



## **Economic and Social Council**

Distr.: General  
8 March 2013  
English  
Original: French

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### **Committee on Economic, Social and Cultural Rights**

## **Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant**

### **Combined second and third periodic reports**

### **Principality of Monaco\***

[26 May 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document is being issued without formal editing.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–7	4
II. The right to work (arts. 6–9).....	8–30	4
A. Measures implemented by Monaco.....	11–15	5
The pre-vocational training scheme.....	11–13	5
Apprenticeship contracts.....	14–15	5
B. Principal labour law amendments.....	16–30	5
Act No. 1.375 of 16 December 2010, amending Labour Court Establishment Act No. 446 of 16 May 1946.....	17–22	5
Support and Social Protection for Independent Professional Artists Act No. 1.360 of 4 July 2009.....	23–25	6
Paternity Leave Act No. 1.309 of 29 May 2006.....	26–30	7
III. The rights of the family and its members (arts. 10–11).....	31–98	7
A. The approach taken to domestic violence against women under criminal law.....	37–64	8
1. Criminal statutes – offences.....	38–42	8
Acts of violence.....	38–41	8
Rape/sexual abuse.....	42	9
2. Civil provisions.....	43–49	9
Divorce.....	43	9
3. Procedural provisions.....	50–58	10
Compensation of victims.....	50–53	10
In camera.....	54–56	10
Legal aid.....	57–58	11
4. Victim support and protection.....	59–64	11
B. The approach taken to domestic violence against women in criminal legislation now being developed.....	65–98	12
Domestic violence.....	67–75	12
Honour crimes.....	76	14
Female genital mutilation.....	77–78	14
Forced marriage.....	79–82	14
Rape.....	83–84	15
Harassment.....	85–86	15
Victim protection.....	87–90	15
Information for victims.....	91–92	16
Training.....	93	16

	Education.....	94	16
	Special procedural arrangements for minors and for adults lacking in legal capacity.....	95–97	16
	Treatment of guilty parties and prevention.....	98	17
IV.	The right to physical and mental health (art. 12) .....	99–113	17
	A. Measures for preventing and combating drug abuse by young people.....	100–111	17
	B. Steps taken by Monaco to review its legislation on abortion .....	112–113	19
V.	The right to education (arts. 13–14).....	114–135	22
	A. Access to schooling .....	117–121	22
	B. Free, compulsory education.....	122–128	23
	C. Equality in terms of the quality of instruction .....	129–130	24
	D. Equality in terms of tuition fees and the award of scholarships or any other form of student aid .....	131–135	24
VI.	The promotion of human rights in Monaco .....	136–153	25
VII.	Transmission and acquisition of nationality.....	154–161	28

## I. Introduction

1. The Principality of Monaco ratified the United Nations International Covenant on Economic, Social and Cultural Rights on 28 August 1997. The Covenant entered into force for Monaco on 28 November 1997.
2. The Committee on Economic, Social and Cultural Rights considered the initial report of the Principality of Monaco on 27 August 2004. The Committee adopted its concluding observations on 19 May 2006.
3. In accordance with articles 16 and 17 of the Covenant, the Principality of Monaco hereby submits its combined second and third periodic reports as a single document to the Committee on Economic, Social and Cultural Rights.
4. This document is therefore a combination of two biennial reports which comprise the Government's responses to the Committee's observations.
5. This report also makes reference to certain fundamental principles pertaining to economic, social and cultural rights and outlines the developments that have led to the modification of various aspects of Monegasque law in those areas.
6. Where necessary, clarification is also provided on the harmonization of national law with the provisions of the International Covenant on Economic, Social and Cultural Rights, as well as those of other United Nations conventions to which the Principality of Monaco has recently become a party.
7. The points outlined herein are grouped thematically in the same order as the articles of the Covenant referred to in the Committee's concluding observations, namely: the right to work (articles 6 to 9 of the Covenant); the rights of the family and its members (arts. 10 and 11); the right to physical and mental health (art. 12) and the right to education (arts. 13 and 14). Updated information is also provided on policies concerning the promotion of human rights and the transmission and acquisition of nationality.

## II. The right to work (arts. 6–9)

8. With regard to the right to work (art. 6), the Committee recommended that Monaco "bring its legislation relating specifically to economic, social and cultural rights into line with the amended Civil Code" (E/C.12/MCO/CO/1, para. 25). Moreover, it encouraged the Monegasque authorities to "join the International Labour Organization (ILO) and sign and ratify those ILO conventions that relate to the provisions of the Covenant" (E/C.12/MCO/CO/1, para. 26).
9. In respect of the right to social security (art. 9), the Committee, while noting that there is an effective social security system for salaried employees, said that it regretted "that family benefits are not included in the social security regime applicable to the self-employed (article 9 of the Covenant)" and recommended that the Monegasque authorities "ensure that the social security system provides adequate protection to all categories of workers and their families" (E/C.12/MCO/CO/1, para. 20).
10. In relation to the country's principal employment policies and measures, mention should be made of two significant measures put in place by the Government since Monaco submitted its initial report: a pre-vocational training scheme and support for apprenticeship contracts.

## A. Measures implemented by Monaco

### The pre-vocational training scheme

11. The purpose of the pre-vocational training scheme, which has been in place since 1 October 2005, is to facilitate entry into the labour market and reduce unemployment. This initiative gives young people between the ages of 16 and 25 who are receiving full State unemployment benefits the opportunity to undertake in-company training for a maximum of three months. The firm in question undertakes to hire the trainee after this period has been completed.

12. During the three-month training programme, the young person receives a pre-employment wage equivalent to 57.4 per cent of his or her future starting salary. This wage is paid by the Department of Employment. He or she also continues to receive social security coverage.

13. Under this programme, firms have this period of time to train young people at no financial cost to them. The Youth Employment Unit of the Employment Office monitors the participants in the programme in order to assess how well trainees are adjusting to their work environment. Once these young trainees are hired under a permanent contract of employment or a fixed-term contract of at least two years in duration, employers become eligible for a two-year rebate on their social security contributions for the workers in question.

### Apprenticeship contracts

14. Under apprenticeship contracts, employers bear the cost of apprentices' course-based instruction and pay them a salary, which varies between 25 and 93 per cent of the statutory minimum wage or of the collectively agreed conventional minimum wage if it is higher.

15. The Employment Office may reimburse the employer for all or part of the costs of an apprentice's course-based instruction if the apprentice meets the requirements set out in Sovereign Order 1.727 of 9 July 2008 on financing arrangements for course-based instruction for apprentices, as follows:

- A 100 per cent refund for apprentices of Monegasque nationality, spouses of Monegasques, children of Monegasques, or those who are resident in Monaco and have attended secondary school in the Principality for at least three years;
- A 50 per cent refund for apprentices who are residents in neighbouring French communes and have attended secondary school in the Principality for at least three years.

## B. Principal labour law amendments

16. The principal labour law amendments introduced since the initial report was submitted in 2004 are outlined below.

### **Act No. 1.375 of 16 December 2010, amending Labour Court Establishment Act No. 446 of 16 May 1946**

17. Since its establishment pursuant to Act No. 446 of 16 May 1946, the Labour Court has become a crucial part of the judicial system and has played an important role in maintaining good labour relations in Monaco. Its effectiveness in this respect can be

attributed to its flexibility in adapting to developments in labour disputes and in social and economic affairs as they arise.

18. In line with earlier amendments, Act No. 1.375 of 16 December 2010, amending Labour Court Establishment Act No. 446 of 16 May 1946, introduces major changes designed to enhance the effectiveness and accessibility of the Court and to modernize its working procedures. These modifications are designed to support or strengthen the Court's role in serving the community and to ensure that it is as accessible as possible to employers and employees who play an active role in the social and economic affairs of the Principality.

**(1) Act No. 1.375 of 16 December 2010 introduced an expedited procedure under Monegasque labour law**

19. The Government has focused its work on ensuring that court decisions are handed down in a timely manner and that appropriate safeguards are available in emergency situations.

20. In order to guarantee access to the court, Act No. 1.375 of 16 December 2010 seeks to ensure that a Monegasque lawyer can handle an urgent procedure free of charge, without a choice of jurisdiction having been made.

**(2) Act No. 1.375 of 16 December 2010 introduced new rules of procedure, new rules governing appeals against labour court judgements and extensive provisions pertaining to other matters relating to the Court's operation**

21. Act No. 1.375 includes provisions on the composition of the Labour Court whereby it amends the criteria to be used for the appointment of the officers of the court so as to take into account the Principality's changing social and economic profile.

22. As the Principality's working population is being recruited from ever further afield, the Act completely eliminates the requirement for members of the Labour Court to be residents of Monaco. It retains the more operationally focused criterion whereby members must have been employed in Monaco for at least five years.

**Support and Social Protection for Independent Professional Artists Act No. 1.360 of 4 July 2009**

23. Although the main aim of this law is to encourage artistic creation in Monaco by providing financial assistance to persons who regularly carry out an artistic activity, it has also helped to widen the scope of the social protection system for the self-employed, and artists can now become members of this system by means of a simple declaration.

24. The Government had noted that professional artists were not sharing in the major social advances brought about by laws benefiting other self-employed professionals.

25. Under the legislation in force until then, composed of Act No. 664 of 17 January 1958, as amended, which dealt with retirement pensions for the self-employed, and Act No. 1.048 of 28 July 1982, which established a social benefit system for the self-employed, contributions to the Health Insurance Fund for the Self-employed and the Independent Retirement Pension Fund for the Self-employed were only accepted from persons employed in trades, industry, commerce or any liberal profession, under the terms stipulated by the regulations in force. Artists were thus excluded.

**Act No. 1.360 of 4 July 2009 widens the scope of Act No. 664 of 17 January 1958 and Act No. 1.048 of 28 July 1982 to cover self-employed professional artists**

**Paternity Leave Act No. 1.309 of 29 May 2006**

26. With regard to specific guarantees provided in the context of a professional activity, i.e., laws governing working conditions, reference is made to Paternity Leave Act No. 1.309 of 29 May 2006. This law entitles fathers who are wage earners in Monaco to 12 consecutive calendar days of paid leave under the same conditions as those applying to daily maternity leave allowances.

27. Generally speaking, labour rights in Monaco are enjoyed equally by all; the only legal distinctions relate to nationality and place of residence. No distinction, exclusion, restriction or preference is applied on the basis of race, colour, sex, religion, political opinion or social origin. The size of the foreign population working in Monaco indicates that the rules on priority in recruitment do not in any way impinge on foreigners' access to employment in Monaco.

28. Act No. 629 of 17 July 1957, which governs conditions for recruitment and dismissal, states that the only criterion on which a distinction may be made between employees is their place of residence.

29. Employment contracts continue to be governed by Act No. 729 of 16 March 1963.

30. A bill on employment contracts is being examined by the National Council. Its purpose is to increase legal security in the domain of contractual employment and to regulate both open-ended and fixed-term contracts.

### **III. The rights of the family and its members (arts. 10–11)**

31. In relation to the right of everyone to an adequate standard of living for themselves and their family (art. 11), the Committee said it is "concerned that non-Monegasques continue to be subject to a five-year residence requirement which prevents them from enjoying the right to housing and access to social welfare and medical treatment" (E/C.12/MCO/CO/1, para. 10). The Committee has recommended that the Monegasque authorities "reduce the five-year residence requirement for non-Monegasques to enjoy the right to housing and access to social welfare and medical treatment" (E/C.12/MCO/CO/1, para. 18) and, furthermore, has encouraged Monaco "to raise its level of aid funding to the minimum recommended by the United Nations, namely 0.7 per cent of gross national product (GNP)" (E/C.12/MCO/CO/1, para. 29).

32. There is no plan to reduce the period of residence required in order for a person to enjoy the right to housing. Nonetheless, exemptions to the length-of-residence requirement are frequently granted to account for sensitive social situations. Furthermore, most social aid is not subject to any length-of-residence condition.

33. Under the initiative of Prince Albert II, the Government is pursuing an ambitious policy of international cooperation for development, with poverty reduction as its principal objective. Since 2008, official development assistance (ODA) has been increased by 25 per cent each year in order to meet the target set by the United Nations of 0.7 per cent of GNP as ODA by 2015 at the latest.

34. In 2011, the sum of 12 million euros was to be allocated for poverty reduction and more than 100 projects were to be scheduled in 26 partner countries.

35. The Government's commitment to poverty reduction is demonstrated by the fact that it works principally with the poorest developing countries: 70 per cent of its ODA is channelled to least developed countries (LDCs) through bilateral cooperation activities.

36. In addition, the Committee expressed concern at the lack of specific legislation on domestic violence against women, which is required under the provisions on the protection and assistance that should be accorded to the family (art. 10) and the provisions on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (art. 12). The Committee recommended that Monaco "consider adopting specific legislation making domestic violence a criminal offence, and establish judicial procedures to protect women who are victims of domestic violence" (E/C.12/MCO/CO/1, para. 22).

#### **A. The approach taken to domestic violence against women under criminal law**

37. Monegasque law does not include specific legislation on domestic violence. However, there are statutes which provide for the prevention and prosecution of offences of this kind, as well as protection for victims. The applicable mechanisms are based on criminal statutes (offences), civil and procedural provisions, and a victim assistance and protection scheme, as detailed below:

##### **1. Criminal statutes – offences**

###### **Acts of violence**

38. Under current Monegasque law, violence against women is punished in accordance with the provisions of ordinary law on intentional bodily injury (articles 236–239 of the Criminal Code):

(a) **Article 236** Any individual who intentionally inflicts injury or commits any kind of assault that causes illness or incapacity to work for more than 20 days shall be sentenced to from 1 to 5 years' imprisonment and receive the fine stipulated in article 26, paragraph 4.<sup>1</sup>

1. If the aforementioned acts of violence result in mutilation, amputation or the loss of function of a limb, blindness, the loss of an eye or another serious permanent disability, the perpetrator shall be sentenced to a term of from 5 to 10 years of penal servitude (*réclusion*).

2. If intentionally inflicted injuries cause death, but there was no intent to kill, the perpetrator shall be sentenced to a term of from 10 to 20 years of penal servitude.

(b) **Article 237** When there has been ensnarement or premeditation, the punishment for the offences listed in the first two subparagraphs of article 236 shall be a term of from 10 to 20 years of penal servitude. For the offences listed in the third subparagraph, the maximum penalty shall apply.

(c) **Article 238** When the injury or assault does not result in any illness or incapacity to work of the type mentioned in article 236, the perpetrator shall be sentenced to from 6 months' to 3 years' imprisonment and fined pursuant to article 26, paragraph 3.

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<sup>1</sup> A fine of 18,000–90,000 euros.



- When there has been ensnarement or premeditation, the length of imprisonment shall range from 1 to 5 years and the fine shall be as detailed in article 26, paragraph 4.

(d) **Article 239** A person who has committed any of the offences defined in articles 236, 237 or 238 against his or her legal, natural or adoptive father or mother or against any other legally recognized ascendant shall be subject to:

- The maximum prison sentence if the article prescribes a term of from 10 to 20 years of penal servitude;
- A term of from 10 to 20 years of penal servitude if the article prescribes a term of from 5 to 10 years of penal servitude;
- If the article prescribes an ordinary term of imprisonment (*emprisonnement*), that sentence will be extended to a term of 10 years.

39. Monegasque statutory law establishes that the existence of family ties between the perpetrator of an offence and the victim constitutes an aggravating circumstance. This is applicable to the punishment of violent acts committed against legitimate, natural or adopted children, their legal, natural or adoptive parents or other legally recognized ascendants (article 239 of the Criminal Code). The existence of marital ties is not considered to be an aggravating circumstance in determining the length of a sentence.

40. Such ties can, however, be taken into consideration in cases involving the offence of aggravated exploitation of prostitution. Article 269, paragraph 4, of the Criminal Code states that:

The exploitation of prostitution is punishable by from 5 to 10 years' imprisonment and a fine as prescribed by article 26, paragraph 3,<sup>2</sup> when it is committed (...) by a legally recognized, natural or adoptive ascendant of the person who is being prostituted or by someone who has authority over that person or is abusing the authority bestowed by his or her position or the prostituted person's material or psychological dependence upon the exploiter; ...

41. If the act of violence concerned can be qualified as domestic violence, this can be taken into account when determining the sentence, although it does not constitute an aggravating circumstance, *stricto sensu*.

### **Rape/sexual abuse**

42. Monegasque legislation does not include a definition of rape or sexual abuse. However, rape is an offence under article 262 of the Criminal Code and is punishable by a term of from 10 to 20 years of penal servitude; this term is increased to the maximum prison sentence if the act is committed against a person under 16 years of age.

## **2. Civil provisions**

### **Divorce**

43. Among other reasons, divorce can be requested under article 197 of the Civil Code on grounds of misconduct if the acts attributed to the spouse constitute such a serious or such a frequent failure to fulfil the duties and obligations of the marriage as to make continued cohabitation intolerable.

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<sup>2</sup> A fine of between 9,000 and 18,000 euros.

44. The presiding judge of the Court of First Instance can authorize the petitioner to maintain a separate residence or to reside alone in the marital home, along with any minor children, as appropriate (article 200-2 of the Civil Code).

45. In order to protect a couple's assets, the presiding judge of the Court of First Instance may grant a spouse's request for provisional measures, including the affixing of seals on community property, property held in common or the personal property of the other spouse.

46. Other provisional measures can be taken as described in article 202-1 of the Civil Code.

47. The Civil Code provides that one spouse may be granted a pecuniary provision on divorce. This provision is agreed upon in advance and is a set amount, although the former spouse who is to pay this sum to the other may request a revision of the conditions of payment in the event of a change in that person's circumstances.

48. There are specific provisions for divorce on grounds of marital misconduct (articles 205-1 to 205-3 of the Civil Code). Once a divorce on these grounds has been granted, the spouse who has been found to have committed marital misconduct does not have any pecuniary rights and loses all benefits agreed upon in the marriage contract or otherwise. The other spouse retains all benefits granted by his or her partner.

49. A judicial separation decree may be granted in the same cases and under the same conditions as a divorce decree (article 206-1 et seq. of the Civil Code).

### **3. Procedural provisions**

#### **Compensation of victims**

50. Article 73 of the Code of Criminal Procedure stipulates that any person who has been harmed by a crime, offence or misdemeanour, or who is permitted under article 68 to bring a complaint on behalf of another, may bring action for damages as a wronged party before the competent court at any stage in the proceedings prior to their conclusion. This right marks a contrast with the standards in force in other States where a wronged party is obliged to formalize his or her status as a civil party to the proceedings before the hearing begins.

51. The second subparagraph of article 75 of the Code of Criminal Procedure stipulates that in the event that a victim decides to initiate the prosecution of an offence or misdemeanour, that party is deemed to be a claimant for damages by virtue of his or her initiation of the proceedings against the accused before the competent court. When a case is brought before a court in this way, a formal expression of the victim's desire to bring criminal indemnification proceedings is not required.

52. Since minors lack the legal capacity to bring proceedings, only their legal representatives can bring criminal indemnification proceedings on their behalf. In the event of a conflict of interest (e.g., cases in which parents have committed acts of violence against their children), an ad hoc administrator may be appointed.

53. Article 16-2 of Act No. 1.355 of 23 December 2008, concerning associations and federations of associations, stipulates that recognized associations "may bring proceedings to defend common interests within the scope of their activities without having to prove that direct and personal harm has been suffered".

#### **In camera**

54. The law provides for cases in which a trial may be held in camera.

55. Article 189 of the Code of Criminal Procedure stipulates that:

The court may order, of its own motion or otherwise, that proceedings, including the prosecution's submissions and the judges' statements, shall take place in camera in the following instances: (1) cases in which spouses or in which ascendants and descendants are opposing parties; (2) actions to disclaim paternity; (3) applications for an administration and guardianship order; (4) motions of challenge; and, more generally, in any case where a public hearing may cause outrage or serious difficulties.

56. Article 292 of the Code of Criminal Procedure stipulates that:

If, due to the nature of the relevant acts or events, a public hearing could endanger public order or be prejudicial to morality, the court may, at the request of the prosecution or of its own motion and by means of a reasoned decision that is announced publicly, order that the proceedings shall take place, in whole or in part, in camera. The judgement on the merits shall in all cases be pronounced in open court.

#### **Legal aid**

57. Articles 38 to 56 of the Code of Criminal Procedure provide for the provision of legal aid. Article 38 stipulates that any person who possesses legal capacity but is unable to meet the cost of proceedings in advance, without drawing on resources needed for his or her maintenance or that of his or her family, may request legal aid. An administrative report on the financial situation of the applicant is sent to the legal aid office. This body, staffed by three members representing the Public Prosecution Department, the Principality of Monaco Bar Association and the Department of Tax Services, decides upon the merits of the request.

58. In criminal proceedings, articles 167 (regarding the defendant and the plaintiff) and 399 (regarding a person apprehended in flagrante delicto) are applicable.

#### **4. Victim support and protection**

59. The Social Services Unit of the Department of Health and Social Affairs has set up special systems for the care of women victims of violence and their children. Social workers are on duty every business day and provide rapid-response assistance to victims. A social worker meets with victims, informs them of their rights and offers them targeted support measures such as accommodation, financial support, job coaching and family mediation.

60. In addition, support can be provided by the Social Protection Unit and by the Medical Psychology Centre and the Medical and Social Prevention Unit of the Princess Grace Hospital Centre.

61. Since January 2005, the Government of Monaco has established victim support systems within the Police Department (in conjunction with social services).

62. The Minors and Social Protection Section (created on 1 October 2002), which reports to the Administrative Police Division (Police Department – Ministry of the Interior) and is staffed by police inspectors and social workers, carries out the judicial and administrative functions involved in providing protection for children and vulnerable adults and is responsible for all criminal procedures relating to minor victims or perpetrators of punishable offences.

63. It also devotes special attention to cases of domestic violence, in conjunction with the appropriate social services. Its area of work is thus very broad in scope, as well as being

highly valuable and quite sensitive. In addition, it serves as a counselling unit and a focal point for ongoing contact with all the parties involved in young persons' affairs, especially in the school environment. Besides its investigative responsibilities, the Section carries out prevention work and provides information in conjunction with other stakeholders in this area (the Department of Education, Youth and Sports and the Department of Health and Social Affairs).

64. NGOs working to help victims of domestic violence include the Croix Rouge Monegasque (the Monegasque Red Cross), Action Innocence Monaco (which protects children from abuse and sexual violence in its visual, written and other forms), L'Enfant d'Abord (The Child First) (which helps encourage and bring about contact between children and a parent from whom they are separated, between children placed in foster care and their parents, and between children and their grandparents, uncles, aunts, brothers and sisters) and l'Union des Femmes Monegasques (the Union of Monegasque Women).

## **B. The approach taken to domestic violence against women in criminal legislation now being developed**

65. The new legislative approach to domestic violence against women that is currently being developed is reflected in bill No. 869, which is designed to combat and prevent specific forms of violence. The Government submitted this bill to the National Council in October 2009. If passed, this bill would provide Monaco with a legal instrument that takes into account the extent of a victim's vulnerability and the many different forms of violence that may be committed. The bill would afford greater protection for women, children and persons with disabilities. Specific measures are included relating to prevention, protection and punishment to ensure this bill's effectiveness.

66. The bill details the applicable types of punishments, preventive and protective measures, forms of redress, specific procedures and the penalties to be imposed in the event of aggravating or special circumstances. It focuses on the following types of violence: domestic violence, "honour crimes", female genital mutilation and forced marriage. In addition, the bill further develops existing provisions in the following areas: rape, harassment, victim protection, information for victims, training, education, specific procedural provisions for minors and legally incapacitated adults, the treatment of offenders and prevention.

### **Domestic violence**

67. The effort to combat domestic violence is at the core of the proposed measures. The approach adopted by the Government, as reflected in this bill, is to classify acts of violence involving spouses or persons who are living or have lived on a permanent basis under the same roof as domestic violence.

68. The bill provides for significantly harsher penalties for a number of ordinary offences if they are committed by and against persons who cohabit, i.e., persons living together under the same roof, without reference to the legal status of their relationship.

69. It does not matter whether the abode is the permanent residence of one or more of the persons involved or simply a current address. The nature of their relationship does not matter either; the offence is classifiable as domestic violence if it is committed by and against people who cohabit, regardless of whether they are ascendants or descendants, parents and their natural or adopted children, blended families, etc.

70. Particular reference should be made to persons who had lived under the same roof on a long-term basis but who were no longer living together at the time of the event in

question. Following a separation, acts of violence may occur, continue or escalate. In this case, because of the relationship formed during the period of cohabitation, the victim may be placed in a vulnerable situation, thus justifying a specific judicial response as provided for under this bill. Any question as to the long-term nature of the relationship will be assessed by the trial court. The judge will then have to establish whether the time that the perpetrator and the victim spent together was a major factor in exacerbating the trauma caused by the offence, which, in any case, is punishable under criminal law. This particularly applies to threats (draft art. 2), minor assaults (draft art. 8) and bodily injury committed with or without ensnarement or intent to harm, regardless of whether or not it has led to an illness or disability (draft art. 9).

71. Whenever these acts involve spouses or persons who are living or have lived on a permanent basis under the same roof, the provisions of this bill would substantially increase the severity of the corresponding penalties, either by doubling the penalty applying to the offence under ordinary law or by stipulating that the maximum penalty for the offence must be imposed. In addition, a failure to fulfil an order to make reparations counts as an aggravating circumstance with respect to the penalty to be imposed; this may lead, as appropriate, to the revocation of the suspension of a sentence or of probation (draft art. 10).

72. This provision also applies to perpetrators of female genital mutilation, honour crimes or rape of a spouse or a domestic worker (draft art. 12). The severity of the penalty is not affected by the location where the crime takes place, be it inside the home — i.e., a literal case of domestic violence — or in any other public or private place.

73. In view of the importance of tourism in the Principality, the bill would require hoteliers to report acts of violence committed in their hotels to the authorities (draft art. 25).

74. The bill also criminalizes the act of denying a spouse access to documents that are essential for his or her daily life when this is done to make use of a particularly effective method of pressuring the spouse. These documents include identification papers and means of payment such as chequebooks, payment cards and cash (draft art. 16).

75. Article 249-2 of the Criminal Code has also been amended to set out specific penalties for all forms of domestic slavery (draft art. 11), as follows:

(1) Article 249-2 The procurement of services from a person whose vulnerability or state of dependency is known or is obvious for no pay, or pay that clearly does not reflect the amount of work performed, is punishable by 5 years' imprisonment and double the fine established under article 26, paragraph 4;<sup>3</sup>

(2) The subjection of a person whose vulnerability or state of dependency is known or is obvious to working or living conditions that are incompatible with human dignity is punishable by 5 years' imprisonment and double the fine established under article 26, paragraph 4;

(3) The offences referred to in the first and second subparagraphs are punishable by 7 years' imprisonment and triple the fine established under article 26, paragraph 4, if they are committed:

- (i) Against more than one person;
- (ii) Against a minor;

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<sup>3</sup> A fine of between 18,000 and 90,000 euros.

(4) These same offences are punishable by a term of 10 years of penal servitude and triple the fine established under article 26, paragraph 4, if they are committed:

- (i) Against more than one person, of whom one or more are minors;
- (ii) By an organized gang.

### **Honour crimes**

76. The legislative approach taken to honour crimes is the same as that taken to domestic violence. Penalties are increased substantially when the offence is committed with the intent to punish or redress misconduct purportedly linked to honour (draft art. 9), with the adverb “purportedly” leaving no doubt as to the fact that the concept of honour can never justify barbarity.

### **Female genital mutilation**

77. Firstly, the bill would release from his or her duty of confidentiality any doctor who, with the victim’s consent, informs judicial authorities of injuries inflicted on female genital organs; this would also apply to anyone, regardless of his or her profession, who becomes aware that such abuse has been inflicted on a minor or on a person unable to defend herself by reason of age or physical or mental disability. The victim’s consent would not be required (draft art. 15). Disclosure of this kind would not give rise to disciplinary or professional sanctions provided for by statutory or other rules governing the occupation of those concerned.

78. Secondly, since female genital mutilation is often performed on minors, the bill would amend a provision contained in Act No. 1.344 of 26 December 2007, on harsher penalties for crimes and offences against children, to include such abuses in the list of crimes set out in article 13 bis of the Code of Criminal Procedure for which the 20-year statute of limitations starts to run from the time that the victim reaches the age of majority (draft art. 20). Lastly, because genital mutilation is sometimes performed on minors normally resident in Europe during a trip to their family’s country of origin (while on holiday, for instance), the bill would accord special dispensation to prosecute such offences in Monaco (draft art. 7).

### **Forced marriage**

79. The bill would also amend certain provisions of the Civil Code on marriage, notably those concerning the legal minimum age for marriage, which it would raise to 18 for girls. This would establish a uniform marriageable age for both sexes and thus put an end to a form of gender-based discrimination (draft art. 34).

80. However, in line with practices in a number of other States as well, the Prince would still be able to grant an exemption to this age requirement if there are powerful reasons for doing so. This special dispensation could be granted only if the minor is at least 16 years old, an age below which a person is not deemed to be capable of consenting to marriage in a mature, informed and independent manner.

81. A marriage would be rendered null and void if it has been entered into as a result of violence or under duress, even if this takes the form of the exertion of undue influence over one of the parties by, for example, an ascendant, notwithstanding the provisions of article 969 of the Civil Code, on defects of consent (which expressly rules out undue influence as a basis for annulment).

82. Because a forced marriage constitutes such a serious violation of a person's fundamental rights, the bill provides for a penalty of from 3 to 5 years' imprisonment (draft art. 14).

### **Rape**

83. Rape is defined in the bill as non-consensual sexual penetration of any sort (draft art. 12). The incorporation of this definition into Monegasque criminal law would represent a step forward in terms of respect for the principle of *nullum crimen, nulla poena sine lege*, as does the fact that the bill explicitly refers to marital rape and, in particular, to effective redress for victims (draft article 10, see above). The Government also intends to refine that definition by adding a subparagraph on incest. A third subparagraph has been introduced in article 262 of the Criminal Code that defines any sexual relation with a minor as rape, regardless of age or consent, if the other person is a member of the victim's biological or adoptive family.

84. Incestuous rape would be punished in the same way as the rape of a minor under 16 years of age, which carries the maximum sentence of penal servitude (20 years).

### **Harassment**

85. The definition of this offence that appears in the new article 236-1 of the Criminal Code is designed to cover all acts of harassment. This is accomplished by focusing the definition on the objective of this type of violence. It therefore covers all instances of such acts, including those intended to adversely affect people's living or working conditions, violate their rights or dignity, impair their physical or mental health or jeopardize their future prospects.

86. The first subparagraph of article 236-1 of the Criminal Code criminalizes such actions when they are directed against any person and in any sphere of activity. The second subparagraph deals specifically with such actions when they are directed against a person with whom the perpetrator lives or has lived.

### **Victim protection**

87. Under this bill, accredited associations devoted to combating discrimination, sexual violence, child abuse, the sexual abuse of minors and other such objectives would be empowered to bring criminal indemnification proceedings on their own initiative.

88. Persons found guilty of this offence may be sentenced to a term of imprisonment of from 1 to 6 months and fined between 9,000 and 18,000 euros, as well as:

(1) Being prohibited, for a given period of time, from contacting the victim(s) in any way, including via electronic media;

(2) Being prohibited, for a given period of time, from going to specified locations. The provision is worded in such a way as to give a judge full discretionary powers in reaching a decision that is suited to the needs and situation of the victim(s). An offender could, for example, be banned from being in the vicinity of schools, sports facilities or any other type of workplace, recreational facility or residential area (including, of course, the victim's domicile) frequented by the victim(s). Such injunctions may remain in effect throughout the various stages of the proceedings.

89. In addition, the judge would be vested with the power to rule on related matters of key importance having to do with the family dwelling, the exercise of parental authority and payment of household expenses (draft art. 32).

90. The draft provisions on criminal procedure stipulate that assistance is to be made available to victims from the very start of the corresponding inquiry and judicial investigation. The Prosecutor-General and the investigating judge would have the authority to order that a medical and psychological examination be conducted in order to determine the nature of the harm suffered and assess the need for a suitable programme of treatment (draft articles 22 and 28).

#### **Information for victims**

91. Article 42 states that the victims of violent offences referred to in article 1 have the right to be fully informed and to receive personalized advisory services.

92. Investigative police agents and officers inform such victims orally and by any other appropriate means of their right to redress, their right to sue for damages if criminal proceedings are initiated by the prosecution service, their right to bring charges against the perpetrator before the corresponding court or to lodge a complaint with the investigating judge; and their right to receive assistance from the appropriate government agency or from a government-approved victims' aid association. The victim is also to be furnished with officially approved documentation for that purpose. All public and private hospitals and medical facilities in Monaco must provide open access to that documentation while maintaining the anonymity of the persons concerned. Persons with disabilities who become victims of such acts of violence are to have full access to all relevant information in a form that is suited to their disability.

#### **Training**

93. The bill provides for targeted training for all staff involved in dealing with violent crime in any way, whether they work in the justice system, the police force, medical facilities or social services (draft art. 43).

#### **Education**

94. Draft article 44 stipulates that all schools are to report on an annual basis, pursuant to the legal provisions applying to educational institutions, on measures for the prevention and early detection of violence as provided for in article 1 and on proposed victim assistance services. Outside personnel, along with the staff of violence prevention and victim assistance services, may attend these briefings.

#### **Special procedural arrangements for minors and for adults lacking in legal capacity**

95. There have been reports of criminals using electronic media to contact and subsequently kidnap minors and force them to engage in such perversions as paedophilia and child pornography. These reports are being taken very seriously by the Monegasque authorities. In view of the irreparable harm caused by such acts and the technological means used by such people to locate their victims, police and judicial authorities need to adapt their methods accordingly. This is why this bill provides that, during both the preliminary inquiry and the investigation itself, investigators may use pseudonyms when contacting suspects in an effort to expose them (draft arts. 23 and 26).

96. Two provisions merit special mention. The first, which appears in the new article 268-1 of the Code of Criminal Procedure, establishes that the services of an attorney must be provided to victims when they appear before the investigating judge. Attorneys fulfilling this somewhat unusual role (since they are usually called upon to represent a suspect or defendant) are to advise and protect the interests of these individuals, who, because they are so vulnerable, stand in great need of these legal services. Either the Prosecutor-General or the investigating judge can call in a psychologist or physician or a member of the minor



victim's family to be present during hearings, particularly in those where the victim will come face-to-face with the suspected offenders.

97. The second provision (new article 268-4 of the Code of Criminal Procedure) authorizes the Prosecutor-General to appoint an ad hoc guardian for a victim who is a minor or who lacks legal capacity to protect that person's interests during the ensuing proceedings in the absence of legal representation.

#### **Treatment of guilty parties and prevention**

98. As a preventive measure, the bill (draft art. 15) would set aside the obligation to maintain confidentiality (whether in respect of a repeat offender or a first-time offender) when this is necessary in order to inform the proper authorities about situations in which violence has been or is likely to be committed. The confidentiality requirement is thus waived for the following persons:

- Physicians who, with the consent of the victim, apprise the Prosecutor-General of the abuse or deprivation of which they have become aware in the course of their duties, particularly if the victim is a minor or is an adult who is unable to protect himself or herself;
- Health professionals or social workers who inform the authorities of the danger posed by persons who have consulted them in connection with the possession of weapons.

## **IV. The right to physical and mental health (art. 12)**

99. The Committee took note with concern of "the health problems affecting young people, resulting in particular from drug use and drug addiction (articles 10 and 12 of the Covenant)" (E/C.12/MCO/CO/1, para. 13) and recommended "that the State party step up its efforts to combat and prevent drug addiction, particularly among young people, and that it adopt specific legislation in that regard" (E/C.12/MCO/CO/1, para. 21).

### **A. Measures for preventing and combating drug abuse by young people**

100. In order to address this problem, a baseline study on the use of psychoactive substances by young people in Monaco was conducted in 2007 by the Drug Abuse Monitoring Centre of France. This same survey (the European School Survey Project on Alcohol and Other Drugs) was carried out in 35 other European countries as well and has generated reliable, comparable statistics.

101. The results were virtually the same in Monaco as in France (10 per cent of 16-year-olds in Monaco have used a drug other than cannabis at some point in their lives as compared to 11 per cent in France); these percentages are above the European average (7 per cent).

102. The survey results have served as a basis for the development of a health education plan that sets out a series of measures for protecting and informing young people. Emphasis is placed on discouraging experimentation with drugs and the use of addictive substances, but the chief aim is to help young people acquire a set of good behavioural habits and to become well-informed. Based on the survey results, this plan of action focuses on preventive measures, which should be introduced early on and then carried out regularly at all grade levels.

103. To that end, Health and Citizenship Educational Committees have been set up in every school. Each team (made up of instructors, psychosocial experts, nurses and student representatives) draws up a plan that is tailored to the needs of each school. As part of the implementation of these plans, age-specific campaigns are carried out during class time. These committees also deal with AIDS prevention, in addition to drug, alcohol and tobacco use.

104. The national education system and the Department of Health and Social Affairs hold seminars on prevention on a regular basis.

105. The Interdisciplinary Documentary Research and Addiction Intervention Centre has launched a broad-ranging initiative to inform students about the risks associated with the consumption (use, abuse, dependence) of psychoactive substances. The purpose of this initiative is to train faculty members and to involve them in preventive efforts, to give students a role in those efforts and to encourage students to turn to faculty members when they need help. Representatives of school social workers and instructors from all of the country's schools have received special training to prepare them to serve as focal points (training in the identification of troubled young people, teaching them how to listen to young people and support them when they are in need, instruction in how to go about organizing projects in the schools, etc.). This type of training has also been made available to social service personnel throughout Monaco (in administrative services, public institutions, associations, etc.).

106. Monaco was represented at the World Conference on Doping in Sport held in March 2003 by the World Anti-Doping Agency. The participants in the Conference adopted a resolution on the subject, and some 50 Governments (including the Government of Monaco) signed the Copenhagen Declaration on Anti-Doping in Sport. The Anti-Doping Committee of Monaco has been established to provide Monaco with the material and financial means to combat doping effectively. A permanent secretariat has been set up in the Department of Education, Youth and Sports to coordinate the work of the Anti-Doping Committee of Monaco and ensure the continued application of the Government's anti-doping policy.

107. Pursuant to the Declaration, each year the Government of Monaco publishes amendments in the official gazette to annex I (Prohibited List – International Standard) and annex II (Standards for Granting Therapeutic Use Exemptions) of the International Convention against Doping in Sport.

108. Talks on the subject of doping are given to secondary school students by medical sports inspectors. These sessions, which are held as part of physical education and sports classes, cover the risks associated with the use of performance-enhancing substances. Targeted activities are also carried out by the Department of Health and Social Affairs. For example, it has organized a travelling exhibit entitled "Sports and Dependence" to inform students about the harmful effects of doping and of addiction in general.

109. Whenever it receives reports of situations in which children are at risk, the Social Protection for Minors Section of the Public Safety Department immediately informs the child welfare authorities so that the matter can be taken up by the appropriate administrative services (Department of Health and Social Affairs, Department of Education, Youth and Sports) or judicial authority (the Juvenile Court).

110. One of the recent steps taken by the legislature has been the establishment of severe penalties for anyone who furnishes illicit drugs to a minor or facilitates drug use by a minor:

When any of the offences covered in articles 2, 2-1 or 3 has been committed with the intention of, or has had the effect of, furnishing a minor with illicit drugs or assisting

a minor to use illicit drugs or involving a minor in the commission of such a crime, or when any of the above offences has been committed in or in the immediate vicinity of a prison facility or a social services centre or in another location where schoolchildren or students engage in educational, sport or social activities, the penalties set forth in articles 2 and 3 shall be doubled; the penalties provided for in article 2-1 may also be doubled (article 4 of Illicit Drugs Act No. 890 of 1 July 1970 as amended by Act No. 1.261 of 23 December 2002).

111. On the subject of abortion, the Committee noted “with concern that abortion is illegal in all circumstances in the State party’s legal system (art. 12)” and recommended that the State party “review its legislation on abortion and that it consider making exceptions to the general ban on abortion where there are therapeutic reasons for so doing and in cases where pregnancy is the result of rape or incest” (E/C.12/MCO/CO/1, para. 23).

## **B. Steps taken by Monaco to review its legislation on abortion**

112. Abortion for therapeutic reasons is permitted under the conditions set forth in Act No. 1.359 of 20 April 2009, which amended article 248 of the Criminal Code to read as follows:

### **Article 248**

1. Anyone who, by any means whatsoever, causes or attempts to cause a pregnant woman to abort, with or without her consent, shall be subject to a term of imprisonment of from 1 to 5 years and the fine provided for in article 26, paragraph 3.<sup>4</sup>

- The term of imprisonment shall be from 5 to 10 years and the fine shall be as stipulated in article 26, paragraph 4,<sup>5</sup> if it is established that the guilty party has habitually engaged in the acts referred to in the preceding provision;
- A pregnant woman who terminates her own pregnancy or has attempted to do so or who has consented to use methods specified or used for that purpose shall be subject to a term of imprisonment of from 6 months to 3 years and the fine provided for in article 26, paragraph 3;
- Physicians, surgeons, midwives, pharmacists and any other persons engaged, whether regularly or not, in an occupation having to do with public health who specify, encourage the use of or make use of methods for terminating a pregnancy shall be subject to a term of imprisonment of from 5 to 10 years and the fine provided for in article 26, paragraph 4; suspension for at least 5 years or permanent disqualification from the exercise of their profession may also be imposed, as appropriate;
- Anyone who contravenes a prohibition on the exercise of his or her profession issued pursuant to the preceding provision shall be subject to a term of imprisonment of from 6 months to 3 years and the fine provided for in article 26, paragraph 3.

2. The termination of a pregnancy under the conditions specified in this article does not constitute the crime of abortion defined in paragraph 1 above when:

<sup>4</sup> A fine of from 9,000 to 18,000 euros.

<sup>5</sup> A fine of from 18,000 to 90,000 euros.

(1) The pregnancy poses a risk to the life or physical health of the woman in question;

(2) Prenatal examinations and other medical data indicate that there is a high probability that the foetus will suffer from a serious, irreversible disorder or an incurable life-threatening condition;

(3) There are sufficient grounds for presuming that the pregnancy was the result of a criminal act and that less than 12 weeks have elapsed since the start of the pregnancy.

3. In the situations referred to in subparagraphs (1) and (2), an abortion may not be performed unless two of the physicians belonging to the panel whose membership is specified in the following provision attest that the panel is of the opinion that there are valid medical grounds for doing so.

4. This medical panel shall be composed of:

- The physician who is serving as the Coordinator of the Prenatal Coordination and Family Support Centre or a physician designated by the Coordinator;
- The attending obstetrician or a physician designated by him or her;
- A specialist physician designated by the Coordinator and the attending obstetrician by common accord.

5. Two of these three physicians must be on the public hospital medical staff.

6. A physician of the pregnant woman's choosing may, at her request, confer with the panel but will have no decision-making power.

7. The medical panel may enlist the services of any other physician whom they wish to consult and seek any other opinions that they deem necessary.

8. Before this medical panel meets, the pregnant woman or the couple concerned may, at her or their request, make their views known to the full panel or some of its members.

9. Within 15 days the medical panel's opinion shall be recorded in the medical file on the patient opened by the health-care facility.

10. In the cases referred to in paragraph 3 above, certification of the criminal complaint filed with the courts must be included in the medical file; otherwise the procedure may not be performed.

11. Except in the case of an emergency or when the pregnant woman is not capable of expressing her will, her written consent to the procedure must be obtained in advance and included in the medical file. The medical risks involved and the medical and surgical methods to be used must be explained to her. The woman or the couple may ask to meet with the full panel or with any of its members at any time in order to seek additional explanations. Psychological counselling and follow-up services shall be made available to the woman or couple upon request.

12. In the case of a pregnant minor, the consent of one of the parents or a legal guardian, as appropriate, must be obtained in advance, except in the case of an emergency.

13. If it is impossible to obtain that consent or when the pregnancy is the result of an alleged criminal act, the procedure may be authorized by the Court of First Instance, sitting in chambers.

14. The above provision also applies when the minor's parents or legal guardian, as appropriate, refuse to give their consent if:

- (1) The medical panel is of the opinion that the pregnancy will have particularly grave consequences for the pregnant woman or the unborn child; or
- (2) The pregnancy is the result of an alleged criminal act.

15. The Court of First Instance shall be called upon to apply the aforementioned provisions:

- At the request of the physician serving as Coordinator, who, to that end, must submit a detailed, reasoned report to the presiding judge in the event that the situation outlined in paragraph 1 above applies;
- At the request of the minor concerned, should the other situation referred to above be the case. This request should be directed to the guardianship judge, who will then transmit the request to the presiding judge.

16. The judge of the Court of First Instance, sitting in chambers, shall consider the views of the parents or legal guardians, who are required to appear before the court at first summons on the day and at the hour specified therein. If they fail to do so, a default judgement will be issued. When appropriate, the minor concerned may also appear before the judge.

17. The Court will issue a decision no later than three days after the request is submitted.

18. The decision of the Court of First Instance may be contested before the Court of Appeal, sitting in chambers, within three days of its issuance. This is the only available avenue of appeal.

19. When the pregnancy is the result of an alleged criminal act, the Court of Appeal must hand down its decision within eight days from the time that the appeal was filed and, at all events, before the 12-week time period established in paragraph 3 above has elapsed. That decision cannot be contested by a third party.

20. The procedure to be conducted on the basis of any of the reasons set forth in the first provision of subparagraph 2 of this article must be performed by a physician in a public hospital.

21. No physician, midwife, nurse or medical auxiliary is obligated to terminate a pregnancy or to be present at the termination of a pregnancy. A physician who is requested to terminate a pregnancy and does not wish to do so must inform the woman in question of his or her refusal without delay and must put her in contact with the Prenatal Coordination and Family Support Centre, which shall direct her to a physician who can perform the procedure, subject to the conditions set forth in this article. The Centre will have forwarded the patient's medical file to that physician in advance.

113. This law also provided for the establishment of the Prenatal Coordination and Family Support Centre, which is attached to the Department of Health and Social Affairs. Its objective is to provide pregnant women and their families with the information and support they need during the time between the beginning of pregnancy and childbirth, particularly when the woman in question is experiencing physical, psychological or social difficulties related to her pregnancy.

## V. The right to education (arts. 13–14)

114. With regard to the right to education (art. 13), the Committee encouraged “the State party to accede to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education” (E/C.12/MCO/CO/1, para. 28).

115. There is no discrimination in education in Monaco. While article 27 of the Constitution does state that Monegasques have the right to primary and secondary schooling free of charge, this provision does not have any discriminatory implications.

116. In actual fact, Monaco already acts in accordance with the principal commitments to non-discrimination set out in the UNESCO Convention, which are covered in Education Act No. 1.334 of 12 July 2007. These commitments include: access to education for all, without discrimination; compulsory education free of charge; equality in terms of the quality of the instruction provided; and equality in terms of tuition fees and the award of scholarships or any other form of student aid.

### A. Access to schooling

117. Article 3 of the UNESCO Convention states that: “In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake ... to ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions.”

118. The States parties undertake furthermore to apply a national policy designed to “make secondary education in its different forms ... accessible to all [and] make higher education equally accessible to all on the basis of individual capacity ...” (article 4 of the Convention).

119. Foreign nationals residing in Monaco (persons of 119 different nationalities are present in the country) have the same access to schooling as Monegasque nationals do. Article 3 of Education Act No. 1.334 of 12 July 2007 states:

School attendance is compulsory for all children of either sex between 6 and 16 years of age who are: (1) of Monegasque nationality; (2) of a foreign nationality if their parents, legal guardian or the natural or legal person who cares for the child reside in Monaco or are duly established in Monaco.

120. Article 10 of Education Act No. 1.334 of 12 July 2007 states that:

Preschools are open to children who have not yet reached the age at which schooling becomes compulsory ... . All Monegasque children and all children having a Monegasque parent shall be accepted for enrolment in a preschool starting from the age of 3 if the persons responsible for them have applied to the preschool as provided for in the corresponding ministerial directive.

Any child whose parents reside in Monaco is to be accepted for enrolment in a preschool, subject to available capacity, starting from the age of 3 if a parent, legal guardian or the person who cares for the child has applied to the preschool as provided for in the corresponding ministerial directive.

If openings remain available after places in the preschools have been allotted pursuant to the two preceding provisions, they will be assigned in accordance with the terms set out in the corresponding ministerial directive.

121. Finally, article 11 of the Act states that:

The legal obligation to provide an education to children and adolescents with disabilities or an incapacitating disorder shall be met by providing them with an education in a regular school environment or, if necessary, special education geared to their needs at health-care, medical and social welfare or specialized institutions or services or home schooling in accordance with the provisions set forth in article 5.

## **B. Free, compulsory education**

122. The States parties to the UNESCO Convention have also undertaken to apply a national policy designed to “make primary education free and compulsory” and “assure compliance by all with the obligation to attend school [as] prescribed by law” (art. 4, subpara. a).

123. Under Monegasque law, compulsory education is free of charge in public schools (article 12, subparagraph 1, of Act No. 1.334).

124. In addition to the provisions of article 3, as mentioned above, article 4 of the Act states that:

Parents, the legal guardian or the person who cares for a child must enrol the child in a public or private primary school during the enrolment period set by the National Director of Education in the course of the calendar year in which the child’s sixth birthday falls ...

125. Article 14 of the same law states that:

With assistance from other services or authorities, as necessary, the National Director of Education shall ensure that the obligation of all the children covered by article 3 to attend school is met. The services of school inspectors and medical inspectors shall be placed at the Director’s disposal to assist in the performance of this task, as necessary.

126. Chapter VI of this law provides for the enforcement of this legal obligation through the establishment of penalties for non-compliance as a criminal offence.

127. Article 65 of Education Act No. 1.334 of 12 July 2007 states that:

If a parent, the legal guardian or the person who cares for a child does not enrol a child in a public or private school, does not provide notification of the intention to home school the child as provided for in article 2, has no valid reason for failing to do so and has been given formal notice of this requirement by the National Director of Education, that person shall be liable to a term of imprisonment of 6 months, the fine provided for in paragraph 2 of article 2<sup>6</sup> of the Criminal Code or both.

128. It goes on to state that:

Parents, the legal guardian or the person who cares for a child are liable to the penalties set forth in paragraph 2 of article 29 of the Criminal Code if they repeatedly fail to inform the school of the reason for a child’s absence or give inaccurate information in that regard or allow the child to miss school without a legitimate reason or excuse for more than four half-days per month.

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<sup>6</sup> A fine of from 2,250 to 9,000 euros.

### C. Equality in terms of the quality of instruction

129. States parties to the UNESCO Convention also undertake to formulate, develop and apply a national policy designed to “ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent” (art. 4).

130. In Monaco, the provision of an education of equivalent quality by public schools is monitored by means of inspections. Under article 15 of Education Act No. 1.334 of 12 July 2007:

The National Director of Education shall issue an annual report on the performance of the educational system and on the initiatives, projects and pilots conducted in the country’s schools during the school year. This report is to be submitted to the Minister of State and other members of the Government, the President of the National Council and the members of the National Education Committee.

### D. Equality in terms of tuition fees and the award of scholarships or any other form of student aid

131. Article 3 (subparagraphs 1 and 2) of the UNESCO Convention states that:

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;

Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group ...

132. In Monaco there are no differences of treatment between nationals, except on the basis of merit or need, in the matter of the granting of scholarships or other forms of assistance to pupils.

133. Article 45 of Education Act No. 1.334 of 12 July 2007 states that:

Scholarships and grants for advanced studies and for specialized studies in foreign languages are approved by the Department of Education following consultation with the Scholarship Board. A ministerial directive issued after consultation with the National Education Committee establishes the eligibility requirements and the composition and work of the Board.

134. Article 2, on grant recipients, of Ministerial Directive No. 2010-218 of 28 April 2010, which approved the regulations governing scholarships and study grants, provides that:

1. **Article 2** A commission established by the Minister of State shall consider and arrive at a determination regarding applications for scholarships and study grants submitted to the National Director of Education, Youth and Sports. The composition of that commission, the manner in which its members are to be designated and the rules governing its work have been established by means of a ministerial directive.



2. Applications may be submitted by the families of candidates or by candidates themselves who belong to one of the following categories:

- (1) Students having Monegasque nationality;
- (2) Students of foreign nationality whose spouses are of Monegasque nationality, provided that they are not legally separated;
- (3) Students of foreign nationality who have a Monegasque parent or come from a home in which one of the parents is of Monegasque nationality or are dependants of a Monegasque national. Candidates must also be residing in Monaco or in the bordering French department at the time that the application is submitted;
- (4) Students of foreign nationality who are the dependants or orphans of a State or commune official or an official employed by a public institution or a French service located in Monaco under the terms of an existing treaty and who reside in Monaco or the bordering French department. The official, whether working or retired, must have had at least five years of service in that capacity;
- (5) Students of foreign nationality who have been residing in Monaco for at least 10 years.

135. Apprenticeship Act No. 1.341 of 3 December 2007 sets forth the main contractual regulations governing this form of education.

(a) Article 1 of the Act states that apprenticeship contracts are special employment contracts under which an employer is obligated to provide paid vocational training to an apprentice and under which an apprentice is obligated to work for the employer for the duration of the contract and to take part in the practical training scheme provided by the company, in addition to attending school;

(b) In addition to a number of specific legal provisions, apprenticeship contracts are governed by the provisions contained in labour laws, collective agreements and established practices in Monaco in the relevant profession or business enterprise;

(c) Apprenticeship contracts may be entered into by young people who are between 16 and 26 years of age at the time that the apprenticeship commences. The apprentice must be enrolled or in the process of enrolling in an educational institution in order to comply with the school attendance requirement set forth in the apprenticeship contract;

(d) Apprentices may be Monegasque or foreign nationals and may be domiciled in Monaco or in French communes bordering Monaco;

(e) Compliance with the apprenticeship contract and the apprentice's academic progress are monitored by the Labour Department and the school in which the apprentice is enrolled.

## **VI. The promotion of human rights in Monaco**

136. With regard to human rights training programmes, the Committee encouraged the State party "to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary" (E/C.12/MCO/CO/1, para. 27). The Committee also encouraged Monaco to "establish an independent national human rights institution, in accordance with the Paris Principles (General Assembly resolution 48/134), with a mandate to protect and promote all human rights, including economic, social and cultural rights" (E/C.12/MCO/CO/1, para. 24).

137. Human rights training is provided in schools at all levels in Monaco.
138. In primary schools, key subjects are covered, such as the Convention on the Rights of the Child, the Universal Declaration of Human Rights or the different institutions associated with them. This form of human rights education is provided mainly through cross-cutting school activities and discussions about current events. One hour per week is set aside for these subjects, although more time may be spent on certain topics.
139. At the middle-school level, history and geography teachers provide civics classes for students in the sixth through ninth grades. One hour per week is set aside for this purpose. The concepts covered include individual responsibility, people's rights and duties, equality, solidarity, liberty, justice and so forth.
140. At the secondary-school level, human rights education is provided under a special civics, legal and social education programme for one hour every two weeks. Discussions are held on the rule of law, democracy, liberty, justice and related subjects.
141. Human rights are also studied on a cross-cutting basis at the middle-school and secondary-school levels in history and geography, economics and social sciences, and humanities or philosophy courses.
142. The Universal Declaration of Human Rights and the Convention on the Rights of the Child serve as the frame of reference for school activities focusing on humanitarian and other issues.
143. For nearly 10 years now, the schools in Monaco have been organizing funding drives as part of the celebration of International Children's Rights Day. The funds raised are then donated to humanitarian associations.
144. Civics and human rights are also covered in in-service teacher training programmes focusing on teaching methods designed to inculcate a sense of responsibility in students and encourage them to participate in related activities.
145. Middle-school and secondary-school teachers also organize field trips dealing with specific topics. These trips often require a great deal of preparatory work. In 2005, students in their last year of school travelled to Germany to attend events marking the sixtieth anniversary of the Holocaust.
146. From 31 May to 4 June 2010, 30 eighth and ninth graders from the chaplaincy centre of Charles III Middle School made a memorial trip to Krakow, Auschwitz and Warsaw.
147. In addition, in 2006 the Council of Europe, of which Monaco is a member State, launched a campaign entitled: "All different, All equal". Monegasque schools took up this campaign and organized an event to mark Children's Rights Day.
148. This campaign is designed to raise young people's awareness of the fact that everyone has the right to be treated equitably and fairly, regardless of their culture, religion or physical or mental capabilities. This effort to combat intolerance and discrimination is one means of promoting respect for human rights, which is one of the fundamental principles embraced by the Council of Europe.
149. A series of activities were held during the 2006/07 school year in Monaco:
- (a) All classes in each primary school developed an interdisciplinary project focusing on a different topic each quarter:
- First quarter: difference and disability;
  - Second quarter: difference and skin colour;
  - Third quarter: difference and culture or difference girl/boy.

(b) Preschool students work with reading materials for young people and create albums, posters and games that raise awareness about the consequences of disability.

(c) For example:

- Creation of a tactile book with sound effects for the class of visually impaired children in Mouans Sartoux (French Department of Alpes-Maritimes);
- Creation of a “blind obstacle course”;
- Creation of a poster on the daily lives of children around the world.

(d) In the first two years of primary school, class work is based on children’s literature dealing with different subject areas, world music and the film “Azur & Aznar”;

- Construction of a giant globe representing the different ethnic groups of the world;
- Construction of a “spin the wheel” quiz game on human rights.

(e) In the next three years of primary school, the students continue to work with children’s literature. In addition, the same topics are covered in all course subjects and particularly in civics, history and geography, and art classes and in physical education and sports activities:

- Sports meets between the students and members of the Monegasque Association for the Assistance and Protection of Children with Disabilities;
- A meeting with an athlete with disabilities so that the students can ask him or her about the disability and prepare a report for presentation to the other students in the school;
- Preparation of a play on the theme: “All different, All equal”;
- Meetings with Julie Paquet (author of a series of stories in which the heroine, Cléo clic clic, travels to different countries);
- A project on Louis Braille which includes a visit to the EZE guide-dog training school and a meeting with visually impaired children at the Château School in Nice, France;
- Composition of a detective novel in which the main character becomes a suspect because he or she is different from others.

150. The Cyberdodo Edupack on children’s rights, which is made up of seven comic books covering the articles of the Convention on the Rights of the Child, has been distributed to primary school students in grades 3 to 5. The Edupack was unveiled on Children’s Rights Day (20 November) in 2007.

151. The children participating in these projects have ownership in them from the very start. There is a great deal of discussion, and everyone has the opportunity to make their voices heard and participate actively. This experience helps them take the first step towards becoming responsible citizens as adults.

152. These projects are carried out throughout the year and result in the preparation of exhibits, shows, discussion panels and other events.

153. The Principality of Monaco is a party to the Convention for Facilitating the International Circulation of Films of an Educational Character (Geneva, 11 October 1933), which entered into force by virtue of Sovereign Ordinance No. 1.646 of 30 September 1934.

## VII. Transmission and acquisition of nationality

154. With respect to the question of discrimination in matters relating to nationality, the Committee expressed “concern at the interpretative declarations and reservations, particularly with regard to article 2, paragraph 2, and articles 6, 9 and 13, entered by the State party when it ratified the Covenant” (E/C.12/MCO/CO/1, para. 8) and recommended that Monaco “withdraw its interpretative declarations and reservations ... [and] review them, especially those that have become or are becoming obsolete or pointless, including those relating to article 2, paragraph 2, and articles 6, 9 and 13 of the Covenant, in the light of developments in the State party” (E/C.12/MCO/CO/1, para. 16).

155. In addition, while welcoming the adoption of Act No. 1296 of 12 May 2005 on the transmission of Monegasque nationality from mothers to their children, the Committee remained “concerned about the restrictions that prevent naturalized women from transmitting Monegasque nationality to their children in the event of a divorce” (E/C.12/MCO/CO/1, para. 9) and consequently encouraged the Monegasque authorities “to adopt legislation that provides for equality at law in respect of the transmission of nationality to children by Monegasque women, regardless of the manner in which [their] nationality was acquired” (E/C.12/MCO/CO/1, para. 17).

156. Finally, the Committee stated that it was “concerned at the fact that there are different legal requirements for men and women wishing to acquire Monegasque nationality (art. 3 of the Covenant)” (E/C.12/MCO/CO/1, para. 11) and recommended that the rules on acquisition of nationality should be made the same for men and women (E/C.12/MCO/CO/1, para. 19).

157. With regard, first of all, to the above-mentioned suggestions and recommendations as set forth by the Committee in paragraphs 16, 17 and 18 of its concluding observations, it should be noted that consideration is being given to the possibility of modifying the laws on nationality applied by the executive and the members of the National Council.

158. As of now, in the course of the discussions concerning this issue, consideration is not being given to the possibility of according total equality under the law for the transmission of nationality to the children of Monegasque women, regardless of how the mothers acquired their nationality. Rather, the traditional legal exclusion is to be maintained but will be extended to apply to men as well as women. Under that exclusion, persons who have acquired Monegasque nationality by marriage cannot transmit that nationality to their children in the event of divorce or death of the spouse followed by remarriage to a person of foreign nationality.

159. With regard to the laws on nationality, the necessary legislative work is now being done to unify the system for the acquisition of Monegasque nationality through marriage by providing foreign spouses, whether male or female, with the option of acquiring Monegasque nationality after 10 years of marriage.

160. Foreign nationals are given access to housing that is governed by a special legal regime under which tenants enjoy a number of benefits. Because of the legal and financial protection afforded to tenants, it has become common for people to speak of the “protected sector”, but this regime is actually open only to foreign nationals who have been domiciled or have been working in Monaco for at least five years. There are no plans as of now to change that requirement, given how small the territory of Monaco is and how many people work in Monaco.

161. In regard to social welfare and medical treatment, while the social security and health insurance systems open to persons who are not Monegasque nationals do have

requirements regarding residence or employment in Monaco, they do not have a “five-year residence requirement”.

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