Her Royal Highness the Princess of Hanover. The programme consists in the promotion of the rights of the child and the protection of children against violence.

55. The Universal Declaration of Human Rights and the Convention on the Rights of the Child are benchmarks for school activities, in particular those in the humanitarian field.

56. For more than five years, all schools in Monaco have been raising funds through various activities organized in the context of International Children’s Rights Day. The funds are donated to humanitarian associations for children in other countries whose rights have been trampled on. Education for democratic citizenship and human rights education are incorporated into the in-service training given to teachers through the promotion of teaching methods that instil a sense of responsibility in pupils and encourage their participation.

3. Institutional framework for combating violence against children

57. Legislation in force in Monaco already provides for the protection of children and punishes violations against them by making the following acts criminal offences: infanticide (article 255 of the Criminal Code); the rape of a minor (article 262 of the Criminal Code); aggravated indecent assault and indecent assault (articles 261 to 264 of the Criminal Code); and indecent contact with a minor (article 273 of the Criminal Code).

58. Articles 243 et seq. of the Criminal Code punish assault and battery, neglect, starvation and abuse of a child under the age of 15.

59. Articles 260 et seq. of the Criminal Code punish indecent acts. Articles 261 et seq., which punish indecent assault excluding rape, take cognizance of the notion of aggravating circumstances relating to the victim’s status as a minor and punish more severely these acts when they are committed by a father, mother or persons exercising authority over the minor.

60. Articles 280 et seq. of the Criminal Code punish crimes and misdemeanours against children (abducting, harbouring or concealing children or leaving a child in an isolated place).

61. Monaco is making specific efforts to inform and educate children, parents and professionals about combating violence against children, in coordination with various stakeholders, including through administrative services responsible for caring for children who are victims of violence and/or abuse (a conference,⁴ the Day of the Rights of the Child⁵ and the Minors and Social Protection Section⁶).

4. International level

62. Beyond national social policy, Monaco is engaged in combating poverty through international action, thus recalling its commitment to the purposes and principles enshrined in the Charter of the United Nations and the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

63. Since it became a member of the Council of Europe, Monaco has sought to participate in its discussions on and its project for the protection of children. A meeting of the Standing Committee of the Parliamentary Assembly, honoured by the active participation of the Princess of Hanover, was organized in September 2005 and included in its agenda a topical debate on the protection of children against violence and all forms of abuse.

64. Through its representatives, the Government participated actively in drafting the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

5. Role of civil society

65. Civil society plays an important role in Monaco in combating violence against children, mainly through the involvement of Monegasque non-governmental organizations and associations, including the World Association of Children's Friends, Innocence en danger, Jeune J'écoute (Young person, I am listening), L'Enfant d'Abord (Putting the Child First), Dignity International and Action innocence Monaco.

C. Rights of persons with disabilities

66. Act No. 1.334 of 12 July 2007 on education specifies that the legal obligation to provide an education for children and adolescents with disabilities or an incapacitating physical disorder must be met by providing them with an education in an ordinary school environment or, if necessary, special education determined according to their particular needs within health, medical and social welfare and specialized institutions or services or by home schooling.

1. Minors with disabilities

67. Minors with disabilities domiciled in Monaco enjoy comprehensive care adapted to their disability. Children with disabilities have the same access to day-care centres and drop-in nurseries as to schools. School orientation and integration courses (in primary school) and special general and vocational studies (in secondary school) ensure that students receive decent education and training. Every child with disabilities is enrolled in school according to an admissions agreement ("protocole d'accueil") specifying the methods of schooling.

68. In this context, the surrounding areas and interiors of schools have undergone renovations necessary to make them accessible to children with disabilities, and trained personnel has been taken on.

69. A medical and psychological consultation centre for outpatient mental health diagnosis and treatment accommodates Monaco schoolchildren and children domiciled in Monaco who are not yet of school age. The services provided are free and the costs are borne entirely by the State. Its operations are based on the principle of individual and/or family care. There are plans to open a new complementary facility, a part-time therapeutic welcome centre, which will allow for part-time group care for no more than half a day.

70. Depending on the type of disability, the total number of pupils in some classes does not warrant the establishment in Monegasque territory of specialized facilities. These children are thus placed in various health and welfare centres in the neighbouring country.

71. Any person residing in Monaco who cares for a minor with disabilities may receive a special education allowance if the degree of permanent disability of the minor is at least 50 per cent and, if necessary, an additional allowance.⁷

72. Coming under the State budget, these allowances are not subject to a means test.

73. Minors with disabilities are covered by the social insurance arrangements of the person caring for them. They are insured until the age at which the legal obligation to provide them with an education ceases, while the right may be maintained up to the age of 21 years if the eligible party is unable to take up employment.

2. Adults with disabilities

74. Every adult with disabilities domiciled in Monaco may receive health care and community support to promote their self-realization and social integration.

75. The Career Guidance and Career Change Commission, provided for under article 43 of sovereign order No. 15.091 of 31 October 2001 relating to social action for persons with disabilities, is responsible for providing career guidance for persons with disabilities, granting them, as necessary, the status of workers with disabilities and determining the type of companies or services that suit their needs.

3. The employment of persons with disabilities

76. Persons with disabilities declared fit for work who have some difficulties in filling a post in an ordinary work environment may have their post adjusted accordingly.

77. The Monegasque State assumes responsibility for paying these workers up to 85 per cent of the statutory minimum wage, including social security contributions and allowances, and the remaining 15 per cent is borne by the employer.

78. With respect to the employment of workers with disabilities who are declared unfit to fill a post in an ordinary work environment, Monaco has a facility, the Princess Stephanie Activity Centre sheltered workshop, which gives these persons the opportunity to take up paid employment under disability-friendly conditions.

4. Day-care centres for persons with disabilities recognized as unfit for work

79. A facility, the vocational training centre of the Princess Stephanie Activity Centre, takes in these persons during the day and offers them various activities for amusement.

5. Care and support facilities as an alternative to hospitalization

80. Cash and non-cash benefits are granted to adults with disabilities along with possible additional assistance allowing persons with disabilities to enjoy a living standard consistent with their needs.
81. All persons with disabilities residing in Monaco who work, regardless of the form of employment, are guaranteed remuneration for their work.
82. The level of income guaranteed to persons with disabilities in the production sector where employment is not protected must be equal to the matching salary set by a ministerial decision. This guaranteed income must be 90 per cent of the aforementioned matching salary for persons employed in a sheltered workshop and 80 per cent of the aforementioned matching salary for persons admitted to a work-based support centre. The income guarantee extended to workers with disabilities is considered income from the work and serves as a basis on which health and old-age insurance contributions owed to the relevant welfare agencies are assessed.
83. Any person with disabilities residing in Monaco who is beyond the age of entitlement to a special education allowance and has a permanent disability of at least 50 per cent receives a benefit when he or she is recognized unfit for work and may not otherwise file a claim for an old-age or disability benefit or an allowance for a work-related accident for a sum at least equal to the said benefit. An additional benefit for adults with disabilities is granted to any person with a disability whose condition requires assistance from a third person for vital activities.
84. Additional assistance may be granted to adults with disabilities receiving an allowance for adults with disabilities, including a housing allowance, social service vouchers, food stamps, free bus passes, free telephone calls, free cable television and preferential rates for all sports and cultural events.
85. In addition, home-care benefits for older persons provided by the Commune (emergency call systems, meal deliveries, domestic and home help) are extended to persons with disabilities who do not meet the age requirement (70 years old) to enjoy these services.
86. With respect to benefits in kind salaried employees with disabilities are registered with the social welfare office, and the beneficiary of the adult with disabilities allowance enjoys free medical assistance.
87. For several years the State has been involved in setting a quota for apartments adapted to persons with limited mobility during the execution of any new State-owned real estate transaction (buildings that are constructed by the State or on its behalf). Moreover, the State funds the renovation work necessary to keep persons with disabilities in their homes.
88. Furthermore, persons without the support of the family may be housed, depending on their level of disability, in apartments in which they enjoy special community support or in a disability-friendly facility.⁸
89. The Government is endeavouring to develop a programme that gives persons with disabilities access to public roads, public transport, private and public buildings, entertainment establishments and businesses.
90. At the individual level, the issue of a parking permit for persons with disabilities, as provided for under article 1 of ministerial order No. 2001-160 of 28 March 2001, entitles the holder or his or

her attendant to make use of parking spaces reserved for persons with disabilities in Monaco and in several European countries. In addition, holders of this permit may request to have special reserved parking spaces placed close to their home and place of work. The issue of a card for persons less able to stand (article 6 of the aforementioned ministerial order) entitles the holder to priority access to checkout counters in certain stores, queues and reserved seats in public transport.

D. Older persons

91. The Monegasque State has taken into consideration the specific situation of older persons for quite some time. It has been rallying forces to tackle the medical, social and psychological needs of older persons at the same time.

92. Consequently, the national old-age benefit was established following the accession of His Serene Highness Prince Rainier III in 1949 guaranteeing all Monegasque citizens over the age of 65 years a minimum monthly income. The benefit, paid by the Commune, was soon complemented by a heating subsidy. The Sovereign himself announced two 10 per cent increases in this benefit during the 40 year and then 50 year anniversary of his reign. The situation of non-Monegasque citizens was then also taken into account by the establishment of a supplementary monthly retirement benefit for persons not eligible for the national housing allowance.

93. This provision was progressively expanded on by other measures to supplement the income of the most needy older persons: the handing out of utilities vouchers and free or discounted public transport, admission to performances, cable television and telephone service.

94. In 1997, Prince Rainier III expressed his wish that everything should be done to allow seniors to live under the best conditions at home despite the effects of ageing.

95. A home assistance service that provides in-home support to dependent persons was therefore added to the existing emergency call and meal delivery services established by the Commune in 1986 and 1987 and home help managed by the Office of Social Assistance since 1970 in order to help them to perform routine chores.

96. In 2002, for the sake of consistency, the entire assisted living system was transferred to the Commune, which thus became the focal point for dependant older persons and one of the main public policy advocates for the elderly.

97. In 2005, at the behest of the High Authority of His Serene Highness Prince Albert II, the Department of Social Affairs and Health was assigned to federate all entities involved in this policy and to give the policy fresh impetus.

98. Since that time, the objective is to shape the entire geriatric network in order to coordinate gerontological care in the city, in the hospital and in the medium- and long-term institutions while guaranteeing access to these services to all persons concerned, regardless of their income.

99. The Gerontological Coordination Centre of Monaco, which was opened to the public in September 2006, plays a pivotal role in this network, as it coordinates the health-care network for older persons while caring for and supporting families, evaluating health and welfare situations with a view to developing assistance plans, implementing public health measures and assessing the needs of the elderly population.

100. In accordance with the guidelines set by the Sovereign Prince, the geriatric network should, above all, enable older persons who so wish to live and be cared for in their own homes for as long as such care is compatible with their health.

101. The State is also duty-bound to plan for adequate accommodation capacity in progressive patient care institutions and to guarantee access to these institutions through financial support, as is already the case for 140 beneficiaries of the self-care benefit for persons in institutions.

102. In order to plan for sufficient accommodation capacity in progressive patient care institutions and to guarantee access to these facilities through financial support, the State is envisaging a 15-year real estate programme consisting of:

(a) The opening of a partial care assisted living residence with 70 beds located in the city centre in order to allow pensioners to take advantage of the pleasant and dynamic neighbourhood environment;

(b) The opening in 2010 of the Clinical Gerontology Centre, a hospital facility including 120 beds for long stays and 30 beds for persons with the Alzheimer disease;

(c) Between these two facilities there will be a nursing home with a peaceful and natural environment suited to pensioners who have difficulty moving. The complete renovation of these two buildings, which only have individual rooms remaining, will begin at the opening of the Clinical Gerontology Centre.

103. The Monegasque geriatric network are thus part and parcel of the longstanding, ongoing initiatives launched and reflect the desire expressed by Prince Albert II for comprehensive and excellent care.

E. Racism

1. Legal measures

104. Article 17 of the Constitution provides that: "Monegasque citizens are equal before the law. There are no privileges among them." Furthermore, article 32 provides that: "Foreign nationals enjoy all the public and private rights in the Principality that are not formally reserved for nationals." In addition, article 23 states that: "Freedom of worship and of its public practice shall be guaranteed, as well as the freedom to express opinions on all subjects, save where offences are committed in the exercise of such freedoms. No one may be compelled to take part in the acts or ceremonies of a religion or to observe its rest days."

105. With regard to specific legal measures taken by the Monegasque authorities to combat racism and intolerance, Act 1.299 of 15 July 2005, concerning freedom of public expression, punishes "any person who, by any of the means enumerated in article 15, incites hatred or violence against an individual or a group of individuals on account of their origin or their membership or non-membership of a given ethnic group, nation, race or religion or on account of their real or supposed sexual orientation".

106. This law concerning freedom of public expression also punishes incitement to racial hatred. Furthermore, the Monegasque authorities have established a commission to review the claims for reparation of natural persons who are the victims or the legal successors of victims of material or financial harm caused by the despoilment of property under the occupation of the Principality of Monaco during the Second World War (sovereign order No. 461 of 23 March 2006).

107. This commission, composed of five members appointed for a renewable term of three years, proposes compensation measures and other appropriate means of reparation and a conciliation procedure, if appropriate (sovereign order No. 461 of 23 March 2006, art. 2).

108. Standard operating procedures are provided to police officers in order to ensure that security personnel deal with the public in a manner that demonstrates full respect for individuals regardless of their nationality, origin or religious beliefs, based on the principle of non-discrimination.

109. There are no manifestations of racism, xenophobia, discrimination and anti-Semitism in Monaco. In fact, to date, the courts of the Principality have not handed down any convictions for offences motivated by racism and intolerance, nor were any racist acts reported to the competent authorities in 2005, 2006 or 2007.

110. Just two complaints procedures were registered in 2004, involving the defacement, of an anti-Semitic nature, of a shopfront, and the drawing of swastikas found in the communal parts of a building in the Principality. However, the cases were closed because the perpetrators of the acts could not be identified.

111. Monaco has recently added a measure to its criminal legislation to prevent the commission, via the Internet, of acts constituting an affront to human dignity. Article 21 of Act No. 1.344 of 26 December 2007 on the reinforcement of penalties for offences against children now reads: "The act of either making, producing, conveying or disseminating, by any means and through any medium, a message that is violent or obscene or likely to constitute a grave affront to human dignity, or of engaging in business concerning such message, is punishable by a term of imprisonment of from six months to two years and the fine prescribed in article 26 (3), where the message is targeted at minors. An attempt to commit such an offence carries the same penalties."

112. Moreover, article 8 of a bill laid before the National Council, concerning offences involving information systems, stipulates that the offence of making threats via an electronic telecommunications network constitutes an aggravating circumstance when it is motivated by discrimination on grounds of race, religion or supposed membership or non-membership of a given group, and it prescribes a term of between one and five years' imprisonment for this offence.

113. Article 12 of Act No. 1.165 of 23 December 1993 as amended by Act No. 1.353 of 4 December 2008 governing the processing of personal data provides that: "No one may utilize data processing, whether automated or not, disclosing, directly or indirectly, political beliefs and affiliation, racial and ethnic background, religious and philosophical convictions and union membership or information on health, including genetic information, sexuality, lifestyle and social standing."

114. As regards the administrative and political measures adopted by the Monegasque authorities to combat racism and intolerance, certain training and educational programmes administered in Monaco incorporate the principles linked to respect for human rights and fundamental freedoms.

115. For example, the training programme for Monegasque police officers includes a section devoted to respect for human dignity. Similarly, by means of the civic education provided in Monegasque schools, the teaching staff endeavour to establish, with their pupils, relations based on the respect, tolerance and cooperation that life in society demands. In addition, school trips are organized by private or public schools on specific topics (such as to Germany for the commemoration of the sixtieth anniversary of the liberation of the Nazi concentration camps).

2. International measures

116. As a member of the Council of Europe, Monaco is a party to the statutes of the European Commission against Racism and Intolerance. It was thus visited by the European Commission against Racism and Intolerance from 25 to 27 September 2006, which produced a report.

117. In accordance with paragraph 1 of article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, Monaco declared that it recognized the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by Monaco of any of the rights set forth in this Convention.

F. Administration of justice and fair trial

118. The 1962 Constitution, amended by Law No. 1.249 of 2 April 2002, enshrines the principle of the independence of the judiciary and accords a specialized court, the Supreme Court, the power to review the legality of administrative acts.

119. The Monegasque justice system consists of three levels of courts: the Court of First Instance; the Court of Appeal; and the Court of Review.

120. The whole of Monaco's legal system is designed to ensure respect for human rights (article 19 of the Constitution). The laws, and especially the Criminal Code, the Civil Code, the Code of Criminal Procedure and the Code of Civil Procedure, set forth the conditions for the realization and protection of these rights and the courts apply these conditions.

121. All persons subject to trial may obtain a lawyer of their choice (a Monegasque and/or foreign lawyer) or a public defender for criminal cases (before investigating judges, guardianship judges, magistrate's courts, including in cases of flagrante delicto, for example, and criminal courts) or in civil cases within the framework of the law on judicial assistance following the review of the office of judicial assistance.

122. All persons subject to trial called before the court or summoned by the police may be assisted by sworn-in interpreters of their mother tongue if they so request.

123. The provisions of Act No. 1.343 of 26 December 2007 on justice and freedom amended certain provisions of the Code of Criminal Procedure. The new article 60-4 of the Code of Criminal Procedure provides that persons held in police custody may not be detained for more than 24 hours, subject to a further extension of 24 hours if authorized by a judge in charge of liberties, and includes many guarantees that protect human rights:

- (a) They must be informed of their rights (including the right to a copy of laws and to an interpreter);
- (b) They must also be informed of the facts that have given rise to the investigations concerning them and the type of offence;
- (c) They are entitled to call a relative;
- (d) They are entitled to be examined by a doctor;

(e) They are entitled to consult a lawyer;

(f) They are entitled to the assistance of an interpreter or, in the case of persons with a disability that prevents them from communicating, to the assistance of a qualified person with a command of the language or a way to communicate with the person in custody.

G. Prohibition of slavery and torture and abolition of the death penalty

1. Slavery

124. Slavery has never been practised in Monaco, which promptly became a party to the Slavery Convention signed at Geneva on 25 September 1926, put into effect by a sovereign order of 13 February 1930, and to the Protocol amending that Convention signed at New York on 7 December 1953, put into effect by sovereign order No. 1.065 of 14 December 1954.

125. Article 4 of Act No. 1.344 of 26 December 2007 introduced article 249-2 to the Criminal Code, as follows: “The subjection of a person whose vulnerability or state of dependency is obvious or known to an author to working or living conditions that are incompatible with human dignity is punishable by five years’ imprisonment and double the fine established under article 26 (4).” Aggravating circumstances are held against the author when this offence is committed against several persons or a minor or by an organized group.

2. Torture and death penalty

(a) Legal context

126. Monaco has acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations in New York on 10 December 1984 and put into effect by sovereign order No. 10.542 of 14 May 1992. Since then, the provisions of the Convention have formed part of Monegasque law and may be directly invoked by a judge, as they require no implementing measures in the form of domestic laws. Thus, a Monegasque judge may apply article 1, in which the term “torture” is defined, if the case before him or her involves the implementation of articles 228 and 278 of the Monegasque Criminal Code, which impose penalties for the use of methods of torture or the commission of acts of torture.

127. Furthermore, article 20 of the Constitution provides that “criminal laws must ensure respect for human personality and dignity. No one may be subjected to cruel, inhuman or degrading treatment” and that the “death penalty is abolished”.

128. Act No. 1.222 of 28 December 1999 relating to extradition reconciles effective international enforcement with individual freedom.

(b) Training of magistrates and police officers

129. All judges practising in Monaco, whether of Monegasque or French nationality, are given the same initial and further training, as provided by the National School of Magistracy (a French school for the training of judges).

130. This training naturally covers the subject of human rights, with an introduction to international human rights instruments (including the 1966 Covenants) and issues arising from their application.

131. In addition, the Judicial Services Department regularly holds talks or seminars, some of which are intended to raise awareness of these issues among judicial staff and to broaden their grasp of the subject, especially with regard to the European Convention on Human Rights and its application and the case law of the European Court of Human Rights and Fundamental Freedoms.

132. In the course of the training given to police officials on the protection of civil and political rights, they are introduced to these fundamental principles, which are unanimously recognized and defended in any State observing the rule of law, in courses delivered at the Recruitment and Training Centre of the Administration and Training Division. This instruction is given throughout the initial training of students, involving a one-year theoretical training period before a further one-year period as a trainee police officer.

133. Besides undergoing training in criminal law standards and references essential to the profession of police officers, the knowledge of which is continuously tested and which is decisive for their advancement from student to officer trainee, new recruits are trained in fundamental human rights, which they are duty-bound to uphold, consisting in protecting the physical integrity of persons at all times, by erecting these values into the fundamental principles intrinsically recognized in the Monegasque Constitution (Title III “Fundamental rights and freedoms”, arts. 17-32).

134. The students are also taught that the Prosecutor’s Office must be informed immediately of the occurrence of any crime or offence detected in the act, which might lead to a remand in custody; this possibility is now explicitly referred to in the Monegasque Code of Criminal Procedure, which specifies precisely all the rights enjoyed by persons placed in police custody.

135. Understanding the principal legislative, legal and regulatory rules, notwithstanding all ethical practices, entails constant and continuous concern for the best possible training of staff along with constant attention to harmonizing those rules with the international standards in force.

136. Lastly, it should be pointed out that magistrates and police officers are closely involved in the promotion and dissemination of the international conventions to which Monaco is a party.

H. Freedom of expression, assembly, association, religion and belief

1. Freedom of expression

137. This freedom is especially reflected in the wide distribution of the international press (magazines, books), easy high-speed Internet access throughout the territory and the reception of most international television and radio stations (very high level of household coverage).

138. Furthermore, article 1 of Act No. 1.299 of 15 July 2005 on freedom of public expression sets forth the principle of the freedom to publish any document on any medium while strictly setting limits to this freedom. It enshrines respect for the rights and the reputation of others and the protection of law and order.

2. Freedom of assembly and association

139. The Government has begun preparing a draft law on public security, which will have the effect of considerably extending the right of peaceful assembly to all persons under Monegasque jurisdiction.

140. Prior notice must be given of any meeting held in public places in order to ensure that the necessary security conditions are met and that it is materially possible to hold the meeting.

141. This approach would not require any formal amendment of article 29 of the Constitution, as a law is considered sufficient in order to introduce these changes.

142. The law amending the legislation on freedom of association and establishing the principle of the freedom to set up such legal entities by declaration was passed on 18 December 2008. According to the new law, associations may be created in the Principality of Monaco merely by sending a declaration to the Ministry of State, with a copy of the articles of the association concerned.

143. The Administration checks that the draft articles comply with the law and that the planned legal entity does not pursue any purpose which is contrary to the public order or is of a sectarian nature.

144. The lawfulness of trade union activity is recognized by article 28 of the Constitution.

145. The conditions in which the right to strike, recognized by article 28 of the Constitution, may be exercised are regulated by Act No. 553 of 7 February 1952 governing the right to strike and to lock out, and Act No. 1.025 of 1 July 1980 governing the exercise of the right to strike and safeguarding the right to work, excluding State officials, the commune and public institutions.

3. Freedom of religion and belief

146. The apostolic Roman Catholic religion is the religion of the State, but article 23 of the Constitution guarantees freedom of worship.

147. Followers of religions other than the Catholic religion are able to practise their religion freely and in public. In accordance with a rather long-standing tradition of liberalism and tolerance, that principle, which respects the conscience of everyone, excludes any form of discrimination against non-Catholics.

148. Within the education system, no pupil is required to follow courses of Catholic instruction; such courses are provided with due respect for conscience and subject to parental approval.

I. Participation in political life and right to vote

149. All Monegasque men and women 18 years old and over are eligible to vote and enjoy their civil rights.

150. Anyone eligible to vote of either sex at least 25 years old (article 54 of the Constitution) who has held Monegasque nationality for at least five years and who has not been declared ineligible for one of the reasons specified under Act No. 839 of 23 February 1968 on national and communal elections may stand for election.

151. The laws drafted by the Government, brought in on behalf of the Prince before the National Council, voted by this assembly and then promulgated by the Prince, take into consideration all relevant interests. These interests include the interests of foreign residents and of economic agents operating in Monaco but residing outside its borders such as employees - or employers - of neighbouring areas.

IV. PRIORITIES, COMMITMENTS AND INITIATIVES IN THE AREA OF HUMAN RIGHTS

152. Aware that the initiatives taken should be stepped up, Monaco plans to continue its institutional and regulatory reforms in order to harmonize its national legislation with international human rights instruments. It also remains particularly mindful of the need to continue the work already done in raising awareness about human rights in schools and at the workplace. Furthermore, Monaco intends to continue its policy concerning child protection and improving the daily lives of older persons and accessibility of persons with disabilities.

153. Monaco has become a party:

On 1 October 2008 to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, referred to as Convention 108 (Council of Europe, Strasbourg, 28 January 1981) and its Protocol.

154. Monaco recently signed:

On 22 October 2008 the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote, 25 October 2007).

155. Monaco is expected to sign in the near future:

- (a) The European Convention on Extradition (Strasbourg, 13 December 1957);
- (b) The Additional Protocol to the European Convention on Extradition (15 October 1975);
- (c) The Second Additional Protocol to the European Convention on Extradition (15 March 1978).

156. The Monegasque authorities are reviewing the following laws:

- (a) The European Convention on the Adoption of Children (opened for signature in November 2008);
- (b) The European Convention on the Exercise of Children's Rights (Council of Europe, Strasbourg, 25 January 1996);
- (c) The Convention on the Rights of Persons with Disabilities (United Nations, New York, 13 December 2006);
- (d) The Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and the Protocol on the Law Applicable to Maintenance Obligations (Final Act of 23 November 2007);
- (e) The Convention of 13 January 2000 on the International Protection of Adults (Hague Conference).

V. CIVIL SOCIETY CONSULTATION

157. As the coordinator of the work on the present report in close collaboration with other departments and services concerned, the Department of External Relations consulted an NGO and the Monegasque Red Cross, which are especially involved in protecting human rights, and an independent institution, The Economic and Social Council.⁹

158. The World Association of Children's Friends in Monaco made no observations concerning the report.

159. While welcoming the analysis provided in the present report, the Monegasque Red Cross drew the Government's attention to the particular situation of some of the most needy persons who are obliged to reside in Monaco and who cannot afford to cover housing costs. It proposes bolstering the mechanisms currently backed by various social organizations to further lower their rent.

160. The Economic and Social Council has made a number of observations that were taken into account in the present report and put forward the following recommendations:

- (a) Monaco should consider becoming a member of the International Labour Organization;
- (b) The Government should complete the reviews under way to update labour legislation in Monaco, giving particular attention to issues concerning harassment at the workplace;
- (c) Housing stock should be increased for the sake of greater social equity.

161. Lastly, the Council wished to point out that in all its organizations, including the Economic and Social Youth Council, nationality-related issues of parity and non-exclusivity are strictly observed.

Notes

¹ Au 11 février 2009, 8.221 monégasques étaient officiellement enregistrés au service d'état civil de la Mairie de Monaco. Les monégasques ne représentant donc qu'un quart de la population dans leur pays.

² Caisse de Compensation des Services Sociaux et Service des Prestations Médicales de l'Etat.

³ Dix-huit cas constatés depuis 2005.

⁴ En mars 2000, s'est tenue une conférence sur la violence en milieu scolaire organisée par l'Association des Parents d'Elèves de Monaco à laquelle a participé le Service gouvernemental de la Direction de l'Action Sanitaire et Sociale.

⁵ Actions visant à récolter des fonds destinés à venir en aide aux enfants dont les droits sont bafoués.

⁶ Mise en place le 1 octobre 2002. Elle est composée d'officiers-inspecteurs de police et d'assistantes sociales de police, elle agit dans les domaines judiciaire et administratif, en matière de protection de l'enfance ou de majeurs vulnérables, et diligente toutes procédures pénales concernant les mineurs victimes ou auteurs de faits répréhensibles.

⁷ Le complément d'allocation est accordé pour le mineur atteint d'un handicap dont la nature ou la gravité exige des dépenses particulièrement coûteuses ou nécessite le recours fréquent à l'aide d'une tierce personne.

⁸ Foyer de Vie Princesse Stéphanie.

⁹ Le rôle du CES est de donner un avis sur les problèmes socio-économiques, le Gouvernement le consulte sur les projets de loi ou d'ordonnance souveraine, tout comme le CES peut également de sa propre initiative formuler des vœux sur des questions entrant dans ce cadre.