

**Council of Europe contribution for the 17th UPR session
regarding Monaco**

Prevention of torture

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a second visit to the Principality of Monaco at the end of November 2012. This visit provided an opportunity to assess the practical implementation of the recommendations made by the CPT after its first visit in 2006. The Monegasque authorities have not yet requested the publication of the report on the CPT's visit in 2012.

Fight against racism and intolerance

On 8 February 2011 the Council of Europe's European Commission against Racism and Intolerance (ECRI) released its fourth report examining racism, xenophobia, antisemitism and intolerance in Monaco (attached below).¹

ECRI's Chair, Nils Muiznieks said that although there have been improvements, additional action is needed such as the consolidation of the legislative framework in the field of protection against discrimination.

A new law adopted in 2008 guarantees freedom of association without differentiating between citizens and non-citizens. Legislative reform is planned to address existing shortcomings in the transmission of nationality. A draft law on employment contracts and public service is under discussion and is expected to protect non-Monegasque workers more effectively. The Commission for monitoring personal information has been functioning since 2009 as an independent administrative authority.

At the same time, no guarantees against racial discrimination have been introduced in the area of civil and administrative law; no follow-up has been given with regard to the ECRI's recommendation to introduce a specific provision in criminal law that would make the racist motivation of an ordinary offence an aggravating circumstance; there is no legal obligation to provide reasons for decisions relating to nationality and settlement in Monaco.

Some institutions do not enjoy the necessary independence: the Ombudsman is under the direct authority of the Minister of State; and the General Inspectorate of Police works under the instructions of the Directorate General of Public Safety.

The report contains findings and recommendations regarding the following issues:

- I. Existence and implementation of legal provisions²
- II. Discrimination in various fields including employment, housing, social and medical assistance³
- III. Racist violence⁴
- IV. Climate of opinion and media (including internet)⁵
- V Non-citizens, dialogue with religions and participation of foreigners in public life⁶
- VI. Monitoring racism and racial discrimination⁷

¹ A summary of the report can be found on pp. 7-9.

² paras 2-56.

³ paras 57-83.

⁴ para 84.

⁵ paras 85-92.

⁶ paras 93-105.

- VI. Education and awareness-raising⁸
- VII. Conduct of law enforcement officials⁹

In its report, ECRI makes a number of recommendations¹⁰, among which the following three will be revisited in two years' time¹¹:

- Bridge the legislative gaps in the field of protection against discrimination;
- Enshrine the independence of the institution of Ombudsman in legislation;
- Continue efforts as regards human rights training for judicial staff and police officers.



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Council of Europe Commissioner for Human Rights

On 11 March 2009 the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, released the report from his visit to Monaco in October 2008.

The report focuses on the following selected human rights issues¹²:

- I. System of human rights protection¹³
- II. Operation of the Monegasque judicial system¹⁴
- III. Rights of nationals and foreigners resident in Monaco¹⁵
- IV. Persons needing special protection¹⁶
- V. Freedom of assembly and respect for private life¹⁷
- VI. Custodial institutions¹⁸

Assessing the overall human rights situation, the Commissioner for Human Rights sets out recommendations to address shortcomings, mainly in the field of the judiciary, domestic violence, children's rights, discrimination, privacy and conditions of detention.¹⁹

In presenting his report to the Principality the Commissioner said that "Monaco has made considerable progress in strengthening human rights protection. More efforts are now needed, in particular to overcome possible discriminatory situations and increase privacy protection".

"The judicial process could be further improved by instituting new procedures, especially to give victims better protection, and reviewing criminal laws that are obsolete or inadequate" said the Commissioner. "Court decisions should be more transparent and legislation should be adopted to

⁷ paras 106-113.

⁸ paras 114-120.

⁹ paras 121- 126.

¹⁰ paras 7-8, 15-17, 19-20, 26-27, 34-36, 39, 44-45, 51, 56, 65, 67, 69, 72, 78-79, 83, 90-92, 97-98, 102, 105, 108, 112, 118-120, 125-126.

¹¹ p. 31.

¹² A summary of the report appears on p. 3.

¹³ Section I, paras 6-16.

¹⁴ Section II, paras 17-29.

¹⁵ Section III, paras 30-54.

¹⁶ Section IV, paras 55-64.

¹⁷ Section V, paras 65-68.

¹⁸ Section VI, paras 69-77.

¹⁹ Section VII.

safeguard and strengthen the independence of judges. The authorities must also swiftly establish an independent body responsible for judges' recruitment, transfer and appraisal."

Commissioner Hammarberg was concerned about the fact that differing rights are granted to native Monegasques, foreign residents, inhabitants of border communes and non-resident foreigners. "Legislation should not discriminate foreigners, in particular regarding employment and taxation. The authorities should make the law on acquiring and transmitting nationality non-discriminatory and review as a matter of priority the legislation that results in cases of statelessness."

Furthermore, the Commissioner recommended enhancing the protection of victims of domestic violence and incorporating the principles of children's best interest and participation in national law, stressing the urgent need to recognise and safeguard the special status of children and their need for protection, including in criminal cases.

On privacy, Commissioner Hammarberg noted that the widespread use of CCTV should be counter-balanced by an increased protection of individuals' privacy, in particular by adopting a law clearly regulating CCTV use, data retention time and persons authorised to view the footage. He also underlined that although efforts were made by the Monegasque authorities to improve conditions of detention, problems still remain. "Conditions of detention in the prison should be improved, in particular by providing more activities and access to daylight. Both untried and convicted prisoners should be allowed to make more use of the telephone and minors should be granted access to a wider range of activities."

Finally, the Commissioner recommended improving the living conditions of persons with disabilities, enhancing the protection of social rights and establishing an independent human-rights structure able to deal effectively with complaints from individuals.

Attached below is the Commissioner's report from his visit in October 2008 with the comments received thereto from the Monegasque authorities.



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Monaco.pdf

Protection of minorities

Monaco has not yet signed nor ratified the Framework Convention for the Protection of National Minorities. For this reason, it not yet concerned by the monitoring procedure undertaken by the Council of Europe Advisory Committee on this convention.

Monaco has signed but not yet ratified the European Charter for Regional or Minority Languages. Thus, the country is not yet covered by the monitoring procedure set up under the charter.

Social and economic rights

Monaco signed the Revised European Social Charter on 5 October 2004 but has not yet ratified it. Therefore the country is not covered by the monitoring procedure carried out by the European Committee of Social Rights.

Action against trafficking in human beings

Monaco has not yet signed nor ratified the Council of Europe Convention on Action against Trafficking in Human Beings. Thus the country is not yet covered by the monitoring procedure set up under the convention.

Preventing and combating violence against women and domestic violence

Monaco has signed but not yet ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. For this reason, it is not yet concerned by the monitoring procedure which to be carried out once the convention enters into force.