



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination
Seventy-sixth session

Summary record of the 1973rd meeting

Held at the Palais Wilson, Geneva, on Monday, 15 February 2010, at 3 p.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 3.10 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

Initial to sixth periodic reports of Monaco (CERD/C/MCO/6; CERD/C/MCO/Q/6 and Add.1; HRI/CORE/1/Add.118)

1. *At the invitation of the Chairperson, the members of the delegation of Monaco took places at the Committee table.*

2. **Mr. Fillon** (Monaco) said that his country had submitted its combined initial to sixth periodic reports on implementation of the International Convention on the Elimination of Racial Discrimination some years after its accession to the Convention in 1995 owing to logistical constraints arising from the need to draft a number of similar reports simultaneously. The delay did not indicate a lack of will or that the situation in Monaco was incompatible with international standards. On the contrary, its recent submission of an addendum to the report was indicative of its desire to clarify the situation.

3. Although the population of Monaco was diverse and multiracial, only two cases relating to anti-Semitism had been brought (in 2004) and no cases involving racism had been brought between 2005 and 2009. The absence of racism or racial tension could be attributed to Monaco's small size, which made it imperative for communities to live in close proximity to each other and so inhibited racism; in addition, his Government pursued appropriate preventive policies. It was committed to raising awareness of human rights and provided training for judges and law enforcement officials, and also for students in secondary schools.

4. It should be emphasized that the criteria on the basis of which particular rights and advantages were conferred were nationality and residence, rather than membership of any particular ethnic group. Since Monaco's accession to the Convention, the authorities had been amending domestic legislation in order to incorporate the Convention and eliminate racial discrimination. Act No. 1,355 of 2008 on associations and federations had been amended to prevent and punish racism. Act No. 1,334 of 2007 on education had been amended to ensure that no child was excluded from the education system and also provided that education should include moral, civic and health education that would prevent racist ideologies from taking root among young people. Act No. 1,299 of 2005 on freedom of public expression laid down penalties for inciting hatred or violence against a person or group of persons on grounds of their origin or membership or non-membership of an ethnic group, nation, race or specific religion, while Act No. 1,353 of 2008 prohibited the utilization of personal data, including data on ethnic or racial group, with highly restrictive exceptions for security reasons. Lastly, Monaco had acceded to the 1957 European Convention on Extradition, which provided that a State could refuse to extradite if it believed that a request for extradition had been made in order to prosecute or punish a person on account of his race, religion, nationality or political opinion; identical clauses to that effect existed in domestic legislation.

5. He introduced the written replies of his Government to the list of issues contained in document CERD/C/MCO/Q/6/Add.1. Replying to question 1, he said that, based on the requirements of the Constitution, the sole criterion for differentiated treatment of nationals and residents with regard to employment, free education and assistance in the event of illness or unemployment was nationality. Domicile was an additional criterion under some laws, such as Act No. 629 of 1957 regulating employment and redundancy conditions. With regard to education, Monegasque citizens had a constitutional right to free primary and secondary education; Act No. 1,334 of 2007 had extended that right to foreign children legally resident in Monaco. The Principality had long ensured respect for the law in order to

protect and promote the liberty, security and dignity of the person. The priorities accorded to nationals did not involve racial discrimination in any form.

6. It would be inappropriate to establish a system for the collection of data on hate crimes, racism or racial discrimination as there were very few incidents involving racism or racial discrimination in the Principality (question 2). A new system would not add any value to the existing system for the collection and analysis of data on complaints. The absence of racial tension indicated that that choice was appropriate.

7. The new Act on the status of civil servants would contain guarantees against discrimination on various grounds, including physical appearance or ethnicity, and such guarantees would reinforce Monaco's policy of prohibiting all forms of discrimination (question 3).

8. The human rights unit in the Department of External Relations was responsible for providing training on, and raising awareness of, human rights and addressed various sectors of society, including judges and legal practitioners (question 4). The unit had also provided training on public security through raising awareness of the implementation of the European Convention on Human Rights, with particular focus on police activities. It also operated at the secondary school level to raise awareness of racial and religious discrimination and of Monaco's international human rights obligations. The unit had issued a standing invitation to the United Nations Special Rapporteurs to visit Monaco. It was the focal point for consultation on draft legislation affecting fundamental rights which aimed at protecting individuals against racism and racial discrimination in particular. It also scrutinized judicial and administrative practices from a human rights standpoint.

9. Monaco had no plans to establish an independent national human rights institution (question 5). The functions that such an institution would normally perform were shared between various bodies. The human rights unit performed multiple tasks pursuant to its mandate to promote human rights. The ombudsman was responsible for dealing with discretionary remedies of all kinds. Judicial remedies were also available through the courts to any natural or legal person domiciled in Monaco, regardless of nationality or financial capacity, for any alleged violation of any of the provisions of the Convention, which had been incorporated into Monaco's domestic legislation.

10. All magistrates and judges in Monaco received training in the French Ecole Nationale de la Magistrature (Legal Service Training College) (question 6). The basic training programme covered human rights and discrimination; courses were also available on the European Convention on Human Rights and on judicial ethics and responsibility, and conferences on those topics were organized periodically in Monaco to raise awareness among the judiciary. Monaco kept abreast of the jurisprudence of the European Court of Human Rights and its main judgements, with analysis and commentary, disseminated to all judges on a regular basis.

11. The inclusion of a definition of racial discrimination in the Criminal Code, with a corresponding offence and aggravating circumstances, was currently under consideration (question 7).

12. The final version of draft law No. 818 on computer offences was on the list of priority legislation for discussion by the National Council (question 8).

13. Article 60-12 of the Code of Criminal Procedure provided for the presence of an interpreter as soon as a person who neither understood nor spoke French was taken into police custody (question 9). Article 139 of the Code required an investigating judge who did not understand the language spoken by a witness to appoint a sworn interpreter to translate his or her statement and replies to questions. The record was then signed by the

interpreter. In the case of an accused, the interpreter was also required to sign the record of the interrogation and the statement of charges.

14. When accused persons and witnesses appearing before a court did not speak the same language, the president appointed a sworn interpreter to ensure that all statements were mutually comprehensible. The court ruled on any objection to the interpreter filed by the prosecutor, the accused or the claimant for indemnification. Article 329 of the Code of Criminal Procedure precluded criminal court judges, clerks and parties to a case from serving as interpreters. In exceptional cases, a witness could act as interpreter with the consent of the parties. The costs in all the foregoing cases were covered by the Department of Judicial Services.

15. The Monegasque authorities had no immediate plans to amend articles 54 or 70 of the Constitution (question 10). The five-year delay before a naturalized Monegasque became eligible to hold office in the National Council or at local level was intended to ensure that the person concerned was sufficiently familiar with the functioning of the Principality and its political system, and that he or she was imbued with a long-term commitment to Monegasque political life, primarily because Monegasques, who constituted a minority in demographic terms, would otherwise be gradually ousted from politics.

16. Applicants for naturalization were asked for information about their civil status, nationality, police record, military obligations and residence (question 11). No information about their religion or racial origin was requested. The criteria taken into account by the Prince of Monaco when reaching his decision were: the applicant's police record and any other indicators of his or her moral character; whether the applicant had lived in Monaco for at least 10 years after reaching the age of 18; effective cohabitation with a Monegasque spouse for at least 10 years; and long-term (a century or three generations) maternal and/or paternal family connections and, in the event of non-continuity, the existence of Monegasque ascendants, descendants or collateral blood relatives.

17. Appeals against refoulement and expulsion decisions by the Minister of State could be filed with the Supreme Court, which had issued 1 ruling on an expulsion and 16 on refoulement since 2002 (question 12). No appellant to date had invoked racial discrimination as a ground of appeal. The Supreme Court had based its rulings, inter alia, on article 13 of the International Covenant on Civil and Political Rights, which stipulated that an alien must "be allowed to submit the reasons against his expulsion". The authorities were also required, under Act No. 1,312 of 29 June 2006, to state the reasons for any such measures. With regard to asylum, recognition of refugee status by the Monegasque authorities was subject to prior conferral of such status by the French Office for the Protection of Refugees and Stateless Persons. Appeals against denial of refugee status lay with the competent French authorities.

18. Distinctions in the area of employment were made only on the basis of nationality or place of residence (question 13). No distinction, exclusion, restriction or preference was permissible on grounds of race, colour, sex, religion, political opinion or social status. Given the size of the foreign working population in Monaco, the rules concerning priority of recruitment had no adverse effect on foreigners' access to employment. Pursuant to Act No. 629 of 17 July 1957, the criterion applicable to the assignment of duties to employees was based on their place of residence and not on any race-related consideration.

19. A draft law relating to employment contracts before the National Council sought to enhance the security of contractual relationships in legal terms and to regulate both open-ended and fixed-term contracts.

20. The Labour Inspectorate had received no complaint of racial discrimination for many years (question 14).

21. The national population of Monaco was considerably smaller than its resident population (question 15). Moreover, there was no single minority of ethnic or geographic origin within the Monegasque community. Hence, the question of representation of minorities in the Government did not arise. Of the 3,959 persons employed in the public sector, only 30.06 per cent were Monegasque nationals.

22. There were two categories of rent relief: housing subsidies for Monegasque nationals and differentiated rent for non-Monegasque residents living in premises built prior to 31 August 1947 and covered by Act No. 1,235 of 8 December 2000 (question 16).

23. Non-Monegasques were eligible for medical assistance if they had been resident for more than five years. Persons with more than five years' residence before reaching the age of 65 were eligible for the monthly pension if they were in the low-income category and for assistance for older persons in retirement homes. Non-Monegasques with disabilities with more than three years' residence were eligible for the housing subsidy for disabled persons. While no reduction in periods of residence was envisaged, exceptions were frequently made in the case of persons in difficult social circumstances. Moreover, duration-of-residence conditions were not applicable to most types of social assistance.

24. The Adviser to the Ministry of State on remedies and mediation appointed by Sovereign Order No. 158 of 22 August 2005 performed the traditional duties of an ombudsman (question 17). Given the virtual non-existence of social tensions and offences attributable to racism, the work of an ombudsman in the area of racial discrimination was limited.

25. Replying to question 18, he said that the implementation of the authorities' plans had been held up by human and technical difficulties. However, they would certainly be put into effect in the near future. Whenever a treaty body considered a report by Monaco, a press release was issued and all relevant information could be accessed by the public on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

26. Most of the newspapers and magazines sold in Monaco were published abroad (question 19). The authorities therefore had no plans to introduce a code of ethics for Monegasque journalists or to establish a supervisory body to deal with complaints against the media. However, a natural person who considered that he or she had been directly and personally targeted by racist statements in a foreign publication sold in Monaco could invoke a clause of the Code of Criminal Procedure with a view to having the publication convicted. Moreover, pursuant to article 16 of Act No. 1,299 of 15 July 2005, a term of imprisonment or a fine could be imposed for incitement to hatred or violence against persons or groups of persons on the ground of their origin or membership or non-membership of a particular ethnic group, nation or race.

27. **Mr. Amir**, Country Rapporteur, noted that the area of Monaco was just under 2 square kilometres and that some 0.40 square kilometres had been reclaimed from the sea over the past few decades. Hence space was at a premium. Roman Catholicism was the State religion but article 23 of the Constitution guaranteed freedom of worship. According to the 2007 census, Monaco's population of some 35,000 was growing rapidly. It was composed of no fewer than 126 nationalities.

28. He was pleased to note that women who became Monegasque through naturalization could transmit their nationality to their children, but he asked for confirmation that a woman would no longer lose her Monegasque citizenship in the event of divorce.

29. According to paragraph 17 (b) of the country report, Islam was not officially recognized in the Principality. He therefore wondered whether there were any facilities where the country's many Muslim residents could practise their faith.

30. Commenting on paragraph 56 of the report, he queried whether the fact that members of the national legal service received the same pre-service and in-service training as that provided by the French Ecole Nationale de la Magistrature fully met the requirements of article 2 of the Convention.

31. Monaco had entered a reservation to article 2 (1) (a) of the Convention stating that it “reserves the right to apply its own legal provisions concerning the admission of foreigners to the labour market of the Principality”. He asked whether there was any prospect of that reservation being withdrawn.

32. With reference to expulsion and refoulement, he wished to know whether the term “banishment” was still used in Monegasque legislation. If so, the precise judicial implications of the term should be clarified.

33. Turning to article 3 of the Convention, he noted that the report simply stated that racial segregation did not exist in the Principality. Yet forms of racial segregation due to discriminatory practices were a virtually universal phenomenon. He asked whether the Principality had no experience whatsoever of such discriminatory practices.

34. Paragraph 74 of the report cited a number of articles from the Act of 15 July 2005 concerning freedom of public expression and the penalties imposed for violent acts of racism or xenophobia. However, racial discrimination as such was deemed to be an offence under article 4 of the Convention. Was there any statute that defined the offence of racial discrimination? According to the delegation, the inclusion of a definition of racial discrimination in the new Criminal Code, with a corresponding offence and aggravating circumstances, was currently being considered. He wished to hear more about the arguments for and against its inclusion.

35. Given that the constitutional rights and freedoms detailed in paragraph 80 of the report did not include the contributory factors to racial discrimination provided for under article 5 of the Convention, he asked whether international law took precedence over domestic legislation.

36. The Committee would appreciate more information on the role of the human rights unit cited in paragraph 90 of the report. It would be interesting to have details of the observations it had submitted on 7 January 2008 in the case against Monaco that was currently before the European Court of Human Rights. It would be useful to learn whether the State party had considered replacing the unit with an independent human rights body that could investigate acts of a racist nature, with administrative and judicial powers, in line with the provisions of the Convention.

37. He asked whether the State party planned to ratify Protocol No. 12 to the European Convention on Human Rights, and whether it had amended its domestic legislation to incorporate the provisions of that Protocol. It would also be interesting to learn whether the State party intended to ratify the revised European Social Charter.

38. The Committee would welcome additional information on any awareness-raising work undertaken by the human rights unit, particularly in order to disseminate information on the Committee’s current consideration of the State party’s report.

39. Lastly, he recommended that the Criminal Code should be amended to include definitions of all the concepts provided for in the Convention in order to ensure a common understanding among those responsible for enforcing legislation.

40. **Mr. Avtonomov** asked whether the delegation could provide an explanation for the continuing fall in the number of French nationals living in the State party, as indicated in paragraph 5 (c) of the report.

41. He wished to know whether any measures had been taken to promote and preserve the Monegasque language. Were language courses offered to adults and were bilingual dictionaries readily available?
42. He asked whether the State party had ratified the ILO Convention concerning Discrimination in respect of Employment and Occupation (Convention No. 111), particularly given that there were so many foreign nationals in the workforce. He would welcome the delegation's comments on how the provisions of that Convention could be implemented.
43. **Mr. Murillo Martínez** asked to what extent the absence of racial and ethnic tensions between the 126 nationalities that made up the State party's population could be attributed to the ready availability of goods and services.
44. **Mr. de Gouttes** asked whether the State party's Constitution or other domestic legislation prevented it from gathering statistics on ethnic or racial origin. It would be useful to know whether comparative methods could be used to quantify racial discrimination in the areas of access to employment, housing, education and admission to public places. Had the State party carried out any testing for racial discrimination, such as comparative studies of candidates applying for jobs, or anonymous analysis of candidates' *curricula vitae*?
45. The Committee would welcome further details of the amendments that would be incorporated in the new Criminal Code. In particular, he wished to know whether aggravating circumstances would be applied to all offences, and what definition of racial discrimination would be used.
46. Recalling the Committee's general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, he noted that the small number of complaints, prosecutions and convictions relating to acts of racial discrimination should not be viewed as necessarily positive. It could indicate that victims had inadequate information concerning their rights, that they feared social censure or reprisals, that victims with limited resources feared the cost and complexity of the judicial process, that there was a lack of trust in the police and judicial authorities, or that the authorities were insufficiently aware of offences involving racism.
47. While welcoming the interfaith dialogue that was maintained with Judaism and Islam, he would appreciate information on any difficulties or incidents that had arisen in the State party owing to religious tensions.
48. It would be interesting to have details of any steps that had been taken to monitor the work of the unit that had been established in the Department of External Relations to deal with issues of human rights and fundamental freedoms.
49. **Mr. Prosper** agreed with Mr. de Gouttes that more statistical information would be useful. Given that a large number of nationalities were represented in the population of Monaco, he wondered why there was little racial diversity. In its next periodic report the State party should include information on the socio-economic breakdown of the population in order to enable the Committee to understand the status of the various ethnic groups and nationalities in Monaco. He would be interested to know why there was such a large Filipino population. On the issue of naturalization he wondered whether it would be possible for a person of purely African descent born in Monaco to obtain Monegasque citizenship, or whether the only means of obtaining citizenship was by marrying a person of Monegasque origin.
50. **Mr. Thornberry** said that under its reservation to article 2 of the Convention, Monaco reserved the right to apply its own legal provisions on the admission of foreigners to the labour market. He wished to know the human rights content of those provisions.

51. He asked for an explanation of the reasons behind the reservation to article 4, which specified that Monaco interpreted the reference in that article to the principles of the Universal Declaration of Human Rights, and to the rights enumerated in article 5 of the Convention, as releasing States parties from the obligation to promulgate repressive laws incompatible with freedom of opinion and expression and freedom of peaceful assembly and association, which were guaranteed by those instruments. He asked what the scope of that reservation was, particularly given that Monaco's domestic legislation prohibited hate speech on racial grounds, and that Monaco had stated its intention to incorporate a definition of racial discrimination into its criminal legislation and include racial motives as aggravating circumstances in the case of criminal offences. He wondered whether the State party's reservations to the Convention were necessary and whether they should be sustained.

52. He wished to know why Monaco had also made reservations to numerous provisions of the other core international human rights treaties, and how Monaco envisaged its position in relation to the network of international human rights instruments. He wondered whether Monaco had considered signing the European Charter for Regional or Minority Languages.

53. **Mr. Lahiri** expressed concern that provisions on racial discrimination appeared to be lacking in the State party's legal and administrative system. He drew particular attention to the lack of a definition of racial discrimination and the absence of provisions for the aggravation of sentences when offences with racial implications had been committed. The Committee would appreciate more detailed statistical information on racial discrimination cases.

54. **Mr. Diaconu**, referring to the concluding observations of the Human Rights Committee on the second periodic report of Monaco (CCPR/C/MCO/CO/2), expressed concern that in the State party bodies corporate could be established by simple declaration, and that it was left to the discretion of the authorities to decide whether such a body was sectarian in nature. He asked how the establishment of bodies corporate was regulated and what the definition of "sectarian purposes" was. He wished to know what measures were taken to ensure that those bodies were not established for the purposes of propagating racial discrimination. He wondered whether the children of cross-border workers enjoyed the same right to State education in Monaco as Monegasque children.

55. **Mr. Fillon** (Monaco) said that despite its small size Monaco had a comprehensive and balanced power structure, regulated by the Constitution and domestic legislation. The constitutional structure was in keeping with the specific needs of the State and ensured respect for the rule of law. On the question of nationality, he said that a woman who had acquired Monegasque citizenship through marriage could not lose that citizenship in the event of divorce.

The meeting rose at 5.25 p.m.