



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Eighty-second session

Summary record of the 2174th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 8 April 2025, at 10 a.m.

Chair: Mr. Heller

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* No summary record was issued for the 2173rd meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States Parties under article 19 of the Convention

Seventh periodic report of Monaco (CAT/C/MCO/7; CAT/C/MCO/QPR/7)

1. *At the invitation of the Chair, the delegation of Monaco joined the meeting.*
2. **A representative of Monaco**, introducing his country's seventh periodic report (CAT/C/MCO/7), said that the Government had undertaken an in-depth review with a view to incorporating into national law a definition of torture that fully complied with article 1 of the Convention. A bill currently being drafted provided for a number of major advances, in particular the non-applicability of any statute of limitations to the crime of torture, the inadmissibility of invoking superior orders to justify acts of torture and the total prohibition of the use of evidence obtained under duress. In 2023, the Government had established a new system of compensation for victims of serious offences, which guaranteed rapid and effective compensation when the perpetrators were insolvent. To ensure effective access to the right to compensation, the courts were obliged to inform victims of the possibility of using the system.
3. The country's only place of detention, the *maison d'arrêt*, was subject to permanent judicial oversight to guarantee conditions of detention that respected fundamental rights. In recent years, significant improvements had been made in the prison to provide a more suitable living environment for prisoners. Cells had been renovated to let in more natural light and a new exercise yard and activity room equipped with sports and games equipment had been provided. A body scanner had been introduced to limit the use of body searches, thus ensuring a better balance between security requirements and respect for fundamental rights. The visiting regime had been significantly improved, allowing for more visiting time. A new special regime governed the exceptional measures applicable to particularly closely supervised prisoners and the criteria for inclusion in the corresponding register.
4. The incarceration of minors remained an exceptional measure. To encourage the use of alternatives, where criminal proceedings had been initiated and it was in the minor's best interests, the case could be dismissed and more appropriate measures considered, such as the completion of an educational course or an activity at a social care facility. That ensured a more balanced approach to justice, with due regard given to the rehabilitation and well-being of young people in conflict with the law.
5. The safeguards applicable to police custody had been strengthened. Anyone placed in police custody had the immediate right to information and assistance from a lawyer and benefited from permanent judicial supervision of their detention and audiovisual recording of questioning, thus guaranteeing the transparency of procedures. Since 2022, the right to legal counsel had been strengthened in cases where police custody was extended, offering additional protection to those concerned.
6. The Monegasque Institute for Training in the Legal Professions, established in 2021 in collaboration with the French National School for the Judiciary and other specialized institutions, provided regular training on international standards relating to respect for fundamental rights. The public security forces were regularly made aware of best practices, particularly with regard to the treatment of persons deprived of their liberty. In addition, the State ensured independent monitoring of respect for fundamental rights within its prison system. The Office of the High Commissioner for the Protection of Rights and for Mediation played a key role in monitoring by facilitating direct reporting of allegations of ill-treatment. Prisoners were allowed to call the Office directly once a day, including when placed in a disciplinary cell.
7. **Mr. Rouwane** (Country Rapporteur) said that he would be grateful for an explanation concerning the absence of other stakeholders, such as civil society and the national institution for the promotion and protection of human rights, from the current meeting.
8. The Committee was concerned about the long delay in the implementation by the State Party of its recommendations concerning the legal definition of torture, bearing in mind that the issue had been under discussion since Monaco had ratified the Convention in 1991. He

hoped that the delegation was in a position to inform the Committee of the outcome of the review undertaken and the progress made in adopting a definition that was in line with the Convention. He would be interested to hear about cases in which the Convention or other United Nations human rights treaties had been referred to in judicial decisions. In particular, he would be interested to learn how the Monegasque courts interpreted the terms “torture” and “cruel, inhuman or degrading treatment”, whether the Criminal Code provided that the use of torture or cruel, inhuman or degrading treatment was an aggravating factor in the commission of other offences and whether that aggravating factor had ever been applied in sentencing.

9. He would welcome information on the outcome of the discussion, mentioned in paragraph 4 of the State Party’s report, of the possibility of amending article 60-7 of the Code of Criminal Procedure to ensure that all detainees, regardless of the type of offence, had the right to inform a person of their choice of their detention from its outset. He also wished to learn more about the measures taken in law and in practice to ensure that all persons deprived of their liberty enjoyed all safeguards for the prevention of torture from the outset of their detention. It would be useful to hear about the implications of article 1 of Act No. 1.378 of 18 May 2011 on legal aid and lawyers’ fees; in particular, he wished to know whether victims in cases involving allegations of torture or ill-treatment benefited from legal aid.

10. Given that the Office of the High Commissioner for the Protection of Rights and for Mediation did not have a specific mandate to provide protection against human rights violations, he wished to know how the Office was equipped to deal with serious violations, such as torture or ill-treatment, and to assist persons claiming to be victims of such acts perpetrated by civil servants or public officials. He would also be grateful for the delegation’s comments on the fact that the Office did not appear to have the authority to conduct investigations, publish studies or formulate opinions on draft legislation on its own initiative.

11. He would appreciate information on the conclusions of the impact study announced by the State Party on the possibility of ratifying the Optional Protocol to the Convention, as requested in paragraph 4 of the list of issues prior to submission of the seventh periodic report ([CAT/C/MCO/QPR/7](#)), and he would be interested to learn precisely why the State Party was hesitant to ratify the Optional Protocol. He also wished to know whether the State Party planned to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

12. The Committee remained concerned about some aspects of the organization and work of the High Council of the Judiciary, including its composition, the lack of transparency of its activities and the limited authority it enjoyed over judicial appointments and careers. The Director of Judicial Services still played a significant role in the Council’s operation and retained the power to initiate disciplinary proceedings and suspend judges, which raised questions about executive interference. Moreover, public prosecutors remained under executive authority. He would welcome the delegation’s comments on those issues.

13. He would welcome up-to-date information on the number of persons returned, extradited or expelled, any asylum and extradition cases, the signing of any extradition treaties containing provisions relating to torture and any requests for mutual legal assistance in cases of torture. Given the Committee’s continuing concern about the uncertain legal basis for procedures applicable to asylum-seekers and the informal nature of the cooperation between the State Party and the French Office for the Protection of Refugees and Stateless Persons (OFPRA), he wished to know what measures had been taken or were planned to introduce an asylum procedure in national legislation, including provisions on accommodation for asylum-seekers awaiting a decision on their applications and the criteria for approving or denying applications, and to institutionalize the relationship between the competent Monegasque authorities and OFPRA. He also wished to know what had been done in response to the Committee’s recommendation to establish a mechanism for following developments in the cases of asylum-seekers under the authority of OFPRA.

14. He would welcome information on the action taken in response to the recommendation of the European Commission against Racism and Intolerance for the State Party to conduct a study on undeclared work performed in Monaco by foreign nationals living

in neighbouring countries with a view to protecting them against racism, discrimination and trafficking in persons, and the recommendation by the Group of Experts on Action against Trafficking in Human Beings concerning child victims of trafficking. He was curious to know whether the State Party had adopted a victim-centred action plan to combat trafficking in persons, whether it had developed indicators for the identification of possible victims of trafficking and whether it raised public awareness of the issue and provided training to relevant professionals, including law enforcement personnel, labour inspectors, prosecutors and judges.

15. Lastly, as indicated in paragraph 12 of the list of issues prior to reporting, the Committee was interested in learning more about the training on the Convention, the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and non-coercive investigation methods provided to all relevant professionals, about any clear instructions given to personnel working with persons deprived of their liberty regarding the ban on torture and ill-treatment and about any assessment of the impact of such training and instructions.

16. **Mr. Iscan** (Country Rapporteur) said that the Committee wished to hear more about steps taken to improve conditions of detention in the *maison d'arrêt*, to strengthen the State Party's oversight of inmates transferred to facilities in France and to establish a formal procedure for recording individuals' requests for and consent to out-of-country transfers. Similarly, it would be useful to know how many prisoners had served their sentences in French prisons over the past five years and what their nationalities were; which State was responsible for ensuring respect for fundamental legal safeguards in those prisons; to what extent such prisoners were able to have access to a lawyer of their choosing and maintain social ties in Monaco; what measures were taken to uphold their rights, given the difficulty of organizing visits to French prisons by Monegasque sentence enforcement judges; and, where alleged violations of the Convention occurred, which State conducted the investigation, prosecuted those responsible and provided redress to the victims. Could the delegation indicate whether the State Party was considering expanding the capacity of its prison system to allow inmates to remain in Monaco for the duration of their sentences?

17. He was curious to know whether national legislation prohibited corporal punishment in all settings, including the family, schools and childcare facilities, whether it explicitly and unequivocally prohibited all forms of corporal punishment as a disciplinary method and whether the State Party carried out awareness campaigns, issued guidance for parents and provided educators and childcare professionals with relevant training. He was also curious to know whether the State Party might consider amending its legislation to raise the minimum age of criminal responsibility, in line with general comment No. 24 (2019) on children's rights in the child justice system, in which the Committee on the Rights of the Child encouraged States Parties to the Convention on the Rights of the Child to raise their minimum age to at least 14 years.

18. He would welcome information on any cases of alleged torture or ill-treatment in the State Party since the submission of its report in 2020, any progress made in adopting specific provisions on redress and compensation for victims of torture or ill-treatment and any plans for the State Party to scale up its support to the United Nations Voluntary Fund for Victims of Torture. Given that the questioning of persons held in police custody was now recorded, he wondered whether any cases had been identified of the use in evidence of unlawfully obtained statements.

19. The delegation might describe any steps taken to address the concerns raised by the Group of Experts on Action against Violence against Women and Domestic Violence regarding the allocation of resources to programmes for the prevention of violence against women and the emerging issue of non-Monegasque victims of such violence, who were often dependent on their abusive partners. The delegation might also comment on the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with regard to the Princess Grace Hospital, specifically shortcomings in long-term hospitalization and the psychiatric treatment of minors and detainees.

20. **Mr. Contesse** asked which procedure – the adoption of a sovereign ordinance or a law – had been followed to bring the Convention into force in the State Party; whether, like

the International Covenant on Civil and Political Rights, the Convention was directly applicable in the State Party; whether there were any cases in which the Convention had been invoked and applied; and how conflicts between national law and the Convention were resolved.

21. **Mr. Buchwald** said that, given the lack of suitable facilities in Monaco, he would like to know what happened to prisoners who did not consent to be transferred to France and how many were instead serving their sentences in the State Party. He would appreciate clarification as to whether the requirement for consent was expressly laid down in the Franco-Monegasque Convention on Good-Neighbourliness of 18 May 1963.

22. **Mr. Liu** said that he would like to know whether international standards on trafficking in persons were upheld, especially given that no trafficking cases had been brought before the courts. He would appreciate confirmation that the definition of trafficking applied in Monaco covered both sexual and economic exploitation, including forced labour. He wished to understand whether awareness-raising on trafficking was conducted among government officials and the general public, including employers and medical professionals.

The meeting was suspended at 11.20 a.m. and resumed at 11.50 a.m.

23. **A representative of Monaco** said that, historically, all three branches of government in his country had been controlled by the monarchy. Following a series of constitutional reforms, executive authority was wielded by the Government, led by the Minister of State, in the name of the Prince, while the Government and the National Council, whose 24 members worked part-time, jointly held legislative authority. No law could be passed without being approved by the Prince, the Government and the Council. The Prince had delegated judicial authority to the courts, retaining only the powers of pardon and amnesty.

24. As set out in the Constitution and the law on the organization of the judiciary, the courts enjoyed full independence and judges benefited from a range of safeguards, including security of tenure. The justice system was administered by the Secretary of Justice, who had equal standing with the Minister of State but was not part of the executive branch, thereby ensuring the separation of powers. The law allowed the Secretary to give written and substantiated instructions to the public prosecutor to initiate, but not to dismiss, a prosecution. In practice, the Secretary gave only general policy guidance set out in publicly available circulars, such as instructions to focus on particular categories of offence. Instructions issued by the Secretary did not infringe on prosecutors' freedom of speech in proceedings. Prosecutors enjoyed the same legal safeguards as judges.

25. The small size and population of the country made it difficult to offer certain services. For example, the single sentence enforcement judge could make only a limited number of visits to foreign prisons, and the establishment of institutions such as the High Council of the Judiciary required significant efforts. The High Council, which had seven members, two of whom were elected by the judiciary, made recommendations on the selection and promotion of judges. Its powers had gradually increased and it had a separate budget sufficient to guarantee its independence. A law adopted in 2020 allowed it to hear disciplinary cases on its own initiative. The Secretary of Justice could also refer cases to the Council but did not take part in deliberations.

26. Monegasque judicial officials (*magistrats*) were selected through a competitive examination for law students and completed their training in France. After a two-year apprenticeship in Monaco, they were appointed as judges or prosecutors on the recommendation of the High Council of the Judiciary. However, approximately two thirds of judges and prosecutors were seconded from France for limited terms. They retained independence and security of tenure in that they were not dismissed but rather returned to France after five years of service. A bill being prepared by the Directorate of Judicial Services to remedy a shortage of qualified judicial personnel would introduce a reserve list of retired judges and prosecutors, to be established on the recommendation of the High Council.

27. **A representative of Monaco** said that his country had a dualist legal system. In line with the Constitution, the Prince signed and ratified international treaties and agreements. If implementation of the treaty would require a change to the constitutional order, legislative amendments, accession to an international organization or spending not provided for in the

budget, a law approving ratification must also be passed by the National Council. No such law had been required in the case of the Convention. Under article 68 of the Constitution, treaties were incorporated into national law through sovereign ordinances, which were published in the Official Gazette. On that basis, the courts had found that the International Covenant on Civil and Political Rights could be invoked directly before the courts. The decision applied to all self-executing treaties. The Constitution occupied the highest level in the hierarchy of norms, followed by international treaties, then laws and regulations.

28. Reference to the definition of torture contained in article 1 of the Convention was made in article 8 (2) of the Code of Criminal Procedure, which, in line with article 5 (2) of the Convention, provided that persons present in Monaco could be prosecuted there for acts of torture committed outside the country. Under the Criminal Code, physical assault, sexual assault and terrorism offences ordinarily categorized as misdemeanours were to be prosecuted as felonies when they were committed in conjunction with acts of torture, while murder, rape, unlawful detention and false imprisonment, and castration or violation of the integrity of the genital organs of a girl or woman, categorized as felonies, were punishable by more severe penalties when they were committed in conjunction with acts of torture or barbarism.

29. The fact that Monaco had not thus far implemented the Committee's recommendation for it to incorporate into its criminal law a definition of torture that covered all the elements contained in article 1 of the Convention was not due to any hesitancy to do so but rather to the country's limited capacity for passing legislation on account of the small size of its Legal Affairs Department and the fact that the members of the National Council had professional commitments in addition to their parliamentary roles. Such a definition was under consideration and would be incorporated into an appropriate legislative vehicle at the earliest opportunity.

30. **A representative of Monaco** said that, while a proposal for the non-applicability of statutes of limitations to acts of torture was under consideration, the commission of such acts was already taken into account in the manner in which statutes of limitations were applied. Under article 12 of the Code of Criminal Procedure, a statute of limitations of 10 years was applied to serious crimes and commenced running from the moment of their commission, while a statute of limitations of 30 years was applied to murders committed in conjunction with acts of torture or cruelty, as well as to any serious crime committed against a minor, in which case it commenced from the moment that the victim reached the age of majority. While the statute of limitations for misdemeanours expired three years after they had been committed, it expired 20 years after the victim had reached the age of majority in the case of an offence of a sexual nature committed against a minor. Statutes of limitations could be suspended by any measure of investigation or prosecution taken during the corresponding periods and resumed running only after the final such measure had been taken. Under article 19 of the Code of Criminal Procedure, in cases of extradition, the statute of limitations was suspended from the day on which the extradition request was submitted until the day on which the accused person was delivered to the Monegasque authorities.

31. While the Convention had not thus far been cited in any case law, the Court of Revision had cited the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in its ruling of 9 October 2013 upholding the conviction of Mr. I Si for involvement in an organization that trafficked children and women, primarily outside Monaco, for the purposes of forced labour and sexual exploitation. It was stated in the ruling that Monaco was obliged to establish such activities as offences and to prosecute those involved, which reflected the rigorous application of the international treaties ratified by the Principality. Under Sovereign Order No. 9.966 of 30 June 2023, a broader definition of the offence of trafficking in persons than that contained in the Organized Crime Convention had been established. In addition, a more severe penalty of between 10 and 20 years' imprisonment had been introduced for acts of trafficking that, either deliberately or through gross negligence, endangered the life of the victim and for acts committed against a minor, by a public official in the performance of his or her duties or in the context of organized crime.

32. Victims of trafficking in persons now had the right to receive comprehensive information and advice about their personal situations, while criminal investigation officers were obliged to inform victims orally and by any other means of their rights to obtain compensation, sue for damages in the context of criminal proceedings and receive services from the State or an approved association. Victims with disabilities had the right to be provided with information in a form adapted to their needs. Victims of all offences and crimes were assisted by trained personnel from the Association for the Support of Victims of Crime, who were not intended to replace lawyers but could attend hearings in a supporting capacity and who provided victims with legal information and advice before, during and after court proceedings, in person or via a helpline. Under the Act on legal aid and lawyers' fees, all victims of crime who were residents of Monaco and had an annual income of less than €20,000 were entitled to legal aid regardless of their nationality or administrative situation.

33. The Committee had previously recommended that Monaco should amend its Criminal Code in such a way that it stated explicitly that exceptional circumstances or an order from a superior officer could not be invoked as a justification of torture. While that recommendation was currently under legislative review, it was already impossible under Monegasque law to justify the use of torture. Article 45 of the Criminal Code provided that the commission of an offence could be justified only in the circumstances set out in law. Homicide and physical assault, for example, did not constitute offences if they were ordered in accordance with the law and by a legitimate authority. No such justification was available in law for acts of torture, which could thus not be justified even when ordered by a superior officer. Officers who refused to follow such orders were protected under article 9 of Act No. 975 of 12 July 1975 laying down the civil service regulations, which had been amended by Act No. 1.527 of 7 July 2022 and provided that officials must follow the orders of superiors, except when those orders were manifestly illegal or likely to seriously compromise the public interest.

34. The use of torture to obtain statements was prohibited under article 20 of the Constitution, articles 3 and 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms and article 60-4 of the Code of Criminal Procedure, which provided that the conditions of police custody must ensure respect for human dignity. Police custody was used to detain persons suspected of committing or attempting to commit a felony or misdemeanour punishable by imprisonment. Under article 60-2 of the Code, suspects were placed in police custody under the supervision of the public prosecutor or an investigating judge, if a preliminary investigation had been opened. A liberties and detention judge was responsible for reviewing the legality and proportionality of the measures employed.

35. Under article 60-6 of the Code, persons held in police custody must be informed of the grounds for their detention and the legal classification of the offence concerned at the outset of detention, at which time they must also be informed of their rights, including the right to remain silent, and be provided with a written copy of those rights, which could, upon request, be translated into a language they understood.

36. Persons held in police custody also had the right to be assisted by a lawyer from the outset of detention, which right they were entitled to waive. Persons who were unable to appoint a lawyer had one appointed for them by the President of the Court of First Instance from a roster drawn up by the Chairman of the Bar Association. Lawyers could speak with their clients in conditions that ensured confidentiality and were able to consult the records of interviews with their clients and obtain copies of certain documents. Detainees were entitled to meet with their lawyers for up to one hour, with an additional one-hour meeting allowed if their detention was extended.

37. Detainees could ask to be examined by a doctor at any point and were entitled to a second medical examination if their detention was extended. The public prosecutor, investigating judge or criminal investigation officer could also independently request a doctor to examine a detainee. The doctor's certificate was added to the detainee's case file for the purpose of verifying that his or her health status was compatible with detention.

38. The legislative branch was currently considering a proposal to regulate the power of the public prosecutor to deny permission for a detainee to notify a relative of his or her detention if the public prosecutor felt that such notification could harm the investigation, as provided for under article 60-7 of the Code. It had been proposed that the grounds for denial

should be included in the record of detention and that the situation should be reviewed after 48 hours with a view to determining whether the risk of harm to the investigation still existed.

39. Minors under the age of 13 years could be held only if the offence of which they were suspected was punishable by a term of imprisonment of 5 years or more. The period for which they were held could be extended only by decision of the guardianship judge.

40. **A representative of Monaco** said that, under the Code of Criminal Procedure, interviews conducted in police custody were subject to continuous audiovisual recording, the interview could be conducted with a lawyer present and, at the end of the interview, the lawyer could add any comments that he or she deemed useful to the interview transcript. Article 60-11 of the Code provided that criminal investigation officers must record details of all measures taken during detention in police custody in a report attached to the custody release form. The detainee could refuse to sign the report, in which case the refusal and the reasons for it were also recorded.

41. **A representative of Monaco** said that, at the end of 2024, Sovereign Order No. 4.524 of 30 October 2013 establishing the Office of the High Commissioner for the Protection of Rights and Freedoms and for Mediation had been repealed and replaced with Sovereign Order No. 10.845 of 1 October 2024 establishing the Office of the High Commissioner for the Protection of Rights and for Mediation. That change had been made on the initiative of the Office with a view to aligning it more closely with relevant international standards, in particular the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). To that end, its competences had been expanded to enable it to undertake information and awareness-raising efforts and carry out or coordinate studies and research on its own initiative, and to provide recommendations on any general matters that fell within the scope of its mandate to combat discrimination and protect human rights. The authorities could also request the Office to provide opinions or conduct studies on any matters related to its mandates to protect citizens' rights and liberties in the context of their relationship with the authorities, combat discrimination and protect children's rights. The opinions provided by the Office could be made public by the authorities, or by the Office with the authorities' permission. Under article 41 (b) of the Order, the Office could also independently undertake studies or make recommendations to the authorities in the context of following up on the implementation of international instruments. The investigative powers of the Office had likewise been strengthened. It could now impose a deadline by which the authorities must provide it with evidence or information that it considered necessary for its investigations. The Order had also been drafted and adopted with a view to supporting the application of the Office to become a member of the Global Alliance of National Human Rights Institutions.

42. While it had been possible since 2022 for detainees to contact the Office directly by telephone, the Office must be contacted in writing in order for a case to be taken up. In one such case, a number of detainees in the *maison d'arrêt* had informed the Office that they would prefer to forego receiving medical and psychiatric care because they had to undergo additional body searches in order to do so. The Office had communicated with the director of the facility and a body scanner had been provided in 2023 enabling detainees to continue safely receiving such care without their dignity being compromised.

The meeting rose at 1 p.m.