



## International Covenant on Civil and Political Rights

Distr.: General  
28 April 2015  
English  
Original: French

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### Human Rights Committee

#### Concluding observations on the third periodic report of Monaco\*\*

1. The Human Rights Committee considered the third periodic report of Monaco (CCPR/C/MCO/3) at its 3148th and 3149th meetings (CCPR/C/SR.3148 and 3149), held on 24 and 25 March 2015. At its 3158th meeting, held on 31 March 2015, the Committee adopted the following concluding observations.

#### A. Introduction

2. The Committee expresses its appreciation to the State party for adopting the new optional reporting procedure, whereby it responded, in its third periodic report, to the list of issues prior to submission of the report (CCPR/C/MCO/Q/3). The Committee takes note of the information provided on the implementation of the Covenant in Monaco. The Committee thanks the State party for the replies provided orally by the delegation and the supplementary information provided in writing.

#### B. Positive aspects

3. The Committee welcomes the legislative action taken to protect human rights, specifically through the adoption of the following laws:

(a) Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence, which resulted in strengthening protection for women, children and persons with disabilities, in line with a recommendation made by the Committee (see CCPR/C/MCO/CO/2, para. 9);

(b) Act No. 1.399 of 25 June 2013 on the reform of the Code of Criminal Procedure with regard to police custody, and Sovereign Order No. 3.782 of 16 May 2012 on the organization of the prison and detention system, which guarantees respect for human dignity.

4. The Committee also welcomes the ratification by Monaco of several international instruments, including:

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\* Reissued for technical reasons on 11 August 2015.

\*\* Adopted by the Committee at its 113th session (16 March–2 April 2015).



(a) The Optional Protocol to the Convention on the Rights of the Child establishing a procedure for the presentation of communications, on 24 September 2014;

(b) The United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education, on 28 August 2012;

(c) The Protocol relating to the Status of Refugees, on 16 June 2010.

5. The Committee welcomes as well the information provided by the State party concerning instances in which provisions of the Covenant were invoked and applied by the national courts.

6. Lastly, the Committee welcomes the establishment in November 2014 of a State-approved association to assist and support victims of physical, sexual or psychological violence.

## C. Principal subjects of concern and recommendations

### **Interpretative declarations and reservations to the Covenant**

7. The Committee notes that the interpretative declarations and reservations entered by the State party at the time of ratification of the Covenant, in particular with regard to articles 13, 14, para. 5, 19, 21 and 22, continue to be in effect. It also notes that the process launched to bring the National Council into line with the 2002 constitutional reform has not yet been finalized.

**The Committee recommends that the State party review its interpretative declarations and reservations with a view to substantially reducing their number and ensuring effective implementation of the provisions of the Covenant. In addition, it encourages the State party to expand the powers of the National Council in order to align the State party's legal system with the Covenant.**

### **Optional Protocol to the Covenant**

8. The Committee notes that the State party has not yet acceded to the Optional Protocol to the Covenant, despite the information provided to the Committee in 2008 indicating that this matter was under review (see CCPR/C/MCO/Q/2/Add.1).

**The Committee recommends that the State party accede to the Optional Protocol, thereby recognizing the Committee's competence to receive and consider communications or complaints from individuals placed under the jurisdiction of the State party with regard to violations of the rights set forth in the Covenant.**

### **Independent national human rights institution**

9. The Committee takes note of Sovereign Order No. 4.524 of 30 October 2013 on the establishment of the Office of the High Commissioner for the Protection of Rights and Freedoms and Mediation. It notes, however, that the Office has not yet been accredited by the International Coordinating Committee of National Human Rights Institutions (art. 2).

**The Committee recommends that the State party encourage the Office of the High Commissioner to seek accreditation from the International Coordinating Committee. The State party should ensure that the Office enjoys broad competence in the field of human rights and has the necessary financial and human resources to operate in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) annexed to General Assembly resolution 48/134.**

### Freedom of expression

10. The Committee expresses its concern at the fact that publicly offending the royal family continues to be a crime punishable by imprisonment for up to 5 years, even though in practice punishment has usually been limited to the payment of a fine. The Committee deplores the recent jailing of an individual for defamation of judicial authorities and the Prince and notes the disproportionate sentence handed down in comparison with the penalty requested by the prosecutor (arts. 2 and 19).

**The Committee recommends that the State party review articles 58 to 60 of its Criminal Code, on publicly offending the royal family, to bring them into line with article 19 of the Covenant. Pursuant to its general comment No. 34 (2011) on freedom of opinion and freedom of expression, the Committee reiterates that the imprisonment of persons by reason of the exercise of their freedom of expression constitutes a violation of article 19, which attaches special importance to free speech. The Committee points out that all public figures, including those who hold office at the highest level, are legitimately exposed to criticism and political dissent, and the laws should not establish harsher penalties solely on the basis of the status of the person being referred to.**

### Banishment

11. The Committee is concerned at the delay in the adoption of legislation to abrogate the provisions on banishment mentioned during the previous dialogue (see CCPR/C/MCO/CO/2, para. 12). It expresses its concern about the continued existence of this obsolete legislation (arts. 2 and 12).

**The Committee reiterates its recommendation that the State party repeal its criminal provisions authorizing banishment, which are entirely inconsistent with article 12, paragraph 4, of the Covenant and stresses that in no case may an individual be arbitrarily deprived of the right to enter his or her own country. It affirms that all citizens have the right to be protected against any action to impede their access to or stay in the territory of a State party, in accordance with general comment No. 27 (1999) on freedom of movement.**

### Termination of pregnancy

12. With regard to its earlier recommendation (see CCPR/C/MCO/CO/2, para. 10), the Committee welcomes the adoption of Act No. 1.359 of 20 April 2009 by which article 248 of the Criminal Code was amended and women may seek the termination of a pregnancy in certain situations. It remains concerned, however, by the fact that the procedure to be followed, which requires approval by a medical panel, poses unnecessary obstacles in connection with these specific situations (arts. 2, 3, 6 and 26).

**The Committee encourages the State party to reconsider the requirement of approval by at least two physicians on a medical panel. Furthermore, the Committee encourages the State party to take steps to ensure that the Prenatal Coordination and Family Support Centre is involved as well in education and awareness-raising programmes concerning the right to sexual and reproductive health.**

### Freedom of association

13. The Committee continues to be concerned about the State party's delay in amending Ordonnance-Law No. 399 of 6 October 1944 on the establishment of trade unions, which stipulates that the executive committees of trade unions should be composed of a secretary general and a treasurer of Monegasque nationality. It takes note of the delegation's statement, however, that a bill to this effect is under consideration (arts. 2, 22 and 26).

**The Committee recommends that the State party amend the conditions governing trade union membership to bring them into line with articles 22 and 26 of the Covenant and to allow foreign nationals to form trade unions.**

14. The State party should broadly disseminate the text of the Covenant, the third periodic report and the present concluding observations with a view to heightening awareness of these issues among the country's judicial, legislative and administrative authorities, civil society, NGOs active in the Principality and the general public.

15. Pursuant to paragraph 5 of rule 71 of the rules of procedure of the Committee, the State party should provide, within a period of one year, information on the action taken to follow up on the recommendations contained in paragraph 10 above.

16. The Committee requests the State party to include in its next periodic report, which should be submitted by 2 April 2021, up-to-date detailed information on action taken to follow up on the other recommendations and on overall implementation of the Covenant. The Committee furthermore requests the State party, when preparing its fourth periodic report, to engage in broad-based consultations with civil society, in particular the Office of the High Commissioner for the Protection of Human Rights and Freedoms and Mediation, and NGOs.

17. Given that the State party has accepted the simplified reporting procedure, the Committee will transmit to it a list of issues prior to the submission of the report in due course, and its replies to it will constitute the fourth periodic report of the State party. The word limit for the report is 21,200 words, in accordance with General Assembly resolution 68/268.

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