



General Assembly

Distr.
GENERAL

A/HRC/12/3
4 June 2009

Original: ENGLISH/FRENCH

HUMAN RIGHTS COUNCIL
Twelfth session
Agenda item 6

UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review *

Monaco

* Previously issued under document symbol A/HRC/WG.6/5/L.2; minor revisions have been added under the authority of the secretariat of the Human Rights Council on the basis of editorial changes made by States through the ad referendum procedure. The annex to the present report is circulated as received.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction.....	1 - 4	3
I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS ...	5 - 79	3
A. Presentation by the State under review.....	5 - 29	3
B. Interactive dialogue and responses by the State under review.....	30 - 79	6
II. CONCLUSIONS AND/OR RECOMMENDATIONS.....	80 - 83	15
Annex		
Composition of the delegation.....		19

Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its fifth session from 4 to 15 May 2009. The review of Monaco was held at the 2nd meeting on 4 May 2009. The delegation of Monaco was headed by H.E. Franck Biancheri. At its 6th meeting, on 6 May 2009, the Working Group adopted the present report on Monaco .
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Monaco: Switzerland, China and Uruguay.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Monaco:
 - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/5/MCO/1);
 - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/5/MCO/2);
 - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/5/MCO /3).
4. A list of questions prepared in advance by the Czech Republic, Germany, the Netherlands, Sweden, the United Kingdom of Great Britain and Northern Ireland, Argentina and Denmark was transmitted to Monaco through the troika. These questions are available on the extranet of the Universal Periodic Review.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. A la deuxième séance, le 4 mai 2009, S.E. Franck Biancheri, Ministre plénipotentiaire Conseiller du Gouvernement pour les Relations extérieures et pour les Affaires économiques et financières internationales, a déclaré que la Principauté de Monaco, depuis son adhésion à l'Organisation des Nations Unies en 1993, était partie à un très grand nombre d'instruments des Nations Unies couvrant, entre autres, les droits de l'homme, l'environnement et la santé. Ceci témoigne de l'attachement de Monaco aux principes et valeurs universelles que ces instruments consacrent juridiquement.
6. Toutefois, l'interprétation comme l'implication des standards internationaux par les autorités monégasques devaient être évaluées et appréciées au regard des spécificités géographiques, démographiques et sociologiques de cet État.
7. La Principauté de Monaco est une monarchie héréditaire et constitutionnelle régie par la Constitution du 17 décembre 1962, telle que modifiée en 2002, laquelle définit la nature du Gouvernement, l'organisation des pouvoirs publics et leurs rapports respectifs. La primauté du droit et la séparation des grandes fonctions, exécutive, législative et judiciaire de l'État sont consacrées. Le ministère de la Justice, dénommé Direction des services judiciaires, n'est pas intégré dans le Gouvernement mais constitue une entité indépendante rattachée directement au Prince Souverain. Toutefois, la Constitution énonce que le pouvoir judiciaire appartient au

Prince qui en délègue le plein exercice aux cours et tribunaux, ce qui leur confère le droit exclusif de juger en toute indépendance.

8. La Principauté de Monaco est un État d'une superficie de 2,2 km² enclavé dans le territoire français, d'où résulte l'imbrication des relations économiques et humaines entre la France et la Principauté de Monaco entre lesquels de nombreux accords bilatéraux existent. Cela n'aliène en rien la souveraineté et l'indépendance de Monaco au niveau de la conduite de ses affaires intérieures et de ses relations internationales.

9. La Principauté de Monaco est une société pluricommunautaire dont la population résidente est composée de 123 nationalités. Nonobstant l'exiguïté du territoire, la coexistence existe et aucun acte xénophobe, ni aucune manifestation d'antagonisme n'ont été constatés, allégués ou formulés. Les Monégasques représentent environ 20 pour cent de la population. Ces particularités justifient une dualité de régime juridique fondé sur les différences - et non sur les discriminations - que les normes constitutionnelle et législatives consacrent et modulent s'agissant des droits de l'homme.

10. La Constitution affirme que « la Principauté est un État de droit attaché au respect des libertés et droits fondamentaux », lesquels sont énumérés dans le titre III et correspondent à de nombreux droits figurant dans les principaux instruments internationaux.

11. La loi n° 1.278 de 2003 sur le droit à la famille accorde des droits égaux à l'homme et à la femme dans le couple et à l'égard des enfants. La loi n° 1.336 de 2007 introduit notamment un divorce par consentement mutuel. L'article 23 de la Constitution garantit la liberté du culte et celle de leur exercice public. Toutefois, la religion catholique, apostolique et romaine est la religion d'Etat. Le même article garantit la liberté d'expression. La liberté d'association est garantie par l'article 30 de la Constitution.

12. L'article 20 de la Constitution, depuis 1962, consacre le principe de la légalité des incriminations et des peines en matière pénale, exclut la rétroactivité des lois pénales, interdit les traitements cruels, inhumains et dégradants et abolit la peine de mort. La Principauté de Monaco a adhéré en 1991 à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CAT).

13. L'article 19 de la Constitution garantit la liberté et la sûreté individuelle dont les règles d'application sont définies dans le Code pénal et le Code de procédure pénale. Les conditions d'arrestation et de détention ont été modifiées pour être conformes aux standards internationaux par la loi « justice et liberté » de 2007 qui fixe les règles en matière de garde à vue (durée ; juge compétent et droits de la personne gardée à vue).

14. De manière générale, la Constitution reconnaît le droit au juge à toute personne sans aucune condition et garantit l'indépendance des juges. La loi détermine l'organisation, la compétence et le fonctionnement des tribunaux ainsi que le statut des magistrats. Une nouvelle loi, qui est sur le point d'être votée, modernisera ce statut.

15. S'agissant des libertés dont l'exercice est conditionné, la Constitution garantit la liberté du travail dont l'exercice est réglementé par la loi tout en assurant aux Monégasques la priorité pour l'accès aux emplois publics et privés. Toutefois, les personnes résidentes sur le territoire monégasque et celles résidant dans les communes françaises environnantes peuvent accéder aux emplois privés dans les conditions déterminées par la loi n° 629 de 1957 qui réglemente les conditions d'embauchage et de licenciement. Ainsi, environ 45.000 personnes

vivant en France et en Italie exercent quotidiennement une activité professionnelle à Monaco dans les mêmes conditions de rémunération et d'avantages sociaux que les Monégasques.

16. La Constitution consacre le principe de la liberté syndicale et du droit de grève.

17. La Constitution garantit aux Monégasques le droit à l'instruction gratuite, primaire et secondaire. Toutefois, les enfants, quelle que soit leur nationalité, bénéficient dans les mêmes conditions que les Monégasques de l'instruction primaire et secondaire, comme le prévoit la loi n° 1.334 de 2007 sur l'éducation. La Principauté de Monaco est dotée d'un système de bourses d'études ouvert au plus grand nombre de nationaux et résidents.

18. La Constitution garantit aux Monégasques le droit à l'aide de l'État en cas d'indigence, chômage, maladie, invalidité, vieillesse et maternité. Néanmoins, les mêmes droits sont reconnus aux ressortissants étrangers lorsqu'ils remplissent les conditions déterminées par la loi.

19. Enfin, le droit de réunion reconnu par la Constitution au bénéfice des Monégasques est étendu par l'effet des dispositions législatives et réglementaires nationales aux étrangers.

20. Au cours des années récentes, la Principauté de Monaco est devenue Partie à plusieurs Conventions internationales, telle que la Convention relative aux droits de l'enfant, en 1993, qui a été incorporée dans l'ordre juridique monégasque.

21. En application de cette Convention, la loi n° 1.344 de 2007 aggrave les sanctions encourues par les auteurs des crimes et délits commis à l'égard des enfants en vue de se conformer aux dispositions du Protocole facultatif à la Convention relative aux droits de l'enfant concernant la vente d'enfants, la prostitution des enfants et la pornographie mettant en scène des enfants et de se placer au rang des pays les plus protecteurs des droits de l'enfant.

22. Les autorités monégasques étudient la Convention relative aux droits des personnes handicapées quant à sa compatibilité avec l'ordre juridique monégasque. Un projet de loi sur le handicap est en cours d'élaboration à cet effet en vue de compléter les prescriptions techniques existantes. De plus, depuis 2006, un Délégué aux personnes handicapées est en place qui s'occupe plus particulièrement de ces questions. Enfin, la loi n° 1.334 de 2007 prévoit l'intégration des enfants handicapés en milieu scolaire ordinaire.

23. Les conventions internationales prévoient de sanctionner les comportements attentatoires à l'existence et à l'exercice des droits de l'homme dans le droit de chaque Etat. A cet effet, en matière de lutte contre le blanchiment de capitaux et du financement du terrorisme, la Principauté de Monaco est devenue partie à la plupart des conventions régissant la matière et a adopté de nombreuses dispositions législatives et réglementaires, lesquelles sont conformes aux recommandations internationales.

24. Ainsi ont été introduites de nouvelles incriminations dans le Code pénal, aggravant les peines et instituant un principe d'indemnisation automatique par l'État des victimes du terrorisme.

25. En matière de blanchiment de l'argent tiré de l'exercice d'activités illicites, la Principauté de Monaco est partie à la Convention des Nations Unies sur la criminalité transnationale organisée et à son protocole additionnel et a arrêté les mesures administratives adéquates avec la création du Service d'Information et de Contrôle sur les Circuits Financiers.

26. En décembre 2007, l'Assemblée plénière du Comité Moneyval a approuvé le rapport d'évaluation du système de lutte contre le blanchiment de capitaux et le financement du terrorisme en vigueur à Monaco. Ce rapport conclut notamment que Monaco dispose d'un cadre juridique satisfaisant et que la Cellule de renseignements financiers monégasque est efficace,

27. La Principauté de Monaco s'est engagée dans des actions de coopération internationale en faveur de populations vulnérables. Ainsi, plus de 60 projets ont été engagés ou achevés dans une vingtaine de pays partenaires sur quatre continents qui mettent l'accent sur l'égalité des sexes et l'autonomisation et l'intégration de la femme comme actrice du développement. Le Prince Souverain a donné pour instructions de consacrer à l'Aide publique au Développement d'ici 2015 un montant équivalent à 0,7 pour cent du revenu national brut. Les actions sont menées en étroite coopération avec des partenaires locaux et en faisant recours aux compétences disponibles dans le pays ou par des procédures d'associations avec des Institutions spécialisées des Nations Unies ou de l'Organisation internationale de la Francophonie.

28. La Principauté de Monaco est partie depuis 2005 à la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes. Une proposition de loi relative à la lutte contre les violences domestiques a été adoptée par le Conseil National en 2008 et la procédure législative est en cours en vue de déposer un projet de loi y afférent. Toutefois, les violences conjugales sont déjà punies par application des dispositions relatives aux coups et blessures volontaires.

29. En conclusion, la délégation de Monaco, a précisé que le droit monégasque respecte le caractère universel, démocratique et progressif des droits de l'homme.

B. Interactive dialogue and responses by the State under review

30. During the interactive dialogue, statements were made by 28 delegations. A number of delegations thanked Monaco for its comprehensive national report, for taking an active part in the dialogue and for its commitment to human rights. Statements were also made to welcome the establishment of a Department on Human Rights and Fundamental Freedoms in the Department of Foreign Affairs. Several delegations praised Monaco for its activities in the area of international cooperation, in particular projects that it finances to fight poverty and for the protection of children in armed conflict.

31. Algeria noted that Monaco is party to most of the international human rights conventions and was ensuring its periodic reporting and paying attention to the implementation of recommendations put forward. It noted however that Monaco has not yet acceded to some important international instruments and therefore encouraged Monaco (a) to join the International Labour Organization (ILO) and to accede to relevant ILO conventions, and (b) to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMWC). Algeria took note of legislation on freedom of expression which penalizes insults of a racial, ethnic or religious nature. It also noted that the Committee on Economic, Social and Cultural Rights and the Human Rights Committee had encouraged Monaco to create an independent national human rights institution in accordance with the Paris Principles and asked if Monaco envisaged establishing such an institution. Algeria encouraged Monaco (c) to pursue and strengthen the financial support it is already providing for the fight against poverty in developing countries.

32. Brazil stressed the importance of signing and ratifying the ILO core conventions and the two Optional Protocols to the International Covenant on Civil and Political Rights. Brazil asked Monaco to elaborate more on the system of priorities in the employment sector and its rationale. Brazil also asked about the practical measures taken to update labour legislation in Monaco. While noting the efforts of Monaco to combat unemployment, which is virtually non-existent, Brazil recommended that within the context of paragraph 1 (e) of Human Rights Council resolution 9/12, Monaco ensure that the system of priorities in the employment sector does not imply discrimination on the grounds of race, color, nationality, religion, language or ethnic or national origin. Based on paragraphs 1 (g) and (h) of resolution 9/12, Brazil commended the authorities of Monaco and encouraged them to continue looking into means of putting in practice the Millennium Development Goals in third countries.

33. The Netherlands recommended that Monaco (a) actively consider widening opportunities for foreign inhabitants to participate actively in political life; and (b) amend privacy legislation so as to bring it in line with the recommendations on video surveillance of 11 March 2009 of the Commissioner for Human Rights of the Council of Europe.

34. Italy noted that Monaco had informed the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment that it did not intend to act upon the Committee's recommendation to set up a detention centre for minors. Italy asked what specific measures had been taken to safeguard the rights of children who are arrested and held in custody. Italy commended Monaco for its endeavours to improve the situation of persons with disabilities and noted that the authorities have expressed the intention of becoming party to the Convention on the Rights of Persons with Disabilities (CPD). Italy recommended that Monaco sign and ratify the Convention as soon as possible.

35. Sweden noted that the Human Rights Committee in 2008 had expressed concern about the broad, ill-defined definition of terrorist acts in the Criminal Code, in particular about the lack of clarity regarding the definition of the term "environmental terrorist". Sweden recommended further measures to ensure that the definition of terrorists acts in Monaco is in line with its human rights obligations. Sweden recognized the efforts made to allow equal treatment of men and women in Monaco, and recommended that the State continue efforts to ensure men and women the same legal rights in all areas of legislation, including those related to marriages and requirements to acquire Monegasque nationality.

36. France recalled Monaco's contribution to the organization of the French-speaking seminar in Rabat on the implementation of the Universal Periodic Review in February 2008. France asked about the implementation of the recommendation of the Human Rights Committee to establish an independent national human rights institution in conformity with the Paris Principles. France also asked if Monaco intended to ratify the Rome Statute of the International Criminal Court and the Convention on the Rights of Persons with Disabilities. France recommended that Monaco (a) ratify the International Convention for the Protection of All persons from Enforced Disappearance, signed by Monaco in 2007; and (b) accede to the Optional Protocol to the Convention on Elimination of All Forms of Discrimination against Women.

37. The United States of America noted that the law of Monaco prohibits denunciations of the ruling family and asked what the Government is doing to ensure that freedom of expression is protected even with respect to criticism of the royal family. The United States recommended that the Government uphold freedom of expression, including with respect to public denunciations of the royal family.

38. Mexico welcomed the fact that manifestations of racism, xenophobia, discrimination and anti-Semitism seem to be non-existent in Monaco. Mexico suggested that necessary measures be taken in the labour sphere that to prevent and punish any discrimination on the basis of any prejudice such as race, color, sex, language, religion, nationality or national or ethnic origin. Therefore, Mexico recommended that Monaco (a) become a member of ILO and ratify its conventions, in particular, Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; and (b) take the necessary measures to guarantee the human rights of migrants, including ratifying ICRMW.

39. India commended recent legislative measures, notably, the establishment of the principle of the independence of the judiciary, verification by the Supreme Court of the legality of administrative decisions and the amendment to the Code of Criminal Procedure dealing with the rights of persons in custody. India also noted the progress in the field of geriatric care and education. India made reference to the different legal requirements for men and women wishing to acquire Monegasque nationality and echoed the sentiments in this regard. India asked for clarification as to what constitutes a 'terrorist act' and 'environmental terrorism' in the Criminal Code. India, noting that the Committee on Economic, Social and Cultural Rights had noted with concern that abortion is illegal in all circumstances under Monaco's legal system, enquired if the Bill which decriminalizes abortion where pregnancy endangers the mother's life had been passed. India urged Monaco to consider becoming a member of ILO and encouraged Monaco to ratify CPD and to set up a national human rights institution in accordance with the Paris Principles.

40. The Congo commended Monaco's considerable efforts to modernize its legislation to abolish any discrimination among children of legitimate, natural, adulterous or incestuous relationships. While noting the progress made regarding ways to acquire citizenship, the Congo recommended that the conditions for acquiring and transferring nationality be the same for men and women. The Congo also recommended amending the provision of the Civil Code stating 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" so as to put an end to this form of discrimination in terms of property succession. Highlighting that banishment, beyond refoulement and expulsion, is one of the measures applied to fight illegal immigration in Monaco, the Congo recommended the abolishment of this measure in view of its inhumane character.

41. Burkina Faso commended Monaco for financing projects to fight poverty and improve the condition of women, some of which have Burkina Faso as a beneficiary. Burkina Faso also made reference to other priority areas where Monaco intends to improve, such as the protection of children, accessibility of persons with disabilities and improving the daily lives of senior citizens. Burkina Faso encouraged Monaco to continue and strengthen what it has already achieved in the area of human rights and to share these good practices with any States that requests it.

42. Slovenia commended Monaco for notably being a regular donor to OHCHR and to the United Nations Voluntary Fund for Victims of Torture. Slovenia asked what measures the Government has taken so far to implement recommendations of the International Covenant on Economic, Social and Cultural Rights (ICESR) with regard to the different existing legal requirements for men and women wishing to acquire Monegasque nationality. It also enquired whether the Government will adopt a law making domestic violence a criminal offense and establishing judicial procedures to protect women victims of domestic violence and what kind of

support are available for them. Slovenia recommended that the Government consider ratifying the Optional Protocol of the Convention on the Elimination of All Forms of Discrimination Against Women and the Rome Statute of the International Criminal Court.

43. Azerbaijan noted that Monaco is party to most of the key human rights treaties. However Azerbaijan joined the United Nations treaty bodies and the Europe Commission against Racism and Intolerance in recommending that Monaco (a) ratify (i) ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation and (ii) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Azerbaijan recommended that Monaco (b) consider ratifying the Optional Protocol to the Convention against Torture. Azerbaijan noted the level of cooperation of different State bodies with non-governmental organizations in Monaco. Azerbaijan recommended that Monaco (c) establish an independent national human rights institution and ensure that it complies with the Paris Principles. Azerbaijan further noted that some treaty bodies had expressed concern over the difference between legal requirements with respect to men and women while applying for nationality as well as over restrictions that prevent naturalized women from transmitting Monegasque nationality to their children after divorce. Azerbaijan therefore recommended that Monaco (d) ensure that relevant rules are applied equally irrespective of sex and adopt legislation to allow the transmission of nationality by naturalized Monegasque women to their children.

44. Turkey asked if Monaco had considered acceding to CPD.. Turkey commented that women make up 25 per cent of the National Council and enquired if the concerns of the Committee on Economic, Social and Cultural Rights regarding different legal conditions for men and women in terms of acquiring Monegasque nationality had been taken into consideration. It asked for more information on projects to set up an independent agency in charge of fighting against racism and racial discrimination, in line with the observations of the European Commission against Racism and Intolerance created by the Council of Europe. It also asked if that Commission's recommendation on the State's engagement to promote equality and the right for all not to be subjected to discrimination had been taken into account by Monaco. Turkey asked if the authorities planned to intensify their efforts to include human rights education in programmes. Finally, Turkey encouraged the authorities to take into account the recommendation Committee on Economic, Social and Cultural Rights to increase the financing to international aid to 0.7 per cent of its GDP.

45. Le chef de délégation monégasque s'est félicité de pouvoir apporter des réponses aux questions qui ont été posées. La Principauté de Monaco a signé le Statut de la Cour pénale internationale mais n'a pas procédé à sa ratification. Néanmoins, plusieurs études juridiques sont engagées pour comparer les dispositions de cet instrument avec les normes monégasques. Certaines contrariétés juridiques ont été relevées qui nécessitent la modification de la Constitution et de la loi, soit un processus long et complexe et une réforme de grande ampleur.

46. S'agissant de la Convention internationale pour la protection de toutes les personnes contre les disparitions forcées, la Principauté l'a signée mais l'ensemble des dispositions qu'elle comporte requiert une modification du droit monégasque. Des études sont en cours pour analyser la compatibilité entre cette Convention et le droit interne.

47. S'agissant du Protocole facultatif au Pacte international relatif aux droits civils et politiques, le fait que Monaco est parti au Pacte implique que ses dispositions sont incluses dans le droit monégasque, applicables et directement invocables devant les juridictions nationales. Les

décisions des juridictions monégasques attestent de l'importance accordée à ces dispositions. Enfin, les hypothèses prises en considération dans ce Protocole n'ont été ni constatées, ni alléguées sur le territoire monégasque.

48. Il n'existe pas d'institution nationale relative aux droits de l'homme et la délégation a pris en compte les recommandations des États à cet égard. Toutefois, il existe différents organes qui exécutent les fonctions dévolues à une telle institution. La Cellule des droits de l'homme a de multiples fonctions qui ont en commun la promotion des droits de l'homme: elle examine tous les projets de loi au regard des principes des droits de l'homme et formule des propositions; elle effectue des missions de formation et de sensibilisation aux droits de l'homme pour les fonctionnaires, les magistrats et les policiers; et elle contribue à la rédaction des rapports aux organisations internationales des droits de l'homme et des réponses posées par celles-ci. Par ailleurs, une sensibilisation aux droits de l'homme est organisée pour les élèves de terminale lors de la Journée mondiale des droits de l'homme.

49. Il existe également un médiateur auprès du Ministre d'État qui est chargé d'examiner les recours gracieux et de trouver une solution amiable fondée sur la légalité ou l'équité. La protection des droits de l'homme est assurée par le libre exercice des recours juridictionnels fondé sur une violation alléguée de dispositions du Pacte international relatif aux droits civils et politiques et ce, par toute personne résidant sur le territoire monégasque.

50. S'agissant des mineurs en conflit avec la loi, la Principauté de Monaco dispose d'une Maison d'arrêt qui est conçue pour accueillir des mineurs en détention (détention provisoire essentiellement). Il y a moins de 10 mineurs par an qui y sont incarcérés et pour une durée moyenne de moins de 28 jours. Le maximum d'arrangements sont apportés pour la protection des mineurs qui ne sont jamais en contact avec les majeurs et bénéficient de deux fois plus de temps de promenade que les majeurs. Des activités pédagogiques sont dispensées par les meilleurs professeurs de la Principauté selon le niveau scolaire des mineurs.

51. Eu égard à la liberté d'expression et aux attaques contre la famille souveraine ou le Prince Souverain, les autorités traitent ces questions en conciliant la liberté de la presse et la protection due à tout individu, notamment aux membres de la famille souveraine. La famille princière, comme tout individu, a le droit de faire respecter sa vie privée et son intégrité morale. Ainsi des poursuites ont pu être engagées mais elles sont rares et ont donné lieu à des peines de principe. Il en est de même pour les atteintes à la vie privée, comme l'affaire relative à la Princesse Caroline de Hanovre devant la Cour européenne des droits de l'homme le rappelle, qui a reconnu à la Princesse le droit à la vie privée.

52. La notion de bannissement est toujours inscrite dans le Code pénal mais cette sanction n'est jamais prononcée et est en voie d'être supprimée. Le refoulement du territoire est un acte administratif et non judiciaire pris par le Ministre d'État quand il s'agit de personnes condamnées de nouveau dans des affaires de violence aux biens et aux personnes. Il ne s'agit pas d'une politique qui concerne les migrations clandestines.

53. S'agissant des violences faites aux femmes, ce ne sont pas de délits spécifiques à l'heure actuelle et la Principauté a engagé un processus de réflexion pour créer de nouvelles infractions pour tous ceux qui, dans un foyer, pourrait être victimes de violence sans tenir compte des degrés de relations entre les personnes. Ce texte sera prochainement voté par le Parlement monégasque.

54. Pour les femmes victimes de violences, les autorités judiciaires veillent à sanctionner les coups et violences selon le droit commun pour l'instant. Il y a également une réponse sociétale qui consiste à faire cesser la cohabitation en proposant un soutien et, le cas échéant, un logement séparé lorsqu'il y a des coups et violences faites à l'encontre d'un des conjoints.

55. La Constitution consacre la priorité d'emploi reconnue aux monégasques, mais pour des aptitudes professionnelles comparables et elle reconnaît la liberté de travail pour les étrangers sans aucune différence de traitement. Parmi les étrangers, la loi accorde une priorité d'embauche à ceux résidant dans la Principauté. La composition de la population active de la Principauté montre que sur environ 45,000 salariés du secteur privé, 900 sont des ressortissants monégasques, ce qui atteste de la non-discrimination à l'encontre des étrangers. Tous les avantages sociaux liés au statut de salarié sont les mêmes quelle que soit la nationalité.

56. L'opposition de la Principauté de Monaco à une adhésion au BIT trouvait son origine dans le droit syndical mais une réflexion est engagée avec les syndicats pour sa modification, ce qui permettra d'aborder différemment la question de l'adhésion au BIT.

57. S'agissant de la Convention internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille, les chiffres susmentionnés peuvent rassurer quant à l'accès au travail des étrangers. L'inspection du travail effectue des contrôles réguliers pour faire respecter le droit du travail et lutter contre le travail non déclaré ou toute forme d'exploitation des étrangers. Une attention particulière est apportée à des ressortissants d'États peu représentés qui peuvent rencontrer des difficultés pour avoir accès au logement et la Principauté fait de son mieux pour les aider dans ce sens.

58. S'agissant de l'adhésion à la Convention relative aux droits des personnes handicapées, l'exiguïté du territoire a permis une prise en charge importante et de longue date des personnes handicapées. Il y a une volonté d'introduire dans les textes cette réalité dans un projet de loi cadre qui devrait être finalisé en 2009, ce qui permettra d'envisager l'adhésion à la Convention.

59. Depuis 2003, les femmes devenues monégasques par naturalisation peuvent transmettre cette nationalité à leurs enfants, ce qui n'est pas le cas pour les femmes ayant obtenu la nationalité par le mariage, une fois qu'elles sont divorcées ou séparées de leur conjoint. Ainsi, des réflexions sont en cours pour harmoniser les dispositions législatives sur cette question. De même des réflexions sont en cours pour permettre aux hommes mariés à une femme monégasque d'acquérir la nationalité de leur conjoint comme c'est le cas pour une femme étrangère mariée à un monégasque.

60. Enfin, la délégation monégasque a donné la définition des actes terroristes telle que contenue à l'article 391-1 de la loi 1318 du 29 juin 2006.

61. China noted that Monaco enjoys a generally healthy human rights situation. It has established a sound legal system and has taken many initiatives, such as protecting the rights of women, children, persons with disabilities and senior citizens; education; anti-racism; and the elimination of torture. It has actively promoted international cooperation in this regard. While affirming these achievements, China noted that some human rights mechanisms had expressed concern that Monaco had not passed domestic violence legislation. China asked if that legislation would be passed in the near future, and asked what measures Monaco would take to implement and raise awareness about this law among the general public.

62. Canada appreciated that women were generally well represented in the elected assemblies and the Government but noted that there were no women in the Government Council. Canada recommended that Monaco (a) consider steps to encourage the participation of women on the Government Council. While Canada noted with satisfaction that Monaco had taken active measures to protect women and children and to promote gender equality internationally, it recommended that Monaco (b) further strengthen its policy and programmatic response to address domestic violence against women. Canada agreed with the views of the Monegasque Economic and Social Council and recommended that Monaco (c) complete the reviews under way to update labour legislation, giving particular attention to issues of harassment in the workplace. Canada congratulated Monaco for its very active engagement in international discussions on, among other matters, assisting persons with disabilities and generally promoting an environment of freedom of expression and association, religion and belief.

63. The United Kingdom recognized that human rights values are enshrined in the Constitution and that Monaco had a good record of updating its constitutional and civil laws, in line with international bodies' recommendations. The United Kingdom welcomed recent revisions to the Criminal Code, which guarantee the rights of persons in police custody. It also welcomed progress made in pursuing the elimination of racism and discrimination with the introduction of legal measures in that regard and asked how Monaco evaluates their initial implementation. The United Kingdom noted the recent amendments to civil law which enable the establishment of associations with the Principality. The United Kingdom shared the concern of the Committee on Economic, Social and Cultural Rights on the different legal requirements for men and women to acquire Monegasque nationality. The United Kingdom recommended that Monaco (a) establish an independent national human rights institution, in accordance with the Paris Principles; and (b) sign and ratify the Optional Protocol to CAT.

64. Bangladesh noted with encouragement the number of policy and legal initiatives taken to protect vulnerable groups. Bangladesh regretted the absence of any specific information in the national report on the status of migrant workers or people with non-resident status. It also took note of the fact that many of the legal provisions specifically refer to Monegasques only, whereas the non-Monegasque communities constitute the majority of the population. It also noted discrimination against non-Monegasque citizens regarding their entitlement to social welfare benefits and housing rights. Bangladesh asked about the specific policy guidelines and institutional mechanism to protect the interests of migrant workers and about the latest situation regarding the repeal of banishment of foreigners. Bangladesh recommended, to reinforce the suggestions made by different treaty bodies, in keeping with its commitment to protect and promote human rights, that Monaco (a) consider establishing an independent human rights commission according to the Paris Principles. It also recommended that Monaco (b) make sustained efforts to realize its commitments to contribute to the achievement of internationally-agreed development goals by raising its aid financing to at least 0.7 per cent of its GDP.

65. Luxembourg asked about the status of the legislative procedure for the adoption of domestic violence legislation and about the psychological and other support available for victims of domestic violence. Luxembourg recommended that Monaco continue its efforts regarding domestic violence and to envisage specific training or awareness campaigns to inform the victims of domestic violence about their rights. With regard to human rights education, Luxembourg asked about specific activities to raise awareness and knowledge on human rights.

66. Germany noted that the recommendation issued by the Council of Europe in 2005, stating that the legal procedure of banishment of foreigners should be repealed from Monaco's

legislation and that procedural safeguards for the turning back and deporting of foreigners from the territory should be introduced. Germany asked for information about Monaco's position with regard to these recommendations and possible measures of follow-up. Germany recommended broadening criminal legislation regarding racist acts by considering racist motivations of criminal offences as an aggravating circumstance at the time of sentencing.

67. The Holy See noted that the Principality identified itself with the Catholic religion, as emphasized in the Constitution, and that the right to freedom of religion is guaranteed for all citizens. Cases of discrimination in this field have not been reported. The Holy See also indicated that Monaco introduced new abortion legislation last month and encouraged the Monegasque State not to cede to any undue pressures from other societies or organizations and to continue its stand in the defence of the right to life from natural conception to natural death. Finally, the Holy See asked the delegation to elaborate on the different actions it undertakes in favour of the most vulnerable and specifically of aged persons.

68. Argentina welcomed the adoption in 2005 of a law which punishes incitement to hatred and violence on grounds of race, nationality, religion or sexual orientation. Argentina asked if it is accompanied by public awareness-raising campaigns to prevent discrimination and recommended (a) the use of such campaigns if they have not yet been implemented. Whereas in Monaco there is an effective social system for wage earners and workers, family benefits are not included in social security regime which covers the self-employed workers. Argentina recommended that the State (b) provide adequate protection to all categories of workers and their families, including self-employed workers through the social security regime. Argentina recommended (c) ratification of a number of conventions inter alia, the Rome Statute of the International Criminal Court, the International Convention for the Protection of All persons against Enforced Disappearance and also recommended that Monaco (d) sign and ratify (i) ICRMW and (ii) the International Convention for the Protection of all persons with disabilities CPD.

69. The Czech Republic valued Monaco's support to international human rights mechanisms and to the rights of victims of torture. In that regard, the Czech Republic recommended that Monaco (a) include in its national criminal legislation a definition of torture in compliance with the provisions of CAT; (b) review its national legislation and practice so that they comply with the principle of non-refoulement and; (c) accede to the Optional Protocol to CAT. The Czech Republic also recommended that the State (d) provide its officials, judiciary and law enforcement officials with human rights training specifically focusing on the protection of human rights, in those particular of vulnerable groups, as well as on practical implications of the 2005 Law on freedom of public expression. Finally, the Czech Republic asked how human rights education was introduced into national school curriculums at all levels and into education programmes for teachers. The Czech Republic recommended that Monaco (e) include human rights education into the school curriculums and teachers education.

70. Ukraine commended the Government for participation in almost all core human rights treaties and in this respect it encouraged Monaco to continue its institutional and regulatory reforms in order to harmonize its national legislation with international human rights instruments. Ukraine noted that awareness-raising about human rights in schools, protection of the child, improving the daily lives of older persons and accessibility of person with disabilities are the main priorities of the Government of Monaco. In this regard, Ukraine encouraged the Government to strengthen its efforts in these spheres. It welcomed the fruitful cooperation

between Monaco's authorities and non-governmental human rights organizations and associations, particularly in the context of the protection of the rights of the child.

71. San Marino noted the high quality of medical care provided by Monaco and asked if and how access to it is ensured to everyone, in particular low income individuals and families, non-nationals and border workers who are very numerous in Monaco. San Marino stated that it was a fundamental issue, as sometimes the lack of effective and comprehensive access to health services is due to budgetary restrictions and to organizational problems and not to a discriminatory policy. San Marino noted that the experience of Monaco in this regard is of great interest.

72. Morocco thanked Monaco for having made of Morocco a priority country among those benefiting from support programmes, giving support to income-generating activities for women. Morocco also welcomed the particular interest that Monaco was giving to combating racism and intolerance, including through information systems like the Internet. The legislative measures in this area set a good practice for other countries. Morocco welcomed the measures to follow up on the recommendations of the Human Rights Committee, considering the adoption of specific legislation on domestic violence. Morocco considered that the Economic and Social Council for Young People established in 2007 is an innovative initiative in the area of education and the right to participation. In this context, it asked for more information on this experience. Finally, Morocco recommended that Monaco shares its experience with other countries concerning preventive measures against affront to human dignity and against racism as mentioned in paragraphs 110 and 111 of the national report.

73. Singapore noted the generally positive climate among the different communities in Monaco, where violent racist acts are virtually absent. It also noted that while Monaco's criminal legislation does not provide for sanctions against attacks motivated by racial hatred, nor for racist motivation to be considered an aggravating circumstance at the time of sentencing, in practice, racist acts can be punished based on offences covered by common law, and the racist nature would justify the pronouncement of an aggravated sentence. Singapore lauded the tabling of a draft bill on offences involving information systems in that regard. Singapore welcomed Act 1299 of 2005 with specific legal measures to combat racism and intolerance. Singapore further indicated it fully shared Monaco's views on how a State determines the issues of naturalizations which is well within the preserve of its exercise of national sovereignty and cannot constitute discrimination.

74. The Philippines noted with satisfaction the various steps and measures which Monaco has undertaken to promote and protect the rights of its citizens as well as the foreigners who live and work in the Principality. The Philippines recommended that the Principality of Monaco (a) consider signing and ratifying the International Convention on the Rights of All Migrant Workers and Members of their Families. It also recommended that (b) Monaco share with the members of the international community its best practices and policies and programmes, including educational programmes, with respect to women, children, older persons and persons with disabilities.

75. La délégation monégasque a apporté des compléments d'information. Depuis la rédaction du rapport, il y a une femme au sein du Gouvernement, soit une proportion de 20 pour cent. Par ailleurs, s'agissant des personnes âgées, il existe une politique ancienne pour leur garantir des revenus pour leur permettre de vivre décemment. Il y a une filière de prise en charge gériatrique pour permettre aux personnes âgées de rester chez elles aussi longtemps qu'elles le souhaitent

avec les aides financières nécessaires. Lorsqu'elles doivent quitter leur domicile, il y a une prise en charge graduée dans des établissements selon leurs besoins. Elles peuvent accéder à tous les établissements quel que soit le niveau de revenu.

76. Eu égard à l'accès aux soins, un dispositif atypique pour les assurés sociaux du régime monégasque a été mis en place : 65 pour cent des assurés sociaux sont garantis de ne pas avoir de dépassements d'honoraires en raison de leurs revenus faibles. Tous les assurés sociaux vivant en France voisine accèdent aux soins dans la Principauté.

77. S'agissant de la formation et de la sensibilisation aux droits de l'homme, la délégation a rappelé ce qu'elle avait présenté préalablement s'agissant des formations spécifiques pour les praticiens du droit, les policiers et le personnel de la sûreté publique ainsi que les sensibilisations pour les lycéens.

78. Pour conclure, la délégation a présenté l'initiative menée à bien avec le concours de la société civile, notamment la Croix-Rouge monégasque, pour sensibiliser les collégiens et lycéens au droit international humanitaire au travers de jeux.

79. La délégation monégasque a remercié l'ensemble des participants.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

80. The recommendations formulated during the interactive dialogue have been examined by Monaco and the recommendations listed below enjoy the support of Monaco:

1. Sign and ratify the United Nations Convention on the Rights of Persons with Disabilities (Italy, Argentina) as soon as possible (Italy);
2. Amend privacy legislation so as to bring it in line with recommendations on video surveillance of 11 March 2009 by the Human Rights Commissioner of the Council of Europe (Netherlands);
3. Use public awareness-raising campaigns to prevent discrimination, if they have not yet been implemented (Argentina);
4. Within the context of item e) of Human Rights Council resolution 9/12, ensure that the system of priorities in the employment sector does not imply discrimination on the grounds of race, color, nationality, religion, language or ethnic or national origin (Brazil);
5. Broaden criminal legislation regarding racist acts by considering racist motivations of criminal offences as an aggravating circumstance at the time of sentencing (Germany);
6. Continue efforts to ensure men and women the same legal rights in all areas of legislation, including those related to marriage and requirements to acquire Monegasque nationality (Sweden);
7. Amend the provision of the Civil Code stating 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” so as to put an end to this form of discrimination in terms of property succession (Congo);
8. Make the conditions for acquiring and transferring nationality the same for men and women (Congo);
 9. Ensure that relevant rules are applied equally irrespective of sex and adopt legislation to allow the transmission of nationality by naturalized Monegasque women to their children (Azerbaijan);
 10. Further strengthen its policy and programmatic response to address domestic violence against women (Canada);
 11. Envisage specific training or awareness campaigns to inform the victims of domestic violence of their rights (Luxembourg);
 12. Provide State officials and judiciary and law enforcement officials with human rights training specifically focusing on the protection of human rights, in particular those of vulnerable groups, and on the practical implications of the 2005 Law on freedom of public expression (Czech Republic);
 13. Abolish banishment in view of its inhumane character (Congo);
 14. Consider steps to encourage the participation of women in the Government Council (Canada);
 15. Complete the reviews under way to update labour legislation, giving particular attention to issues of harassment in the workplace (Canada);
 16. Provide adequate protection to all categories of workers and their families, including self-employed workers through the social security regime (Argentina);
 17. Include human rights education in the school curricula and teachers’ education (Czech Republic);
 18. Review its national legislation and practice so that they comply with the principle of non-refoulement (Czech Republic);
 19. Take further measures to ensure that the definition of terrorist acts in Monaco is in line with its human rights obligations (Sweden);
 20. Share its experience with other countries concerning preventive measures against affronts to human dignity and against racism as mentioned in paragraphs 110 and 111 of the national report (A/HRC/WG.6/5/MCO/1) (Morocco);
 21. Share with the members of the international community its best practices and policies and programmes, including educational programmes, with respect to women, children, older persons and persons with disabilities (Philippines);

22. Pursue and strengthen the financial support it is already providing for the fight against poverty in developing countries (Algeria);
23. Make sustained efforts to realize its commitments to contribute to the achievement of internationally-agreed development goals by raising its aid financing to at least 0.7 per cent of its GDP to reinforce the suggestions made by different Treaty Bodies (Bangladesh).

81. The following recommendations will be examined by Monaco, which will provide responses in due time. The responses of Monaco to these recommendations will be included in the outcome report adopted by the Human Rights Council at its twelfth session.

1. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance(CED), signed by Monaco in 2007 (France);
2. Accede to (France)/Consider ratifying (Slovenia) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
3. Join the International Labour Organization (ILO) and accede to relevant ILO conventions (Algeria);
4. Become a member of ILO and ratify its conventions, in particular, Convention N° 111 concerning discrimination in respect of employment and occupation (Mexico);
5. Consider ratifying the Rome Statute of the International Criminal Court (Slovenia);
6. Ratify ILO Convention No. 111 as recommended by the United Nations treaty bodies and the European Commission against Racism and Intolerance (Azerbaijan);
7. Consider ratifying (Azerbaijan)/Sign and ratify (United Kingdom)/Accede to (Czech Republic) the Optional Protocol to the Convention against Torture (OP-CAT);
8. Ratify a number of conventions, inter alia, the Rome Statute of the International Criminal Court and the CED (Argentina);
9. Establish an independent national human rights institution and ensure that it complies with the Paris Principles (Azerbaijan) / in accordance with the Paris Principles (United Kingdom);
10. In keeping with its commitment to protect and promote human rights, consider establishing an independent human rights commission according to the Paris Principles to reinforce the suggestions made by different Treaty Bodies (Bangladesh);
11. Include in its national criminal legislation a definition of torture in compliance with the provisions of the CAT (Czech Republic);

82. The recommendations noted in paragraphs 31 (b), 33 (a), 37, 38 (b), 43 (a)(ii), 68 (d)(i) and 74 (a) above did not enjoy the support of Monaco:

1. With regard to the recommendations in paragraphs 31 (b) (Algeria), 38 (b) (Mexico), 43 (a)(ii) (Azerbaijan), 68 (d)(i) (Argentina) and 74 (a) (the Philippines), Monaco indicated that the International Convention on the Rights of All Migrant Workers and Members of their Families does not appear to be adapted to the realities of the country. It recalled that the right to health and the right to education are fully vested to persons working in Monaco who do not have Monegasque nationality. Specific support measures, notably related to housing, are foreseen for the most vulnerable people and strict working condition controls are implemented to prevent any kind of exploitation. Measures which have been adopted so far do respond to the purposes of the Convention.
2. With regard to the recommendation in paragraph 33 (a) (the Netherlands), Monaco indicated that civil and political rights (right to be elected and to vote) belong only to persons with Monegasque nationality all the more so as the latter are demographically a minority. Nevertheless, foreigners participate in public life through their representation in the Economic and Social Council and through the various associations in charge of defending their interests, and as such, are entitled to interact with public authorities.
3. With regard to the recommendation in paragraph 37 (United States), Monaco indicated that freedom of expression (in particular press freedom) is fully guaranteed in the country without prejudice to the right of the Royal Family to protect itself against insult and intrusion of privacy. Moreover, this right was recognized at the international level by the European Court of Human Rights. The recommendation in paragraph 37 can only be rejected, as no law modification is required. Freedom of expression is indeed already guaranteed.

83. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

Annex

COMPOSITION OF THE DELEGATION

La délégation de Monaco était dirigée par S.E. Monsieur Franck Biancheri, Ministre Plénipotentiaire Conseiller de Gouvernement pour les Relations Extérieures et pour les Affaires Economiques et Financières Internationales et composée de 13 membres:

S.E. Monsieur Franck BIANCHERI, Ministre Plénipotentiaire Conseiller de Gouvernement pour les Relations Extérieures et pour les Affaires Economiques et Financières Internationales, Chef de Délégation ;

Monsieur Philippe NARMINO, Directeur des Services Judiciaires ;

S.E. Monsieur Robert FILLON, Ambassadeur Représentant Permanent de la Principauté de Monaco auprès de l'Office des Nations Unies ;

Madame Mireille PETTITI, Directeur General Département des Relations Extérieures ;

Madame Agnès PUONS, Directeur General Département des Affaires Sociales et de la Santé ;

Mademoiselle Carole LANTERI, Conseiller, Représentant Permanent adjoint de la Principauté de Monaco auprès de l'Office des Nations Unies ;

Monsieur Bernard GASTAUD, Conseiller aux Affaires juridiques et internationales Département des Relations Extérieures ;

Mademoiselle Laurence CODA, Chargé de Mission Département de l'Intérieur ;

Monsieur Jean Laurent RAVERA, Administrateur Département des Relations Extérieures ;

Madame Stéphanie TORRANI, Administrateur Département des Relations Extérieures ;

Mademoiselle Antonella SAMPO, Administrateur Direction des Services Judiciaires ;

Monsieur Alexandre JAHLAN, Troisième Secrétaire De la Mission permanente de la Principauté de Monaco auprès de l'Office des Nations Unies ;

Monsieur Gilles REALINI, Troisième Secrétaire de la Mission permanente de la Principauté de Monaco auprès de l'Office des Nations Unies.
