



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

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Summary record of the 1974th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 16 February 2010, at 10 a.m.

Chairperson: Mr. Kemal

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The meeting was called to order at 10.15 a.m.

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

Sixth periodic report of Monaco (continued) (CERD/C/MCO/6; CERD/C/MCO/Q/6/and Add.1; HRI/CORE/1/Add.118; HRI/CORE/MCO/2008)

1. *At the invitation of the Chairperson, the delegation of Monaco took places at the Committee table.*
2. **Mr. Fillon** (Monaco) said that, as the Committee had observed, there was sustained interfaith dialogue and various places of worship in the country. There was no collective and regular practice of the Muslim faith, but various private premises were set aside for that purpose.
3. **Ms. Ceysac** (Monaco) said that, since 2005, 11 training courses had been provided for judges in cooperation with the Human Rights Unit, in many cases with the participation of representatives of the Council of Europe and the European Court of Human Rights, on issues ranging from the Convention and the European Court of Human Rights, the right to a fair trial, the role of the Registry, the impartiality of judges and freedom of expression, to the admissibility of petitions, for example. Certain training seminars had been open not only to members of the judiciary, but also to administrative staff. In the future, such initiatives might benefit from the participation of training staff from the United Nations, in addition to those from the Council of Europe.
4. Senior members of the judiciary were kept regularly informed of the jurisprudence of the Council of Europe and, as a result, judgements handed down by courts at all levels referred directly to the provisions of international instruments.
5. **Mr. Ravera** (Monaco) said that certain courses and lectures on human rights topics were open to the public. The Human Rights Unit also worked to disseminate universal human rights values within the police force. In addition to the training module on human rights that all new police recruits were required to attend, the Human Rights Unit had organized a training seminar at the Public Safety Department. Furthermore, there were awareness-raising activities for the younger generations as well, and a presentation on the United Nations and European systems for the protection of human rights had been organized for secondary school students, specifically to inform them about the possibility of submitting petitions to treaty bodies in the event of any violation of their human rights.
6. **Mr. Fillon** (Monaco), turning to the question of the employment of foreigners, said that accession to the International Labour Organization (ILO) Convention concerning Discrimination in respect of Employment and Occupation (No. 111) was reserved for ILO member States. Since the Principality of Monaco was not yet a member of that organization, the most important instruments at its disposal were the very comprehensive social agreements that it had concluded with neighbouring labour-exporting States, particularly France and Italy. Such agreements allowed the many citizens from those countries in Monaco to receive social security benefits, retirement pensions, health insurance, and disability, maternity and death allowances.
7. The delegation had taken due note of the suggestions made by some members of the Committee concerning ways to combat discrimination in employment, such as the possibility of establishing systems for using anonymous curricula vitae, tests or surveys, and would transmit them to the competent authorities, although such systems hardly seemed necessary under current circumstances.
8. Employment in Monaco was governed by a system of priorities whereby Monegasque nationals had priority over residents, and the latter over foreign workers.

However, the composition of the employed population showed that the system was not synonymous with exclusion.

9. **Ms. Pastor** (Monaco) said that Monegasques represented only 2.20 per cent of the employed population in the country, whereas French workers represented just over 67 per cent, Italians more than 13 per cent and other nationalities about 17 per cent. The local population was not large enough to meet labour requirements; only 40 per cent of the workforce lived in the territory of the Principality, and 75 per cent of those employed in the private sector lived in France, compared with 15 per cent in Monaco.

10. **Ms. Ceysac** (Monaco) gave the Committee her assurances that the Government authorities, in general, and the Department of Judicial Services, in particular, were aware of the need for further discussion on the criminalization of racial discrimination in the Criminal Code. Although the situation on the ground did not present any difficulties at first sight, that did not make it any less necessary for the authorities to equip themselves with the means to combat racial discrimination in accordance with their commitments under international law. A bill was being drafted which drew heavily on the definition of racial discrimination contained in article 1, paragraph 1, of the Convention. That bill would make such discrimination a separate criminal offence in its own right or an aggravating circumstance of another offence, as appropriate.

11. She described in detail various parts of the bill that would help Monaco to strengthen its legislation on racial discrimination. In particular, two new articles would be added to a chapter of the Criminal Code, renamed "Offences against human dignity", which, for ease of application, would not establish too many offences, but would guarantee judicial protection, without running counter to the principle of freedom of expression enshrined in the Constitution. Since work on the articles was at an advanced stage, it was expected that the amendment to the Criminal Code would be made shortly.

12. Pending that amendment, various provisions relating to acts of racial discrimination were invoked to punish racist remarks constituting offences against human dignity. Those provisions were contained, inter alia, in the Freedom of Public Expression Act of July 2005, the Personal Data Protection Act and the Act on the Reinforcement of Penalties for Offences against Children. The prohibition of racial discrimination was also clearly set forth in the bill on offences involving information systems and in the bill on the status of the civil service.

13. **Mr. Gastaud** (Monaco) said that the Constitution was the highest-ranking law in the Monegasque legal order; bilateral and multilateral treaties came second, and domestic laws third. A treaty took precedence over a law irrespective of whether the law predated or followed the incorporation of the treaty. Title III of the Constitution and article 5 of the Convention enshrined what were basically the same rights and freedoms, but it was domestic legislation that defined how they should be exercised.

14. **Mr. Ravera** (Monaco) said that the primary mission of the Human Rights Unit, which was attached to the Department for Foreign Affairs, was to analyse all texts and draft legislation relating to human rights to assess whether they were in conformity with international standards and to propose revisions or amendments where necessary. To that end, it followed international jurisprudence closely and worked in close cooperation with all State institutions. It also examined in depth all the international human rights instruments that Monaco was considering signing. The Unit also acted as the permanent legal adviser to the Monegasque authorities and responded to queries from international bodies to which Monaco reported.

15. At present there were no plans to establish a national human rights institution in Monaco. The main tasks involved in the promotion, dissemination and protection of human rights were currently shared between the Human Rights Unit and the Ombudsman in the

Ministry of State. The fact that there was no human rights organization or association in Monaco demonstrated that civil society did not stand in need of one. If such a need became apparent, the Government would review the matter.

16. **Mr. Fillon** (Monaco) explained that the presence of a large French population in Monaco was a traditional and integral part of the Principality's identity and said that, undoubtedly, the economic conditions of recent years could have discouraged some French nationals from remaining there. Their departure was not the result of a choice made by the French or Monegasque Governments, but rather was due to the economic conditions prevailing in the region of late.

17. The provisions of civil law governing the transfer of property applied in Monaco irrespective of any consideration of nationality, race, religion or ethnicity. Consequently, in matters relating to the transfer of property, including real estate, inter vivos or as a result of death, no distinction was made on the basis of the civil status of the persons concerned.

18. **Ms. Ceysac** (Monaco) said that Monaco did not compile statistics on racial or ethnic origin, but some statistics did identify nationalities. The question referred to the issue of the protection of personal data. The 2008 Personal Data Protection Act provided that there could be no system for collecting data on racial, ethnic or social origin, religion or philosophical or political belief. It did, however, allow for exceptions to address public security requirements or cases in which the consent of the persons concerned had been obtained, or to fulfil a legal obligation or defend a right in court. Consequently, records on racial or ethnic origin could be compiled only for imperative reasons of security.

19. Regarding access to institutions which handled complaints of racism, she said that no act of racism had been reported other than those involved in the cases in 2004, which had since been discontinued. The extreme rarity or indeed absence of such complaints was an objective fact; it was not a negative indicator because, in Monaco, access to justice was free of charge and readily obtained, as was access to information. The authorities exercised great vigilance in that regard, and people had a relationship of trust with the Monegasque police force.

20. **Mr. Fillon** (Monaco) said that Monegasque was taught in primary schools and could be chosen as an option in the baccalaureate. The Government provided support to preserve the language and ensure that it was taught to younger generations. However, Monegasque had never been the country's official language; it was above all a spoken language which had been transcribed in the nineteenth century. There was in fact a French-Monegasque grammar book and dictionary, and all adults had the opportunity to learn Monegasque by following university courses on Romance languages or those offered by the Academy of Dialects.

21. **Ms. Ceysac** (Monaco), referring to the schooling of children of frontier workers, said that, under the Education Act, all Monegasque children must be allowed access to schools from the age of three years on, all children whose parents lived in Monaco must be accepted in schools provided that there were places available and, if, after that, there were still places available, children were accepted regardless of their origin. The fact that a parent worked in Monaco was a factor in the child's favour. The children of frontier workers were therefore accepted without any problem.

22. Monaco had moved from a system of authorization for the formation of associations to a system of declaration. The new system had been established by a law of 2008 under which associations could be formed freely without prior authorization or notification. They had legal capacity once they had complied with a number of formalities, one of which was to send the Ministry of State a letter containing the statutes of the association. Oversight was exercised in that regard, since any association could be legally dissolved if its purpose

was against the law, if it was detrimental to the interests of Monaco, if it conflicted with fundamental rights and freedoms or public morality or if it was sectarian in nature.

23. Regarding naturalization and the origins of persons who were naturalized, the current system was based primarily on filiation and a policy of family reunification; it did not take into account the State of origin of the persons concerned, but instead employed certain objective criteria, such as good moral character, commitment to the values and institutions of Monaco, and the existence of genuine links with the Principality. National origin was therefore not a determining factor. Applications could be made after 10 years of residence upon reaching the age of majority. Since granting naturalization status was the responsibility of the Sovereign Prince, the required length of residence could be reduced on a case-by-case basis. Family ties were a factor in favour of an application, but were not an absolute requirement.

24. **Mr. Gastaud** (Monaco) said that, under the Criminal Code, the courts could apply proscriptive penalties, including banishment, but that no court in Monaco had applied that penalty in recent decades, and there were plans to repeal it as part of the general revision of the Criminal Code that was under way.

25. **Mr. Ravera** (Monaco) said that the ratification of the European Social Charter was under review. The Government had recently referred the matter to the State Council — an advisory body composed of eminent jurists — and was awaiting its report before taking a decision. The ratification of Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms had also been delayed because Monaco shared the concerns of many European States concerning that Protocol. The matter was therefore still under review.

26. **Mr. Gastaud** (Monaco) said that Monaco's reservation to article 4 of the Convention had been formulated in 1995, upon its ratification of the instrument. Since then, the situation had changed somewhat, as Monaco's legislation had been amended by the 2005 Freedom of Public Expression Act and the 2008 Associations Act. Consequently, the relevance of the reservation concerning freedom of expression and freedom of association and assembly certainly warranted review.

27. **Mr. Fillon** (Monaco), providing further details on the system for reporting to treaty bodies and measures to promote the advancement of human rights, said that press releases were posted on the Government website whenever reports from Monaco were being considered by United Nations treaty bodies. The press releases explained what points had been raised during discussions and contained weblinks to the relevant reports and recommendations. Access to the Internet was totally free in Monaco, and all interested parties could consult the documents very easily.

28. **The Chairperson** invited the delegation of Monaco to explain to the Committee what the difference between banishment and deportation was.

29. **Mr. Gastaud** (Monaco) explained that deportation was not a penalty provided for under the Criminal Code and that the Monegasque courts could therefore not apply it. In general, deportation, like banishment, involved the removal from the State's territory of convicted persons, but since the penalty had never been handed down in Monaco, it was difficult to say more about it.

30. **Mr. de Gouttes** said that he was very interested in the bill currently under consideration which would introduce a provision in the Criminal Code with the dual objective of defining racial discrimination in accordance with the Convention and establishing racist motives as an aggravating circumstance. The Committee would welcome information on the progress of the bill in Monaco's next report. Even when there was no racism in a country, as in the case of Monaco, the law and the criminal justice system

played a role in educating the populace and in proclaiming certain values and could thereby have a preventive effect in society.

31. With regard to the reservation entered by the State party concerning freedom of expression, he drew attention to the Committee's general recommendation No. 15 concerning the interpretation of article 4 of the Convention. In that recommendation, the Committee recalled that the prohibition of the dissemination of all ideas based on racial superiority or hatred was compatible with the right to freedom of opinion and expression as embodied, *inter alia*, in the Convention. That observation might lead Monaco to change its interpretation of article 4 of the Convention.

32. **Mr. Lindgren Alves** asked whether the interfaith dialogues that had taken place in Monaco had been organized and encouraged by the Government or whether they were activities undertaken at the initiative of the different religious communities. He noted that the Catholic Church had a hierarchical system which required believers to abide by the decisions of its religious leaders and asked whether that was also the case for people of other faiths, such as Muslims who lived in Monaco.

33. **Mr. Murillo Martínez** asked how multiculturalism could contribute to social cohesion in Monaco, a country characterized by the coexistence of some 126 nationalities.

34. **Mr. Saidou** said that he would like to know exactly what role the Human Rights Unit played in the protection of fundamental rights. He also wished to know whether it was the absence of civil society associations that was preventing the establishment of a national human rights institution in Monaco.

35. **Mr. Fillon** (Monaco), referring to the bill to amend the Criminal Code, said that he shared Mr. De Gouttes' view that such a provision played a role in educating the public and in proclaiming certain values. As far as the reservation regarding freedom of expression was concerned, his Government also considered that freedom of expression could not extend to the dissemination of racist ideas. That was made very clear in the legislation on freedom of expression that Monaco had passed recently.

36. Regarding interfaith dialogue, it was difficult for him to say whether Muslims abided by what their religious leaders advocated or not. That dialogue was not institutionalized by the Government but was instead one of the facets of the coexistence of religions and multiculturalism, which took its own course. Multiculturalism did indeed contribute to social cohesion because it was deeply rooted in the identity of Monaco – a peaceful State that promoted dialogue across communities. The result was a society in which there were few tensions.

37. **Mr. Ravera** (Monaco) said that preventive action was the primary way in which the Human Rights Unit protected human rights. The unit closely monitored developments at the international level, the adoption of new treaties, new standards and jurisprudence, and it kept the public authorities informed, thereby contributing to the legislative process and the definition of norms and laws that were respectful of human rights. It also protected human rights through its outreach and training activities. The training activities were the subject of press releases and were publicized in the media.

38. Concerning the possible establishment of a national human rights institution, he reiterated that the absence of associations and NGOs dealing with human rights in Monaco showed to what extent it was a peaceful society in which individuals had no need to worry about human rights or racism. Monaco did not wish to establish an institution which served no purpose, like an empty shell. However, the subject was not closed, and an institution of that kind could be established at some future date, provided that it would be useful.

39. **Mr. Ewomsan** said that he welcomed the importance that the Principality of Monaco attached to direct democracy, which was made possible, in particular, by the small

size of the country. He found it surprising that Monaco did not encounter any problems relating to the presence of Roma on its territory, as other European countries did. He would like to know whether Roma people travelled through the State party and, if so, how the members of that group were treated.

40. **Mr. Fillon** (Monaco) said that he was not aware of such a problem in Monaco. He undertook to provide further information if it were ascertained that it did pose a problem.

41. **Mr. Amir** (Country Rapporteur) thanked the delegation of Monaco for its accurate and concise replies. Monaco was a small, urban country with no agriculture, which had based its development on international trade. He applauded Monaco's policy of consistently devoting a significant portion of its gross domestic product to the provision of economic and financial assistance to developing countries.

42. Nonetheless, Monaco was not a "small country": a country existed not by virtue of its size but by virtue of its institutional structure and the prevailing rule of law; that was the basis upon which it was accorded respect. Thanks to the Grimaldi dynasty, the Principality had succeeded in remaining close to its people and had managed its affairs in the best way possible. In that sense it was an example to be followed.

43. He welcomed the fact that the unit responsible for dealing with issues of human rights and fundamental freedoms was in charge of some of the training programmes for judges and police officers. In that connection, he was pleased to note that there were 500 police officers for a population of 35,000 inhabitants.

44. Monaco was in a quite special position owing to its history and its geography but it nonetheless acted in accordance with international law and international treaties. It was also an example of multiculturalism, with nearly 130 nationalities living together on its territory.

45. The Principality of Monaco should not, however, cite the fact that it was not a member of the International Labour Organization as a reason for neglecting the rights of workers, particularly in terms of the division of labour or social security. Indeed, international treaties, particularly at the European level, established safeguards that must be applied, at least in the civil service. The State party should consider acceding to those treaties.

46. The twenty-first century should be the century of the implementation of the International Bill of Human Rights worldwide. Indeed, given the great risks faced by the international community as a whole owing to the effects of climate change, lawmakers could no longer disregard those rights, irrespective of the economic, political, social, religious, ideological or strategic regime envisaged. Natural disasters and the consequences of global warming often hit the poorest people, as had been the case in Haiti, and countries such as Bangladesh could soon be under water. All those events would only accentuate existing inequalities. The international community must ask itself how to combat the discrimination that would follow.

47. He wished to commend the ruling family of Monaco for the quality of the sixth periodic report that the State party had submitted to the Committee.

48. **The Chairperson** thanked the delegation of Monaco for the quality of its members' replies and commended it for the quality of the sixth periodic report. The Committee would monitor the follow-up to a number of recommendations contained in the concluding observations, which would be issued at the end of the current session. The Principality of Monaco would be requested to provide the Committee with additional information on the implementation of those recommendations before submitting its seventh periodic report.

49. **Mr. Fillon** (Monaco) thanked the Country Rapporteur for his comments, which the Government of Monaco would find very useful. His delegation had endeavoured to

describe in the best and most transparent manner possible the spirit which informed Monaco's legislative policy and laws.

50. The members of the Monegasque delegation came from various sectors of the Government and had worked together to draft the report and prepare the oral replies. Their team spirit had also helped them to engage in a constructive dialogue with the Committee, a detailed report on which would be given to the Government of Monaco.

The meeting rose at 12.05 p.m.