



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Sixth periodic reports of States parties due in 2005**

**Addendum**

**MONACO\* \*\* \*\*\***

[30 May 2008]

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\* The present document contains the initial, second, third, fourth, fifth and sixth periodic reports of Monaco, due on 27 October 1996, 1998, 2000, 2002, 2004 and 2006.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\*\* Annexes to the report may be consulted in the archives of the secretariat of the Committee on the Elimination of Racial Discrimination.

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## **Introduction**

1. The Principality of Monaco acceded to the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (hereafter, “the Convention”) on 27 September 1995. The Convention entered into force for the Principality of Monaco on 27 October 1995. Under article 9 of the Convention, States parties undertake to submit periodic reports “on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of [the] Convention”. The initial report of the Principality of Monaco to the Committee on the Elimination of Racial Discrimination (hereafter, “the Committee”) was drafted in accordance with the Committee’s guidelines as contained in document CERD/C/70/Rev.5.
2. The initial report, supplemented by annexes, consists of two distinct documents: (a) the core document, which constitutes part one of State party reports (HRI/CORE/1/Add.118) and (b) the present document. Part one of the present report contains background information on the population structure of the State and the general policy on combating racial discrimination, while part two provides a commentary on articles 2 to 7 of the Convention.
3. The present report was drafted jointly by the Department for External Relations, the Department of the Interior, the Department of Finance and Economy, the Department of Health and Social Affairs, the General Secretariat of the Ministry of State and the Department of Judicial Services.

## **PART ONE**

### **Overview of Monegasque policy on combating racial discrimination**

#### **I. FOREIGN POPULATION**

4. In 2007, the population of Monaco was estimated at 35,000 persons, of whom 68.4 per cent were foreigners. There are approximately 8,039 Monegasques.
5. The following changes took place with respect to the foreign communities:
  - (a) In 2006, 1,542 persons of different nationalities took up residence in Monaco for the first time, while 1,273 departures were recorded;
  - (b) In 2006, the total foreign population was 23,934;
  - (c) The total number of French nationals fell for the sixteenth consecutive year, from 8,931 to 8,831. The French community represents 36.8 per cent of the total foreign population;
  - (d) It should be pointed out that, in 2006, 77 French nationals acquired Monegasque nationality by choice or by naturalization;

- (e) The Italian population is increasing slightly, with 5,521 nationals in 2006 as against 5,454 in 2005, representing 23 per cent of all foreign nationals;
- (f) The German community remains practically stable (856 in 2006, 854 in 2005);
- (g) The number of Swiss nationals based in Monaco is slightly less (765 in 2006 as against 780 in 2005), continuing the trend observable since 2002;
- (h) With regard to the Belgian community, statistics show that the number of Belgian nationals based in Monaco is stabilizing; from 770 in 1998 to 786 in 2000 and then 789 in 2005 and 799 in 2006;
- (i) There were 464 members in the Netherlands community in 2006 (461 in 1998);
- (j) As in 2005, there was a large increase in the number of British nationals (+102). The total number rose to 2,054 (1,433 in 1998);
- (k) There were 269 Spanish nationals in Monaco in 2006, or 15 fewer than in 2005;
- (l) Lastly, the slowdown in the growth rate in the American community continues, confirming a trend that began in 1998. In 2006, 297 American nationals were based in Monaco, as against 358 today.

**Table 1**  
**Changes in the permanent resident population of Monaco**  
**during the past six years**

|      | New residents | Departures | Residence permit holders <sup>a</sup> |
|------|---------------|------------|---------------------------------------|
| 2001 | 1 271         | 1 371      | 25 401                                |
| 2002 | 1 143         | 2 015      | 24 529                                |
| 2003 | 1 185         | 1 619      | 23 733                                |
| 2004 | 1 239         | 1 268      | 23 704                                |
| 2005 | 1 392         | 1 189      | 23 907                                |
| 2006 | 1 542         | 1 273      | 23 934                                |

*Source:* Department of the Interior.

<sup>a</sup> Persons holding any category of Monegasque residence permit (temporary, ordinary, special or spouse of a Monegasque citizen).

**Table 2**  
**Statistical breakdown of some foreign communities**  
**established in the Principality of Monaco**

|                            |       |                                    |        |
|----------------------------|-------|------------------------------------|--------|
| Afghanistan                | 1     | Korea (Republic of)                | 7      |
| Albania                    | 1     | Kuwait                             | 13     |
| Algeria                    | 26    | Latvia                             | 5      |
| Andorra                    | 1     | Lebanon                            | 143    |
| Argentina                  | 48    | Libyan Arab Jamahiriya             | 12     |
| Armenia                    | 1     | Liechtenstein                      | 1      |
| Australia                  | 106   | Lithuania                          | 8      |
| Austria                    | 218   | Luxembourg                         | 27     |
| Azerbaijan                 | 1     | Madagascar                         | 3      |
| Belarus                    | 2     | Malaysia                           | 5      |
| Belgium                    | 799   | Malta                              | 7      |
| Belize                     | 9     | Mauritius                          | 143    |
| Bolivia                    | 1     | Mexico                             | 29     |
| Bosnia                     | 3     | Moldova                            | 1      |
| Brazil                     | 65    | Morocco                            | 261    |
| Bulgaria                   | 21    | Nepal                              | 1      |
| Burkina Faso               | 3     | Netherlands                        | 464    |
| Cameroon                   | 8     | New Zealand                        | 24     |
| Canada                     | 202   | Nigeria                            | 5      |
| Cap Verde                  | 12    | Norway                             | 49     |
| Chile                      | 9     | Pakistan                           | 4      |
| China and Taiwan           | 12    | Palestine                          | 1      |
| Colombia                   | 13    | Paraguay                           | 1      |
| Congo                      | 2     | Peru                               | 8      |
| Costa Rica                 | 1     | Philippines                        | 163    |
| Cote d'Ivoire              | 9     | Poland                             | 71     |
| Croatia                    | 63    | Portugal                           | 415    |
| Cuba                       | 12    | Romania                            | 47     |
| Cyprus                     | 13    | Russian Federation                 | 63     |
| Czech Republic             | 40    | San Marino                         | 1      |
| Denmark                    | 172   | Saudi Arabia                       | 8      |
| Dominican Republic         | 6     | Senegal                            | 22     |
| Ecuador                    | 3     | Seychelles                         | 6      |
| Egypt                      | 47    | Sierra Leone                       | 2      |
| El Salvador                | 3     | Singapore                          | 3      |
| Eritrea                    | 1     | Slovakia                           | 11     |
| Estonia                    | 8     | Slovenia                           | 9      |
| Ethiopia                   | 2     | South Africa                       | 41     |
| Fiji                       | 1     | Spain                              | 269    |
| Finland                    | 75    | Sri Lanka                          | 26     |
| France                     | 8 831 | St. Kitts and Nevis                | 2      |
| Gabon                      | 3     | Sweden                             | 323    |
| Germany                    | 856   | Switzerland                        | 765    |
| Ghana                      | 1     | Syrian Arab Republic               | 2      |
| Greece                     | 222   | Thailand                           | 14     |
| Grenada                    | 1     | Togo                               | 9      |
| Guatemala                  | 3     | Tunisia                            | 105    |
| Haiti                      | 3     | Turkey                             | 78     |
| Hungary                    | 18    | Ukraine                            | 32     |
| India                      | 27    | United Kingdom                     | 2 054  |
| Indonesia                  | 1     | United States                      | 297    |
| Iran (Islamic Republic of) | 65    | Uruguay                            | 15     |
| Iraq                       | 5     | Venezuela (Bolivarian Republic of) | 13     |
| Ireland                    | 74    | Viet Nam                           | 13     |
| Israel                     | 20    | Yugoslavia                         | 29     |
| Italy                      | 5 521 | Zimbabwe                           | 1      |
| Japan                      | 87    | Total                              | 23 934 |
| Jordan                     | 10    |                                    |        |
| Kazakhstan                 | 6     |                                    |        |

*Source:* Department of the Interior 2006.

**Foreign labour in the Principality of Monaco**

6. Some 36,000 persons living in the border regions of France and Italy and working in Monaco cross the border daily.

**Table 3**

**Breakdown by nationality of private sector employees**

|                | 2002   | 2003   | 2004   | 2005   | 2006   |
|----------------|--------|--------|--------|--------|--------|
| <b>French</b>  |        |        |        |        |        |
| Men            | 14 455 | 14 725 | 15 047 | 15 707 | 16 230 |
| Women          | 10 855 | 10 785 | 10 970 | 11 381 | 11 846 |
| Total          | 25 310 | 25 510 | 26 017 | 27 088 | 28 076 |
| Percentage     | 67.74  | 67.22  | 67.10  | 67.23  | 67.37  |
| <b>Italian</b> |        |        |        |        |        |
| Men            | 3 307  | 3 354  | 3 435  | 3 465  | 3 509  |
| Women          | 2 074  | 2 105  | 2 155  | 2 152  | 2 255  |
| Total          | 5 381  | 5 459  | 5 590  | 5 617  | 5 764  |
| Percentage     | 14.40  | 14.39  | 14.42  | 13.94  | 13.83  |
| <b>Other</b>   |        |        |        |        |        |
| Men            | 3 277  | 3 462  | 3 592  | 3 869  | 3 858  |
| Women          | 2 497  | 2 610  | 2 688  | 2 832  | 3 077  |
| Total          | 5 774  | 6 072  | 6 280  | 6 701  | 6 935  |
| Percentage     | 15.45  | 16.00  | 16.20  | 16.63  | 16.64  |
| Total men      | 21 618 | 22 128 | 22 658 | 23 625 | 24 175 |
| Total women    | 15 747 | 15 821 | 16 115 | 16 664 | 17 499 |
| Grand total    | 37 365 | 37 949 | 38 773 | 40 289 | 41 674 |

**Table 4****Breakdown of foreigners and nationals in the public sector (comparative estimate from 31 December 2005 to 31 December 2006)**

| Service  | 31 December 2005      | 31 December 2006 |             |               |
|--|-----------------------|------------------|-------------|---------------|
|  | Total                 | Permanent        | Temporary   | Total         |
| Royal Household  | 180 (25) <sup>a</sup> | 134 (16)         | 48 (9)      | 182 (25)      |
| Assemblies and consultative bodies                           | 36 (28)               | 23 (23)          | 11 (5)      | 34 (28)       |
| Ministry of State  | 152 (86)              | 90 (87)          | 73 (7)      | 163 (94)      |
| Department of External Relations                             | 90 (49)               | 49 (49)          | 42 (1)      | 91 (50)       |
| Department of the Interior                                   | 1 629 (412)           | 1 264 (337)      | 403 (94)    | 1 667 (431)   |
| Department of Finance and Economy                            | 291 (183)             | 183 (183)        | 102 (13)    | 285 (179)     |
| Department of Health and Social Affairs                      | 123 (60)              | 58 (57)          | 69 (6)      | 127 (63)      |
| Department of Facilities, Urban Planning and the Environment | 677 (122)             | 100 (97)         | 567 (25)    | 667 (122)     |
| Judicial Services  | 110 (32)              | 53 (30)          | 61 (2)      | 114 (32)      |
| Public services  | 42 (11)               | 6 (6)            | 34 (3)      | 40 (9)        |
| Job training   | 13 (12)               |                  | 8 (7)       | 8 (7)         |
| Total Government   | 3 343 (1 020)         | 1 960 (868)      | 1 418 (172) | 3 378 (1 040) |
| Town Hall  | 577 (156)             | 126 (124)        | 458 (31)    | 584 (155)     |
| Public institutions  | 1 775 (86)            | 1 825 (74)       | 241 (18)    | 2 066 (92)    |
| Grand Total  | 5 695 (1 262)         | 3 911 (1 066)    | 2 117 (221) | 6 028 (1 287) |

<sup>a</sup> Figures between parentheses represent the number of Monegasque nationals.

## II. CULTURAL AND RELIGIOUS MINORITIES

### A. Background information

7. Some 126 nationalities live side by side in Monaco (2.02 sq km), including 8,039 Monegasques (24.5 per cent), 8,831 French nationals (36.8 per cent), 5,521 Italians (23 per cent) and 2,054 British nationals (6.2 per cent). The Swiss, German, Belgian, Portuguese and North American (United States of America and Canada) communities are also well represented.

8. This diverse blend of nationalities, languages and beliefs, united by common ideals, together with the historic roots of Monaco, help to weld together this country, which derives its unique character from its diversity.

9. The distinctive identity of Monaco, combined with the understanding and mutual respect that individuals show one another, help promote national unity and respect for human rights.



### **B. Linguistic minorities**

10. French is the official language (Monegasque Constitution, art. 8) but Italian and English are also widely understood and spoken.
11. The Monegasque vernacular, spoken by older inhabitants, is also taught in primary school from the ninth grade onwards. It can also be studied as a baccalaureate option.
12. It is normal to find children in school who are bilingual or even trilingual.
13. In order to facilitate the integration of foreign children in the Principality of Monaco, the Department of National Education, Youth and Sport has launched classes in “French as a foreign language” for young persons who do not speak French.

### **C. Religious minorities**

14. Although the Roman Catholic and apostolic religion is the State religion, freedom of religion occupies a position at the highest level of the hierarchy of norms of the Principality of Monaco. Article 23 of the Monegasque Constitution of 17 December 1962 provides: “Freedom of religion and of worship and the freedom to manifest one’s opinion on any matter are guaranteed. However, any crime committed in the exercise of these freedoms shall be punished. No one may be compelled to take part in any religious rites or ceremonies or to observe religious holidays.”
15. There are two components of inter-religious dialogue: dialogue between Christian churches (ecumenism) and dialogue with other faiths (non-Christian).
16. An episcopal delegate is responsible for these relationships, which go beyond dialogue and involve a number of joint annual activities, including:
  - (a) During the week of prayer for Christian unity (a vigil under the big top during the International Circus Festival, Sunday services with preachers from other churches delivering the homily);
  - (b) Ecumenical Lenten prayer, celebrated in a different place each year: the Reformed Church, St Paul’s Anglican Church, one of the Catholic churches in the diocese;
  - (c) The different Christian communities hold retreats for their members, to which the Archbishop, Catholic priests, the pastor and the Anglican priest have been invited as speakers;
  - (d) Regular invitations to participate in the major events of the various churches;
  - (e) Friendly meals among the officials of the various churches;
  - (f) When they come to Monaco, the senior officials of the established churches in the Principality are regularly received by the Archbishop of Monaco in person. Furthermore, the Ecumenical Patriarch of Constantinople presided over an ecumenical gathering in the Church of St. Nicholas;

(g) Some Catholics in Monaco regularly participate in an ecumenical group - Action by Christians for the Abolition of Torture (ACAT).

17. There is also interfaith dialogue in the Principality with Judaism and Islam.

(a) Relations between the Jewish community and the Catholic Church are of recent date and are good, although, for the time being, they are confined to the Rabbi and the President of the Consistory. They consist of exchanges of greetings on the occasion of Yom Kippur and the Jewish New Year; meetings with the Rabbi of Monaco at the archbishopric; an invitation to the circumcision of the Rabbi's youngest son; the presence of the Rabbi at the funeral of Prince Rainier III; participation, in January 2006, in a broadcast on Radio Shalom;

(b) Although Islam is not officially recognized in the Principality of Monaco, the Archbishop of the Principality has met the Mufti of the Paris Mosque and President of the French Council of the Muslim Faith on a number of occasions, including during a visit to the Principality of Monaco.

18. Catechism is taught at State schools, although parents may request exemptions for their children. Moreover, religion and other religions such as Islam and Judaism are discussed during history, geography and philosophy lessons, although not as specific subjects.

19. The fact that Catholicism is the State religion of Monaco has never hampered the practice of the Jewish faith. Jewish children encounter no problems in practising their religion at school. The communal cemetery includes a Jewish section, which was substantially extended with State funding three years ago.

20. Moreover, the forthcoming restoration and expansion of the synagogue attests to the vitality of the Jewish community in Monaco.

21. On the occasion of the B'nai B'rith gala dinner held in Monaco on 19 June 2005, His Serene Highness Prince Rainier III of Monaco, represented by His Serene Highness Crown Prince Albert of Monaco, was awarded the golden Menorah. This award expresses deep appreciation to those men and women of different faiths who, by their actions, writings or work, have demonstrated their solidarity and support for the values of Judaism and for the State of Israel.

### **III. APPLICABLE LEGISLATION ON NATURALIZATION**

22. Article 18 of the Monegasque Constitution provides that the law regulates the procedures for acquiring nationality and the conditions under which nationality granted through naturalization may be revoked. It also provides that loss of Monegasque nationality in all other cases is only permissible by law, inter alia, in the case of voluntary acquisition of another nationality.

23. Monegasque nationality may be obtained through transmission or acquisition. It is transmitted by descent through the mother or the father. A number of recent legislative amendments have ensured greater equality for women in this area. Act No. 1.296 of 12 May 2005 enables Monegasque women who acquired citizenship between 1952 and 1959 under Act No. 572 of 1.952 on the acquisition of Monegasque nationality to transmit

Monegasque nationality to their children. Moreover, Act No. 1.276 of 22 December 2003, amending Act No. 1.155 of 18 December 1992 on nationality provides inter alia that women who become Monegasque through naturalization may transmit nationality to their children.

24. Concerning the acquisition of nationality, article 5 of Act No. 1.199 of 26 December 1997 amended by Act No. 1.261 of 23 December 2002 provides that anyone who has been habitually resident for 10 years may apply for naturalization after reaching the age of 18.

25. Naturalization is granted by sovereign order after checks have been carried out into the applicant's character and situation.

26. Article 262 of the Civil Code stipulates that a child adopted by the legitimization procedure has the status of a legitimate child in his adoptive family and shall become Monegasque if the adoptive parents are Monegasque.

27. The Government of the Principality adheres to the general principle of international law whereby the right of a State to determine who its nationals are does not constitute discrimination, provided that the right to a nationality is still guaranteed.

28. Moreover, questions of nationality under private international law are considered a matter for States alone; their sovereignty in this matter is indisputable.

29. Consequently, the Sovereign, when exercising one of his royal prerogatives (Constitution, art. 15), is not bound to give reasons for his decision to refuse naturalization or reinstate nationality.

30. The consensus on this prerogative was reaffirmed when Act No. 1.312 of 29 June 2006 on justification of administrative actions was written into law.

31. The naturalization application procedure is described in the following paragraphs.

32. A naturalization application must be addressed to the Prince and will then be transmitted to the Department of Judicial Services, which sends it to the Office of the Attorney General. The file is then forwarded to the Public Safety Department, which convokes the persons applying for Monegasque nationality to provide them with a file for completion.

33. The Administrative Police Division conducts checks into the character of the applicants and the applicants are convoked a second time to return their duly completed file. The file is submitted to the office of the Mayor for comments and, once the municipal authority has given its opinion, the file is submitted to the Government Council for its comments.

34. The Council's decision is then transmitted to the Department of Judicial Services for comments and the completed file is then transmitted by the Department of Judicial Services to the Cabinet of the Principality. The Cabinet submits the file to the Crown Council for a decision on whether or not Monegasque nationality should be granted. Finally, the Prince decides whether or not to grant nationality.

#### **IV. NATIONAL POLICY FOR THE ELIMINATION OF RACIAL DISCRIMINATION**

35. The Principality of Monaco energetically defends human rights and has taken a number of measures to combat racism and intolerance. These include the ratification of several international instruments, including the European Convention for the Protection of Human Rights and Fundamental Freedoms.

36. Moreover, Monaco has made a declaration recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider complaints of alleged violations of the rights guaranteed by the Convention. The Monegasque authorities have also honoured certain commitments made when the Principality acceded to the Council of Europe, such as the adoption of the Act on justification of administrative actions.

37. Furthermore, a recently enacted law on freedom of public expression (see paragraphs 42 and 74 below) criminalizes incitement to racial hatred. The Monegasque authorities established a commission to assist victims whose property was plundered in the Principality of Monaco during the Second World War. This commission, composed of five members appointed for a renewable term of three years, makes recommendations on compensation, other appropriate means of reparation and a conciliation procedure, if appropriate (Sovereign Order No. 461 of 23 March 2006, art. 2). It has already started work on a number of files.

38. Instructions on standard operating procedures are given 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. These instructions could, eventually, constitute a formal code of conduct for the security forces.

39. The political and institutional system of the Principality of Monaco is governed by the Constitution of 17 December 1962 (as amended by Act No. 1249 of 2 April 2002) which, inter alia, establishes the recognized rights and public freedoms of residents.

40. There are no violent manifestations of racism, xenophobia, discrimination and anti-Semitism in Monaco. The fact is that, 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.

41. Just two complaints were filed in 2004. One concerned criminal damage done to a shopfront, in a manifestation of anti-Semitism, and the other graffiti in the form of swastikas found in the communal areas of a building in the Principality. These complaints, however, were dropped because it was impossible to identify the perpetrators.

42. With regard to specific legal measures taken by the Monegasque authorities to combat racism and intolerance, article 16 (3) of Act No. 1299 of 15 July 2005, concerning freedom of public expression, provides: "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, shall be subject to the same penalties (five years of imprisonment and/or the fine provided for in article 26 (4) of the Criminal Code)” (see paragraph 74 below).

43. The Principality of Monaco is a party to the following international instruments, which aim to combat racism and intolerance:

- European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950)
- Convention on the Prevention and Punishment of the Crime of Genocide (New York, 9 December 1948)
- Convention relating to the Status of Refugees (Geneva, 28 July 1951)
- International Convention on the Elimination of All Forms of Racial Discrimination (New York, 21 December 1965)
- International Covenant on Economic, Social and Cultural Rights (New York, 16 December 1966)
- International Covenant on Civil and Political Rights (New York, 16 December 1966)

44. In acceding to the Council of Europe, the Principality of Monaco also acceded to the statutes of the European Commission against Racism and Intolerance.

45. The European Commission against Racism and Intolerance visited the Principality of Monaco from 25 to 27 September 2006.

46. The Commission, a pan-European body established at the first Summit of Heads of State and Government of the member States of the Council of Europe, held in Vienna in 1993, is responsible for tasks such as reviewing the legislation, policies and other measures taken by member States to combat racism, xenophobia, anti-Semitism and intolerance and assessing their effectiveness.

47. In accordance with article 14, paragraph 1, of the Convention, the Principality of Monaco declared that it recognized the competence of the Committee to receive and examine communications from individuals or groups of individuals under its jurisdiction who allege that they are victims of a violation by the Principality of Monaco of any of the rights stipulated in the Convention.

48. In the context of this national policy, Monaco has taken steps to provide education to schoolchildren and training or information to professionals. This aspect of national policy is described in part two, section VI, of the present report.

49. The Principality of 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. 1344 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.”

50. 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 up to five years’ imprisonment for this offence.

## **PART TWO**

### **Information relating to articles 2 to 7 of the Convention**

#### **I. ARTICLE 2. CONDEMNATION OF RACIAL DISCRIMINATION**

51. The exercise of the fundamental freedoms guaranteed by the Monegasque Constitution of 1962, as amended in 2002, is not subject to any form of differentiated treatment on grounds of race, colour, sex, language, religion, political opinion or any other criterion. The Principality of Monaco is a State governed by the rule of law and is committed to ensuring respect for liberties and fundamental rights (Constitution, art. 2).

52. Title III of the Constitution (arts. 17 to 32) enumerates the fundamental rights and freedoms which constitute personal rights (the legality of penalties, the right to marry, for example), the rights of the individual vis-à-vis the outside world (correspondence) and public freedoms (freedom of worship, freedom of association).

53. Monaco has long ensured effective compliance with the fundamental rules in force in States governed by the rule of law, in order to protect and promote freedom, security and the dignity of the human person.

54. The Monegasque authorities must stress, however, that the differentiated treatment which favours Monegasques, and even foreigners on account of their connection with Monaco, including with regard to economic and social advantages, is an essential component of the social structure in Monaco and is based upon the Constitution itself, given that the national community is a minority demographic.

55. Monegasque criminal law is based mainly on the principle that a court hearing an offence is free to choose the penalty to be imposed within a specified minimum and maximum range. Naturally, this choice takes account of the individual’s personality and the gravity of the offence. Hence, the law does not need to make an express provision on an aggravating circumstance in order for the courts to be able to impose harsher sentences for offences motivated by racial hatred.

56. It may be worth noting that in Monaco, members of the national legal service whether they are French or Monegasque nationals, receive the same pre- and in-service training, as that provided by the French Ecole Nationale de la Magistrature.

57. The training covers human rights and, more specifically, discrimination.

58. The Department of Judicial Services also organizes conferences from time to time in Monaco, some of which are designed to raise awareness of these issues among members of the legal community and to broaden their knowledge.

59. The obligations of the States parties to the Convention are set out in general terms in article 2 and in greater detail in articles 3 to 7. According to article 2 (1), States parties condemn racial discrimination and undertake to pursue a policy of eliminating racial discrimination and promoting understanding among all races. The Principality of Monaco entered a reservation to article 2 (1), (a), specifying that “Monaco reserves the right to apply its own legal provisions concerning the admission of foreigners to the labour market of the Principality.”

60. There are two procedures for removing aliens from the Principality of Monaco: expulsion and refolement.

61. Refoulement, a measure whereby a person is denied re-entry to Monaco, is applied in the following cases:

- Where the person has received a criminal conviction
- Where the Monegasque authorities learn that a conviction has been delivered abroad
- Where the person concerned is involved in international trafficking

62. The police notify the person concerned of this administrative measure. These decisions are accompanied by a statement of reasons and may be appealed before the Supreme Court, which has overturned a number of such decisions. A person subject to a refolement decision can submit an administrative appeal, by letter, to the Ministry of State, requesting that the measure be revoked.

63. The figures show that there were 92 such cases in 2003, 67 in 2004 and 85 in 2005 (41 per cent of those involved were French and 14 per cent were Italian).

64. The purpose of expulsion is to exclude a foreigner from Monaco and the departments of Alpes-Maritimes, Alpes de Haute-Provence and Var, in accordance with article 13 of the Convention on good-neighbourliness signed with France on 18 May 1963 (as amended by the exchange of letters of 12 September and 16 October 2006 and given the force of law by Order No. 1.114 of 16 May 2007), which stipulates as follows:

“No non-Monegasque who has been expelled or banished from the French Republic and whose expulsion or conviction is brought to the attention of the Princely Government by the Embassy of France in Monaco shall be admitted to reside in the Principality. At the request of the Princely Government, residence in the departments of Alpes-Maritimes, Var and Basses-Alpes shall be denied to any non-French national who has been expelled or banished from the Principality.

“No non-Monegasque who, pursuant to French criminal law, is prohibited from residing in, or entering, the department of Alpes-Maritimes shall be admitted to the Principality.

“The Princely Government shall be notified of such interdictions by the Embassy of France in Monaco.

“At the request of the Princely Government, entry to all or part of the departments of Alpes-Maritimes, Var and Basses-Alpes shall also be denied to any foreigner other than a French national who is prohibited from residing in Monaco pursuant to Monegasque criminal law.”

65. This measure is applied only in rare instances. No one has ever been removed from the country (expulsion or refoulement measure) for belonging to a racial, ethnic or religious group.

66. The asylum procedure in the Principality of Monaco is described in the next paragraph.

67. A request for asylum must be submitted to the secretariat of the Ministry of State, which transmits it to the French Office for the Protection of Refugees and Stateless Persons (OFPRA) for review and comments. If the Office issues a favourable opinion, a travel document is sent to the applicant. The Monegasque authorities are not bound by the opinions of the Office.

68. Although there is no independent body specializing in the protection of human rights in Monaco, following its accession to the Council of Europe the Principality established a unit in the Department of External Relations to deal with issues of human rights and fundamental freedoms. This unit is tasked with:

(a) Assessing how far Monegasque legislation recognizes fundamental rights and freedoms and recommending changes;

(b) Studying the treaties of the Council of Europe and ensuring that the recommendations of the High Commissioner on Human Rights are followed up;

(c) Providing training for all those involved in the implementation of the European Convention on Human Rights in the Principality and, in particular, members of the national legal service (training has also been given at secondary schools and to the police);

(d) Deliver “assistance” to different Monegasque authorities on matters relating to fundamental rights. The unit could take on the role of permanent legal adviser to these authorities on human rights issues;

(e) Defending the Principality before the European Court of Human Rights. The unit, which is headed by a person who is also “a representative of the Government”, defends the Principality before the European Court when applications are lodged against it.

69. Hence, various efforts to protect and promote human rights have already been made by the human rights unit.



70. There does not appear to be any need to establish another specialized body, especially as there have been no complaints to date specifically about racism or racial discrimination.

## **II. ARTICLE 3. CONDEMNATION OF APARTHEID**

71. Racial segregation does not exist in the Principality of Monaco.

## **III. ARTICLE 4. MEASURES TO CRIMINALIZE CERTAIN ACTS OF RACIAL DISCRIMINATION**

72. Article 4 (a) of the Convention requires States to declare as offences punishable by law the following acts:

- (a) The dissemination of ideas based on ideas of racial superiority or hatred;
- (b) Incitement to racial discrimination;
- (c) Acts of violence or incitement to such acts targeting any race or group;
- (d) The provision of assistance to racist activities.

73. In order to ensure compliance with international obligations and to combat violent acts of racism or xenophobia effectively, the Act of 15 July 2005, concerning freedom of public expression, prescribes penalties for such behaviour.

74. The Act provides:

Article 1. "Freedom to publish any written material on any medium is assured. The exercise of this freedom may be subject only to such restrictions as are necessary to ensure respect for: the dignity of the human person; privacy; family life; the freedom and property of others; pluralism in the expression of ideas and opinions; and the exigencies of law and order."

Article 9. "Newspapers or periodicals published abroad may be sold and distributed freely, subject to the restrictions set out in article 1 (2)."

Article 10. "Freedom of audio-visual communication is assured, subject to the restrictions set out in article 1 (2), as well as the requirements of public service and the technical constraints imposed by the medium."

Article 15. "A person shall be deemed an accomplice to a designated crime or major offence if he, through words, shouts or threats uttered in a public place or public meeting or through written material, printed matter, drawings, engravings, paintings, emblems, images or any other written, spoken or visual aid sold or distributed, offered for sale or displayed in a public place or public meeting, or through posters or notices displayed for public view or through any audio-visual medium, directly incited the perpetrator or perpetrators to commit the said offence and if the offence was actually committed. This provision is equally applicable when the incitement was followed only by an attempted offence, as defined in article 2 of the Criminal Code."

Article 16. “Any person who, by any of the means listed in article 15, incites hatred or violence towards an individual or group on account of their origin, membership or non-membership of a particular ethnic group, nation, race or religion, or on account of their real or supposed sexual orientation, shall be liable to the same penalties. Where a conviction is handed down for any of the acts listed in the preceding paragraph, an order may also be given to post or disseminate all or part of the decision, in the form of a statement, at the expense of the convicted person. The decision thus posted or disseminated may only include the name of the victim with the victim’s consent or that of his or her legal representative or beneficiaries.”

Article 18. “Any person who, by any of the means set forth in article 15, seeks to breach the peace by inciting hatred towards residents or persons temporarily in the Principality shall be liable to the penalties laid down in the previous article.”

Article 24. “Defamation of private persons by the same means shall be punishable by a term of imprisonment of from one month to one year and/or the fine prescribed in article 26, paragraph 3, of the Criminal Code. Defamation by the same means of a person or group of persons on account of their real or supposed membership or non-membership of an ethnic group, nation, race or specific religion, or their real or supposed sexual orientation, shall be punishable by a term of imprisonment of from one month to one year and/or the fine provided for in article 26, paragraph 3, of the Criminal Code. Where a conviction is handed down for any of the acts listed in the present article, an order may also be issued, under the conditions set out in article 16, to post or disseminate all or part of the decision, in the form of a statement, at the expense of the convicted person.”

Article 25. “An offence committed by the same means against a person or group of persons on account of their origin or real or supposed membership or non-membership of an ethnic group, nation, race or specific religion, or their real or supposed sexual orientation shall be punishable by a term of imprisonment of from six days to six months and/or the fine prescribed in article 26, paragraph 3, of the Criminal Code.

“Where a conviction is handed down for any of the acts listed in the present article, an order may also be issued, under the conditions set out in article 16, to post or disseminate all or part of the decision, in the form of a statement, at the expense of the convicted person.”

75. Moreover, a draft law on sport currently being studied includes a number of provisions which seek, specifically, to combat manifestations of intolerance at sporting events. Through security commissions, “high risk” football events are organized to take into account the prevention of verbal abuse and incitement to racial hatred.

76. Article 12 of Act No. 1.165 of 23 December 1993, on management of personal data, prohibits the gathering, recording and utilization of data which could disclose a person’s racial or religious background, unless with the express written permission of the person concerned.

77. The draft law on offences involving information systems, laid before the National Council on 8 August 2006, proposes the introduction of an article 294 (4) to the Criminal Code, to read as follows:

“The act of making, producing, conveying or disseminating, by any means and any medium, a message that is violent or obscene or which constitutes an affront to human dignity, or of engagement in business concerning such messages, is punishable by a term of imprisonment of from six months to three years and the fine set forth in article 26 (3), where the message is likely to be seen or apprehended by a minor.”

78. In addition, there are plans to incorporate a definition of racial discrimination into the new Criminal Code and to include as aggravating circumstances racist, anti-Semitic or xenophobic motives for an offence. In any event, offences with such motives are henceforth punishable under ordinary law.

79. The Department of Public Security has included a special section in its “register of offences” for complainants to state whether the offence against them was racist in nature. An analytical grid will enable the racist motives behind an offence to be recorded.

#### **IV. ARTICLE 5. ELIMINATION OF RACIAL DISCRIMINATION, NOTABLY WITH REGARD TO CERTAIN HUMAN RIGHTS**

80. The fundamental rights and freedoms guaranteed by the Monegasque Constitution are set out in title III of the Constitution (arts. 17 to 32):

- Equality before the law (art. 17)
- Liberty and security of person (arts. 19 and 20)
- Legality of penalties and non-retroactivity of criminal laws (art. 20 (1))
- Right to respect for human personality and dignity (art. 20 (2))
- Abolition of the death penalty (art. 20 (3))
- Inviolability of the home (art. 21)
- Right to respect for privacy and family life and confidentiality of correspondence (art. 22)
- Freedom of religion (art. 23)
- Freedom of opinion (art. 23)
- Right to own property (art. 24)
- Free choice of employment (art. 25)

- Right to receive State assistance in the event of indigence, unemployment, illness, disability, old age and maternity (art. 26)
- Right to free primary and secondary education (art. 27)
- Right to engage in trade union action (art. 28)
- Recognition of the right to strike (art. 28 (2))
- Right to freedom of assembly (art. 29)
- Right to freedom of association (art. 30)
- Right to petition the authorities (art. 31)

81. With respect to the right to freedom of association, the Government has tabled a draft law on associations and federations before the National Council in the context of the legislative changes made necessary by the accession of the Principality of Monaco to the Council of Europe.

#### **V. ARTICLE 6. GUARANTEES OF PROTECTION AND EFFECTIVE REMEDIES**

82. The Monegasque courts are competent to deal with all proceedings instituted against a defendant domiciled in the Principality of Monaco (Code of Criminal Procedure, Title I, “Proceedings arising from offences”, arts. 9 and 10).

83. Judgements rendered at first instance may be appealed before the competent court.

84. All final decisions rendered at last instance may be appealed before the Court of Review on the grounds of an error of law.

85. All decisions rendered by the criminal court have the force of final decisions and may not be appealed. The sole remedy is a retrial.

86. Since the Principality of Monaco is a party to the European Convention on Human Rights and Fundamental Freedoms, violations of any of the rights that the Convention guarantees can be referred to the European Court of Human Rights, once other remedies have been exhausted. The general legal framework for the protection of human rights is described in detail in the core document of the Principality of Monaco (HRI/CORE/1/Add.18).

87. The first case brought against Monaco before the European Court of Human Rights was officially communicated to the State of Monaco on 5 October 2007.

88. The applicant alleges that she has been held in pretrial detention by the Monegasque authorities for too long and claims a violation of article 5 of the European Convention on Human Rights, which provides, inter alia, that all persons deprived of their liberty shall be tried within a reasonable period or released pending trial.

89. In any event, it should be noted that none of the grounds cited by the claimant makes any mention of discrimination of any kind.

90. The human rights unit prepared the defence statement of the Principality and submitted its observations on 7 January 2008. The proceeding is now under way.

91. The right to an administrative tribunal is guaranteed under the Constitution. Under article 90 (b) of the Constitution of 17 December 1962, the Supreme Court is competent to deliver decisions at first and last instance on:

(a) Appeals for the annulment of ultra vires administrative decisions taken by the administrative authorities and of sovereign orders implementing laws, as well as related awards of damages;

(b) Appeals to the Court of Cassation against decisions of last instance rendered by administrative courts;

(c) Appeals relating to the interpretation of laws and for review of the decisions of administrative authorities or of sovereign orders on the implementation of laws.

92. Appeals to the Supreme Court for the annulment of ultra vires administrative decisions issued by any administrative authority may be lodged by any individual or body corporate with the right to take part in court proceedings, regardless of that party's nationality or residence status. In addition, appellants in financial need may be entitled to legal aid.

93. Case law of the Supreme Court. It should be recalled that the Supreme Court extended the prerogative of equality among Monegasque nationals, as guaranteed under article 17 of the Constitution, to include all parties under its jurisdiction in a comparable situation (equality before the law, equality vis-à-vis public burdens, equality among users of public services, and so on).

94. Any decision by an administrative authority based on discrimination on account of racial or ethnic origin would be annulled by the Supreme Court in an appeal for an annulment on grounds of ultra vires.

## **VI. ARTICLE 7. MEASURES IN THE FIELDS OF TEACHING, EDUCATION, CULTURE AND INFORMATION**

95. In Monaco, some 4,000 children are enrolled in schools. Compulsory education is free of charge in State schools for Monegasque and other resident children. In 2006, the public education system received pupils of 65 nationalities. The Principality wishes to emphasize that,

in accordance with an unwritten administrative practice, children residing in bordering communes are also accepted in Monegasque schools, when places are available. When applications for admission are received for the children of *frontaliers*,\* those with the “strongest ties” and those living closest to the Principality are, informally, given priority.

96. In 2006, 30 per cent of schoolchildren in Monaco crossed the border to come to school.

97. Since 1977, the teaching of French as a foreign language has enabled recently arrived children with little or no command of French to learn the basics.

98. In addition, the Monegasque authorities have introduced measures to provide for children from diverse backgrounds, such as training teachers in differentiated educational approaches.

99. A number of measures have been implemented in schools in the field of human rights education and awareness. From kindergarten onwards, an event is held on 20 November every year to celebrate Universal Children’s Day. Moreover, a programme of civic education, based on the concepts of self-respect and individual responsibility, provides instruction on civic institutions and practices to pupils in primary and secondary schools. Ad hoc activities are also organized, such as Holocaust Remembrance and Genocide Prevention Day on 26 January, as well as exchanges or trips to other countries. A Monegasque delegation attended the third seminar of European Ministers of Education on Holocaust Remembrance, held in Prague in 2006. As a result of this initiative, a class of secondary school pupils will make a memorial journey to Cracow and Auschwitz in May 2008.

100. With regard to the teaching profession, training specifically for school principals was held in February 2006 at the Teacher Training Centre. Among other things, there was a presentation on the reference works and a review of official texts. Another training course was held on 28 and 29 November 2006 for 75 teachers (teachers of literature, history, geography and philosophy, as well as librarians), with experts from the Council of Europe, in preparation for Holocaust Remembrance and Genocide Prevention Day.

101. The campaign “All different, all equal: a campaign for diversity, human rights and participation” was run in all schools, nationwide.

102. The Monegasque authorities have taken administrative and policy measures to combat “hate speech” and intolerance. A number of training and education programmes have been delivered in the Principality of Monaco, incorporating the principles of respect for human rights and fundamental freedoms.

103. Through the civic education offered in Monegasque schools, educational teams endeavour to build relationships with their pupils based on respect, tolerance and cooperation, which are essential for a life in society. Ad hoc school trips on particular themes are organized by middle school or secondary school teachers and require significant preparation. In 2005, final year

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\* *Frontaliers*: residents of areas close to the border or persons who cross the border frequently for work, business, etc.

students at the Albert I secondary school went to Germany to mark the sixtieth anniversary of the liberation of the Nazi concentration camps. In 2006, middle school pupils went to the European capital and memorial site, Berlin, accompanied by their French teacher and history and geography teacher.

### **Citizenship education**

104. Starting from primary school, every class drafts a code of conduct to establish the rights, duties and obligations of every person in the class. Pupils also participate in various activities that foster civic behaviour and are made aware of a range of issues, including road safety, energy efficiency and environmental protection.

105. At secondary school, the subject of democratic citizenship is taught, especially during student elections.

### **Human rights education**

106. The Universal Declaration of Human Rights and the Convention on the Rights of the Child are the fixed points of reference for school activities, in particular those in the humanitarian field.

107. 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. Education for democratic citizenship and human rights education are incorporated into the in-service training given to teachers through the promotion of teaching methods which teach pupils a sense of responsibility and encourage their participation.

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