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Monaco

Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.¹ It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with human rights mechanisms

2. The Committee against Torture asked Monaco if it intended to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to establish a national preventive mechanism against torture.²

3. The same Committee also asked Monaco whether, following its signing of the International Convention for the Protection of All Persons from Enforced Disappearance in 2007, it intended to initiate a process of ratification.³

4. The Committee on the Elimination of Discrimination against Women asked about the measures Monaco had taken to review its reservations to the Convention on the Elimination of All Forms of Discrimination against Women.⁴

5. Monaco made annual financial contributions to the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁵

III. National human rights framework

Institutional infrastructure and policy measures

6. The Committee against Torture and the Committee on the Elimination of Discrimination against Women asked Monaco to describe the measures taken to ensure that the Office of the High Commissioner for the Protection of Rights and Freedoms and for Mediation could be accredited as complying with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) by the Global Alliance of National Human Rights Institutions.⁶ The Committee on the Elimination of Racial Discrimination requested information on the implementation of



Sovereign Ordinance No. 4.524 of 30 October 2013 establishing the Office of the High Commissioner, in particular on that body's mandate, composition and independence and the human and financial resources allocated for its effective functioning.⁷

IV. Promotion and protection of human rights

A. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

7. The United Nations Educational, Scientific and Cultural Organization (UNESCO) noted that article 17 of the Constitution of 1962, as amended in 2002, provided that Monegasque nationals were equal before the law and that none were to enjoy preferential status. Furthermore, article 32 of the Constitution stated that foreign nationals in the Principality enjoyed all public and private rights that were not formally reserved for Monegasque nationals.⁸

8. The Committee on the Elimination of Racial Discrimination requested information on the provisions put in place to ensure that the application of the system giving priority in employment to Monegasque nationals did not lead to cases of discrimination against non-citizens.⁹

9. The same Committee also requested information on the provisions put in place to ensure that persons who had become Monegasque could transmit their Monegasque nationality, including after divorce, regardless of how they had acquired it.¹⁰ The Committee on the Elimination of Discrimination against Women asked Monaco to explain why Monegasque fathers were able to transmit their nationality to their children automatically, whereas Monegasque mothers had to fulfil a number of conditions in order to do so.¹¹

10. The Committee on the Elimination of Racial Discrimination asked Monaco to provide information on the adoption of criminal legislation that fully implemented the provisions of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, in particular by criminalizing: the dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination; all acts of violence or incitement to such acts against any group of persons on the grounds of race, colour, descent, or national or ethnic origin; the provision of any assistance to racist activities, including the financing thereof; and incitement to or encouragement of racial discrimination by public authorities or public institutions.¹²

2. Right to life, liberty and security of person, and freedom from torture

11. The Committee against Torture asked Monaco to describe the measures it had taken to incorporate into its criminal law a definition of torture in accordance with article 1 of the Convention against Torture, and whether it intended to make torture an imprescriptible offence and incorporate into its legislation the principle of the invalidity of statements obtained under torture.¹³

12. The same Committee also asked Monaco to describe the measures taken to resolve the structural incompatibility of the short-stay prison (*maison d'arrêt*) of Monaco and its facilities with its current purpose and indicate whether there were plans to transfer detainees from the short-stay prison to new facilities. Furthermore, it asked Monaco to describe the measures taken to implement its recommendations, made in 2016,¹⁴ to ensure that Monegasque enforcement judges conducted effective follow-up of prisoners transferred to a third country and to obtain the consent of prisoners transferred to places of detention in that country to serve their Monegasque sentences there.¹⁵

3. Administration of justice, including impunity, and the rule of law

13. The Committee on the Elimination of Racial Discrimination requested information on the steps that Monaco had taken to repeal the criminal law provisions authorizing banishment.¹⁶

4. Fundamental freedoms and the right to participate in public and political life

14. UNESCO noted that defamation, both verbal and written assault, of the Prince and his family was criminalized under the Monegasque Criminal Code (arts. 58–60) and was sanctioned with sentences consisting of imprisonment for up to five years or a fine or community service. It recommended that Monaco decriminalize defamation, in accordance with international standards.¹⁷

15. UNESCO urged Monaco to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers and also to address the relevant dimensions of the right to science in its reporting on the impact of the coronavirus disease (COVID-19) pandemic.¹⁸

16. UNESCO noted that Monaco had not submitted its national report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation period 2017–2020. UNESCO encouraged Monaco to report on the implementation actions it had taken, especially legislative or other measures it had adopted with the aim of ensuring application of those norms and standards in national law, policy and practice. Particular attention should be paid to the legal provisions and regulatory frameworks which ensured the implementation of the human rights of scientific researchers themselves and human rights obligations relating to the practice of science generally.¹⁹

17. UNESCO noted that Monaco had adopted freedom of information legislation (Sovereign Ordinance No. 3.413) in 2011, which had enabled public access to official documents (arts. 22–28). Appeals against refusals of access to public documents could be submitted to the Minister of State, who would, pursuant to article 26 of that legislation, refer the matter to the adviser.²⁰

5. Prohibition of all forms of slavery, including trafficking in persons

18. The Committee on the Elimination of Racial Discrimination requested that Monaco provide information on measures taken to prevent and combat trafficking in persons, in particular with regard to the protection of workers who were not citizens. It requested that Monaco indicate whether it had an action plan to combat trafficking in persons and whether existing measures included an approach focused on the protection of victims, including foreign victims, and action taken to implement education and awareness-raising measures for the general public to promote understanding of the fight against trafficking and training for labour inspectors, investigators, prosecutors and judges.²¹

19. The Committee on the Elimination of Discrimination against Women asked Monaco about the measures taken to conduct an official study of the possible link between prostitution and human trafficking for the purpose of sexual exploitation in the country.²²

6. Right to work and to just and favourable conditions of work

20. The Committee on the Elimination of Racial Discrimination asked Monaco to provide information on the mechanisms in place to strengthen inspection of the working conditions of non-citizens, in particular the situation of migrant domestic workers, and to inform foreign workers of their rights and the remedies available in cases of discrimination in employment.²³

21. The Committee on the Elimination of Discrimination against Women asked Monaco to provide information on the measures it had taken with regard to its plans to adopt mechanisms to promote gender equality, in particular with regard to the equal remuneration, participation and representation of women in the world of work, and to complete the drafting and adoption of a bill regulating night work, with the aim of repealing the prohibition on night work for women.²⁴

7. Right to an adequate standard of living

22. The Committee on the Elimination of Racial Discrimination asked Monaco to provide information on the measures taken to enable non-Monegasque nationals who had not yet completed five years' residence and who had low incomes to receive social and medical benefits and to have access to housing without discrimination.²⁵

8. Right to education

23. UNESCO noted that article 27 of the Constitution of 1962, as amended in 2002, stated that Monegasque nationals were entitled to free primary and secondary education. However, the right to education was not enshrined in Monegasque law. UNESCO indicated that Monaco should be encouraged to enshrine the right to education for all in its domestic law.²⁶

24. UNESCO noted that article 3 of the Education Act of 2007 provided that education was compulsory between 6 and 16 years of age for children of either sex who were Monegasque nationals or whose parents (or legal representatives) were legally resident in Monaco. UNESCO added that, although article 10 of the Act provided that preschool education was available to children from 3 years of age until they reached compulsory school age, no legislative provision stating that it was free and compulsory could be located. UNESCO indicated that Monaco should be encouraged to provide at least one year of free and compulsory preschool education, in line with the Incheon Declaration.²⁷

25. The Committee on the Elimination of Discrimination against Women asked Monaco to provide information on the strategies envisaged to encourage women and girls to choose non-traditional fields of education, such as science, technology, engineering, mathematics and information and communications technology, and the corresponding career paths.²⁸

9. Cultural rights

26. UNESCO stated that, as a State party to the Convention for the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Monaco was encouraged to fully implement the relevant provisions that promoted access to and participation in cultural heritage and creative expressions.²⁹

B. Rights of specific persons or groups

1. Women

27. The Committee on the Elimination of Discrimination against Women asked Monaco to provide information on the measures taken to adopt a broader definition of domestic violence in line with the definition contained in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).³⁰

28. The Committee against Torture requested information on the implementation of Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence, which criminalized marital rape.³¹

29. The Committee on the Elimination of Discrimination against Women noted that, under current legislation, rape was characterized as occurring when a sexual relationship was accompanied by threats, violence or coercion, which did not cover the majority of cases in which no means of restraint were used. The Committee asked Monaco to explain how it would ensure that cases of rape in which no means of restraint were used were covered by legislation.³²

30. In follow-up to its concluding observations of 2017, the same Committee welcomed the adoption of Act No. 1.457 of 12 December 2017 on harassment and violence in the workplace. It noted with appreciation that the Act obliged employers to take all necessary measures to stop harassment, sexual blackmail and violence in the workplace and established a complaints procedure with the mandatory appointment of focal points in the workplace.³³

31. The same Committee asked Monaco to provide information on measures taken to adopt comprehensive anti-discrimination legislation that prohibited discrimination against all women and encompassed direct and indirect discrimination in the public and private spheres, as well as intersecting forms of discrimination against women, in accordance with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.³⁴

32. The same Committee also asked Monaco to provide information on measures taken to replace male-preference cognatic primogeniture with absolute cognatic primogeniture, so that the crown would be passed on to the firstborn, regardless of that person's sex.³⁵

33. In view of its previous recommendations to take swift measures to abolish the recognition of men as head of household by default and either abolish the concept of "head of household" or ensure that both partners were recognized as heads of household,³⁶ the Committee on the Elimination of Discrimination against Women asked Monaco to describe the measures taken to abolish that concept and replace it with a new one.³⁷

2. Children

34. The Committee against Torture asked Monaco to indicate whether it intended to adopt, in parallel with the prohibition of violence against children under the Monegasque Criminal Code, a law containing an explicit prohibition of corporal punishment in the family, in educational establishments and in places where children were cared for. It also asked Monaco to describe the measures taken to ensure in law and in practice that the corporal punishment of children was unlawful in all circumstances, including an indication of the measures taken to amend the relevant legislation.³⁸

35. UNESCO noted that, although article 116 of the Civil Code prohibited marriage for persons under 18 years of age, the Prince could grant exemptions to minors who were at least 16 years of age if there were serious reasons to justify them. UNESCO indicated that Monaco should revise its Civil Code so that only a judge could authorize marriage for persons under 18 years of age.³⁹

3. Migrants, refugees and asylum-seekers

36. The Committee on the Elimination of Discrimination against Women requested information on measures taken to ensure that women migrant domestic workers were aware of their rights and had access to legal aid and protection, as well as to effective legal recourse in case of abuse, and to monitor their situation, in particular with regard to their recruitment and working conditions.⁴⁰

37. The same Committee asked Monaco to provide information on measures taken, in line with its previous recommendation, made in 2017,⁴¹ to follow the standards of the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization, if it did not already do so.⁴²

38. The Committee on the Elimination of Discrimination against Women, in follow-up to its concluding observations, noted that article 6 of Act No. 729 of 1963 did not entitle employers to dismiss their employees at their discretion. Nevertheless, the Committee regretted that Monaco had not taken any steps to amend that article to exclude the possibility of arbitrary dismissal of foreign women workers following maternity leave.⁴³

39. The Committee on the Elimination of Racial Discrimination asked for information on the applicable provisions and procedures for the processing of asylum applications in domestic law and on the relevant criteria on which Monaco based its decisions to accept or refuse the applications, in the light of applicable international agreements.⁴⁴

40. The same Committee also requested information on measures taken to ensure that non-citizens, refugees and asylum-seekers fully enjoyed the rights referred to in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, in particular, economic, social and cultural rights.⁴⁵

Notes

- ¹ [A/HRC/40/13](#) and [A/HRC/40/13/Corr.1](#), [A/HRC/40/13/Add.1](#) and [A/HRC/40/2](#).
- ² [CAT/C/MCO/QPR/7](#), para. 4.
- ³ *Ibid.*, para. 27.
- ⁴ [CEDAW/C/MCO/QPR/4](#), para. 3.
- ⁵ OHCHR, *United Nations Human Rights Report 2022*, pp. 97, 99, 430 and 445, *United Nations Human Rights Report 2021*, pp. 113, 115, 485, 502 and 543, *United Nations Human Rights Report 2020*, pp. 107, 109, 124, 185 and 198, and *United Nations Human Rights Report 2019*, pp. 91, 92, 104, 164 and 178.
- ⁶ [CAT/C/MCO/QPR/7](#), para. 4, and [CEDAW/C/MCO/QPR/4](#), para. 8.
- ⁷ [CERD/C/MCO/QPR/7-9](#), para. 5.
- ⁸ UNESCO submission for the universal periodic review of Monaco, para. 2.
- ⁹ [CERD/C/MCO/QPR/7-9](#), para. 10 (c).
- ¹⁰ *Ibid.*, para. 10 (a).
- ¹¹ [CEDAW/C/MCO/QPR/4](#), para. 15.
- ¹² [CERD/C/MCO/QPR/7-9](#), para. 7 (a)–(c) and (e).
- ¹³ [CAT/C/MCO/QPR/7](#), para. 2.
- ¹⁴ [CAT/C/MCO/CO/6](#), para. 19 (a) and (b), and [CAT/C/MCO/CO/4-5](#), para. 10.
- ¹⁵ *Ibid.*, paras. 14 and 15.
- ¹⁶ [CERD/C/MCO/QPR/7-9](#), para. 12.
- ¹⁷ UNESCO submission, paras. 7 and 12.
- ¹⁸ *Ibid.*, para. 16.
- ¹⁹ *Ibid.*, para. 15.
- ²⁰ *Ibid.*, paras. 8 and 9.
- ²¹ [CERD/C/MCO/QPR/7-9](#), para. 13 (a) and (c).
- ²² [CEDAW/C/MCO/QPR/4](#), para. 13.
- ²³ [CERD/C/MCO/QPR/7-9](#), para. 10 (d).
- ²⁴ [CEDAW/C/MCO/QPR/4](#), para. 17.
- ²⁵ [CERD/C/MCO/QPR/7-9](#), para. 10 (b).
- ²⁶ UNESCO submission, paras. 2 and 11 (i).
- ²⁷ *Ibid.*, paras. 3, 4 and 11 (ii).
- ²⁸ [CEDAW/C/MCO/QPR/4](#), para. 16.
- ²⁹ UNESCO submission, para. 14.
- ³⁰ [CEDAW/C/MCO/QPR/4](#), para. 12.
- ³¹ [CAT/C/MCO/QPR/7](#), para. 24.
- ³² [CEDAW/C/MCO/QPR/4](#), para. 11.
- ³³ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FFUL%2FMCO%2F41804&Lang=en.
- ³⁴ [CEDAW/C/MCO/QPR/4](#), para. 4 (a).
- ³⁵ *Ibid.*, para. 4 (c).
- ³⁶ [CEDAW/C/MCO/CO/1-3](#), para. 44.
- ³⁷ [CEDAW/C/MCO/QPR/4](#), para. 21.
- ³⁸ [CAT/C/MCO/QPR/7](#), paras. 18 and 26.
- ³⁹ UNESCO submission, paras. 5 and 11 (iii).
- ⁴⁰ [CEDAW/C/MCO/QPR/4](#), para. 19 (a) and (b).
- ⁴¹ [CEDAW/C/MCO/CO/1-3](#), para. 40.
- ⁴² [CEDAW/C/MCO/QPR/4](#), para. 19 (c).
- ⁴³ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FFUL%2FMCO%2F41804&Lang=en.
- ⁴⁴ [CERD/C/MCO/QPR/7-9](#), para. 11.
- ⁴⁵ *Ibid.*, para. 10.