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Agenda item 6

Universal periodic review

### Report of the Working Group on the Universal Periodic Review\*

#### Monaco

#### Addendum

#### Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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\* The present document was not edited before being sent to the United Nations translation services.



## **Introduction**

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1, held its thirty-first session from 5 to 16 November 2018. The review of Monaco was held at the 11th meeting, on 12 November 2018.
2. The Principality of Monaco takes note of the recommendations made during its third review.
3. In accordance with paragraphs 27 and 32 of the annex to resolution 5/1 and paragraph 16 of the annex to United Nations General Assembly resolution 65/281, this addendum contains information provided by Monaco regarding its position on the recommendations received.
4. During the preparation of the report of the Working Group on the Universal Periodic Review, adopted on 15 November 2018, the Principality of Monaco stated that it supported 72 of the 113 recommendations made.
5. Furthermore, the Principality of Monaco also indicated that it noted 35 recommendations.
6. Finally, the Principality of Monaco did not express a position to the Working Group on the Universal Periodic Review on six recommendations.

## **Comments by the Principality of Monaco regarding the recommendations which enjoyed its support during the preparation of the report of the Working Group (A/HRC/40/13, para. 76)**

7. The Principality of Monaco wishes to provide some details on the recommendations accepted, particularly those which have already been implemented.

## **Recommendations 76.7 to 76.10 on the establishment of an interministerial committee for the promotion and protection of women's rights**

8. The Interministerial Committee for the Promotion and Protection of Women's Rights has been established pursuant to Sovereign Ordinance No. 7,178 of 25 October 2018. The inaugural session of the Committee was held on 30 November 2018 in Monaco.
9. Reporting to the Minister of State and headed by the Minister of Foreign Affairs and Cooperation, the role of the Committee is to coordinate, implement, monitor and assess the national policies and measures adopted in order to promote gender equality and to prevent and combat all forms of violence and discrimination against women.
10. These forms of violence and discrimination include those covered by the following conventions:
  - Convention on Action against Trafficking in Human Beings, concluded in Warsaw on 16 May 2005
  - Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, concluded in Istanbul on 11 May 2011
  - Convention on the Elimination of All Forms of Discrimination against Women, adopted in New York on 18 December 1979
11. The Committee includes representatives from the Ministries, relevant government departments and the Department of Justice, as well as the Chief Officer for Women's Rights.

12. The Chief Officer, appointed pursuant to Ministerial Order No. 2018-1006 of 25 October 2018, is responsible for monitoring the implementation of the Committee's decisions and guidelines. She carries out her duties cross-functionally, liaising directly with the competent entities.

13. The Committee's work involves representatives of institutional entities, the High Commissioner for the Protection of Rights, Liberties and for Mediation and representatives of associations registered under Act No. 1,355 of 23 December 2008 with the following aims: promotion of women's rights and place in society; combating gender-based discrimination and domestic violence against women; receiving, informing, advising and defending the interests of victims of crime.

14. The Committee may appoint any qualified person working in the area or carrying out a relevant professional or voluntary activity.

### **Recommendations 76.31 to 76.35 on equal access to education, including for deaf-mute and visually impaired persons**

15. The Principality of Monaco wishes to emphasize that equal access to education is ensured under the Education Act of 12 July 2007.

Article 3 of the Act stipulates that:

*Education is compulsory for all children of either sex between 6 and 16 years of age who are:*

1. *Monegasque nationals*
2. *Foreign nationals whose parents or legal representatives are resident or lawfully established in Monaco or who are in the custody of a natural or legal person resident or lawfully established in Monaco*

16. The figures for the 2015/16 academic year demonstrate that girls and boys have equal access to education. The educational establishments of Monaco taught:

- Female students – 3,449
- Male students – 3,387

17. There is no discrimination, either generally, in any area, or specifically, against girls. Guided by the democratic principles of equality, openness and tolerance (characteristics of a country governed by the rule of law, as enshrined in article 2 of the Constitution), integration through education for all is ensured as far as possible.

18. Furthermore, for persons with visual and/or auditory impairments, Monaco implements an extensive support policy through individual school integration projects, including classes taught by a specialized teacher who assists the teachers assigned to the student's class (these receive specific training to meet the special needs of their students).

### **Recommendation 76.54 on the promotion of women's rights, including ensuring access to sexual and reproductive health services**

19. Monaco has several health services working in the field of sexual and reproductive health, which are easily and freely accessible to women.

20. For example, the Centre for Prenatal Coordination and Family Support aims to inform and support pregnant women in the areas of sexual health (screening, protection, etc.) and reproductive health (contraception, reproduction, etc.).

21. More broadly, the specialized services of the Mother and Baby Unit at the Princess Grace Hospital (covered by health insurance) also work in the field.

22. The Monaco Health Screening Centre also plays a major role by providing quick, free and anonymous screening. It offers many screening procedures, including for breast cancer, cervical cancer and osteoporosis.

### **Recommendation 76.62 on access for foreign children to health services of the same quality as Monegasque children**

23. In Monaco, health care is accessible to all without any distinction, including both sexes and all age groups. This means that any child who is resident in Monaco will have access to the same health services, regardless of his or her nationality.

24. Moreover, the children of any employee who is entitled to Monegasque health insurance (including foreign nationals and workers who are resident abroad) will also be covered by Monegasque health insurance, as a dependent of the beneficiary.

### **Recommendations 76.63 to 76.66 on the prohibition of corporal punishment of children**

25. Following on from the information provided during the interactive dialogue, the Principality of Monaco indicates that, on 3 December 2018, bill No. 984 on the amendment of some provisions on penalties was introduced in the National Council.

26. Under the amendments set out in this bill, in addition to the offences of violence against a spouse, against a person living under the same roof or against a vulnerable or dependent person, already provided for in article 238-1 of the Criminal Code, violence that does not cause total incapacity to work, when committed against a minor, would also be considered a serious offence.

### **Responses from the Principality of Monaco regarding the pending recommendations (A/HRC/40/13, paras. 77.1 to 77.6)**

#### **Recommendations 77.1 to 77.6 on the Office of the High Commissioner for the Protection of Rights, Liberties and for Mediation**

27. The Principality of Monaco notes these recommendations.

### **Comments by the Principality of Monaco regarding the recommendations which it noted during the preparation of the report of the Working Group (A/HRC/40/13, para. 78)**

#### **Recommendation 78.1 and 78.3 on ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

28. The specific conditions pertaining in Monaco, related to the priority given to nationals in employment and housing, do not currently allow for ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

29. However, it should be noted that the small size of the country, along with the checks made by the Labour Inspectors and surveillance by the Police Department, make it highly unlikely that undocumented persons are present in Monaco.

30. Finally, the Principality of Monaco recalls that non-Monegasque workers enjoy full rights to health and education. Targeted support measures to help the most vulnerable people are in place and rigorous inspections of working conditions are carried out to prevent any form of exploitation.

### **Recommendations 78.1, 78.12, 78.13, 78.14 and 78.15 on ratification of the Rome Statute of the International Criminal Court**

31. The Principality of Monaco indicates that ratification of the Rome Statute would require a complete overhaul of several elements of its legal framework, including the Constitution, the Criminal Code and the Code of Criminal Procedure.

32. Even so, Monaco is committed to cooperating with the International Criminal Court, on a case-by-case basis, on matters on which the Court might request its collaboration.

33. Monaco has already responded to a request for assistance from the Prosecutor of the International Criminal Court. On the basis of article 87 (5) (a) of the Rome Statute, Monaco cooperated with the Court pursuant to a letter of request regarding a person being prosecuted on charges of crimes against humanity and war crimes.

34. The investigations requested did not concern evidence of the offences for which charges had been brought, but rather provisional and reparation measures that could be ordered in the interests of the victims.

35. The documents produced in response to the request for assistance were transmitted with a reservation of specialty to the effect that the information contained in the documents cannot be used or transmitted for purposes other than those specified in the request.

### **Recommendations 78.2 and 78.6 on ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

36. Monaco acceded to the above-mentioned Convention on 6 December 1991. It was brought into force for Monaco by Sovereign Ordinance No. 10,542 of 14 May 1992 and is therefore fully part of the body of Monegasque legal instruments which Monegasque judges may invoke.

37. Article 20 of the Constitution expressly prohibits cruel, inhuman or degrading treatment.

38. The establishment of an independent body to monitor prisons and other places of deprivation of liberty as a tool for the prevention of ill-treatment seems inappropriate to the situation of Monaco.

39. In particular, the country has only one prison, which holds on average between 20 and 30 prisoners serving short sentences. It is not, strictly speaking, a detention centre.

40. Furthermore, conditions of detention are already monitored by the follow-up mechanisms of international organizations such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Committee against Torture.

41. No cases of ill-treatment or situations of poor material conditions have been identified or even alleged.

42. Therefore, Monaco cannot make a commitment to ratify the Optional Protocol in question.

43. However, the Government plans to conduct an impact assessment on its potential ratification.

### **Recommendations 78.4 and 78.5 on ratification of the International Convention for the Protection of All Persons from Enforced Disappearance**

44. Monaco signed the International Convention for the Protection of All Persons from Enforced Disappearance on 7 February 2007, but a subsequent review of the Convention's provisions revealed constitutional and legislative incompatibilities with the provisions of Monegasque law.

45. However, Monaco indicates that a more in-depth study on the ratification of this Convention is under way.

### **Recommendations 78.7, 78.8 and 78.10 on the Optional Protocol to the International Covenant on Civil and Political Rights**

46. The Government plans to conduct an impact assessment on the potential ratification of the Optional Protocol.

### **Recommendations 78.18 and 78.19 on accession to the International Labour Organization and some of its Conventions**

47. Accession to the International Labour Organization and some of its Conventions raises the question of compatibility with trade union rights in Monaco and the system of priority in employment.

48. However, Monaco recalls that the Constitution and the legislation and regulations in force in Monaco contain no discriminatory provisions on the grounds of race, colour, sex, language or religion. Monegasque nationals are given priority in employment solely for the purpose of their protection, as they are a minority in their country.

### **Recommendation 78.29 on freedom of expression and decriminalizing speech critical of the ruling family**

49. The law against insulting the Prince (Criminal Code, arts. 58 to 60), which is by no means an exception when compared to legislation in the vast majority of European monarchies, is integral to the status of the Monegasque Head of State. In a sense, it constitutes the equivalent in terms of freedom of the press to the immunity from prosecution enjoyed by the Sovereign Prince.

50. Very few sentences have been handed down based on these provisions in recent years. Furthermore, in most of those cases, the defendants were convicted of the offences concurrently with other charges, including threats, rebellion and damage to public property.

51. It should further be noted that none of the proceedings for insulting the Prince, which aim only to preserve the institution of the office of Head of State, occurred in the context of a political debate and none were against journalists or media outlets.

52. In this regard, and as the Monegasque authorities indicated to the Human Rights Committee in 2016, a general instruction on criminal policy was sent by the Secretary of Justice to the Public Prosecutor regarding application of the above-mentioned articles of the Criminal Code, and reiterating that they must be applied strictly in accordance with article 10 of the European Convention on Human Rights and article 19 of the International Covenant on Civil and Political Rights, given that these criminal provisions, which do not in themselves contravene the European Convention on Human Rights, are designed to punish insults to the monarch and his family and in no way to prevent the “free discussion of questions of public interest” referred to in the case law of the European Court of Human Rights.

### **Recommendation 78.34 on amendment of article 262 of the Criminal Code to ensure that the definition of rape is based on the lack of freely given consent**

53. A lack of consent is already implied by the definition of rape given in article 262 of the Criminal Code, which mentions the use by the perpetrator of violence, coercion, threats or surprise. Accordingly, Monaco does not intend to amend the offence of rape in this regard.