



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Initial report submitted by Monaco under article  
35 of the Convention, due in 2019\***

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\* The present document is being issued without formal editing.



## Introduction

1. The Principality of Monaco ratified the Convention on the Rights of Persons with Disabilities on 19 September 2017. The instrument entered into force in Monaco on 18 October 2017.
2. The Convention was brought into force in the Principality by Sovereign Ordinance No. 6.630 of 2 November 2017.
3. The present document constitutes its initial report submitted to the Committee on the Rights of Persons with Disabilities, in accordance with the provisions of article 35 of the Convention.
4. Several government entities participated in the preparation of this report: the Department (Ministry) of Health and Social Affairs, the Ministry of Public Works, the Environment and Urban Development, the Department of Foreign Affairs and Cooperation, the Directorate of Judicial Services (Ministry of Justice) and the Directorate of Legal Affairs.

## I. Information specific to the Convention and submitted to the Committee in accordance with the general provisions of the Convention

### Articles 1 to 4

5. In Monaco, a disability is defined as follows: “A disability shall be taken to mean any limitation of activity or restriction on participation in life in society experienced by a person in his or her environment by reason of a lasting or permanent substantial impairment of one or more physical, sensory, mental, cognitive or psychological functions or a disabling health disorder.”<sup>1</sup>
6. The impairments covered are: “physical, sensory, mental, cognitive or psychological”. The legal definition of “long term” is “lasting or permanent substantial impairment”.
7. Domestic law defines and includes the concepts set out in articles 1 and 2 of the Convention and recognizes equal access to human rights and fundamental freedoms under the provisions of Chapter III of the Constitution of 17 December 1962, in particular articles 17<sup>2</sup> and 32,<sup>3</sup> which recognize equality before the law. In addition, Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities establishes the status of persons with disabilities and the rights associated with their situation.
8. Monegasque law addresses reasonable accommodation in the following way. Article 36 of Act No. 1.410 of 2 December 2014 provides that the refusal to take “appropriate measures to enable workers with disabilities to have access to employment under the conditions recommended by the Careers Guidance Commission for Workers with Disabilities or to ensure that they continue to enjoy satisfactory conditions ... shall not constitute an unjustified difference in treatment where there is disproportionate burden or inconvenience in their implementation by the employer”. Article 47 of the Act also addresses, with regard to transport, the measures to be taken in cases of “proven technical impossibility or manifestly disproportionate costs”. A derogation from the measures called for in Act No. 1.441 of 5 December 2016 on the accessibility of the built environment is “based on legitimate grounds relating to:

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<sup>1</sup> Article 1 of Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities and article 4 of Act No. 1.441 of 5 December 2016 on the accessibility of the built environment.

<sup>2</sup> Article 17 of the Constitution: “All Monegasque nationals are equal before the law. There are no privileges among them.”

<sup>3</sup> Article 32 of the Constitution: “Foreigners in the Principality enjoy all public and private rights in the Principality that are not formally reserved for nationals.”

- Technical difficulties resulting from the built environment or its surroundings;
- A clear disproportion between the scale of the work, its cost and the improvements made;
- Constraints related to the conservation of a façade or the preservation of any other remarkable building characteristic.”

### **Implementation of the general principles under article 3 of the Convention**

9. With regard to respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons, Act No. 1.410 of 2 December 2014 provides for the undifferentiated treatment of persons with disabilities in matters of health (arts. 11–13), the admission of a minor under 6 years of age in a facility, service or institution for the collective care of children under the age of 6, or in a specific or adapted facility (art. 14) and, beyond that age, compliance with the obligation to provide schooling for minors with disabilities (art. 15).

10. Moreover, article 27 of the Constitution sets out, under the heading of “Fundamental Freedoms and Rights”, the principle that “Monegasque nationals have the right to free primary and secondary education.” These provisions should be seen in the light of article 17 of the Constitution, pursuant to which “Monegasque nationals are equal before the law. There are no privileges among them.”

11. In addition, Act No. 1.410 of 2 December 2014 promotes access to employment for persons with disabilities by recognizing that they may not, “by reason of their disability, be subject to any unjustified difference in treatment, in particular with regard to recruitment, remuneration, training and promotion. Workers with disabilities shall be subject to the laws, regulations and agreements in force for the employment they hold.”

12. Under Sovereign Ordinance No. 7.121 of 24 September 2018 on regulations for personal support services, persons with disabilities benefit from in-home assistance to ensure their independence.

13. With regard to freedom of choice, article 11 of Act No. 1.410 recognizes the same rights and freedoms for patients with disabilities as those recognized for other patients, in particular with regard to consent.

14. There are also provisions on the adaptation of means of public transport for persons with disabilities within 10 years of the entry into force of the law (Act No. 1.410 of 2 December 2014, art. 47). In addition, the roads are, as far as possible, adapted for persons with disabilities and an accessibility plan organizing the movement of persons with disabilities on the territory is available to the public (Act No. 1.410 of 2 December 2014, art. 53).

15. The Act allows persons with disabilities to have access with their service animals “to transport, public places and places open to the public, and to places used for professional, instructional or educational activities” (Act No. 1.410 of 2 December 2014, art. 54).

16. Act No. 1.441 of 5 December 2016 on the accessibility of the built environment provides for measures to ensure that persons with disabilities have access to new buildings, car parks, buildings open to the public and industrial and office buildings. Comparable provisions are applicable, under the conditions established by the Act, to the existing built environment.

17. With regard to non-discrimination, in addition to the elements mentioned above, article 55 of Act No. 1.410 of 2 December 2014 provides that:

Any unjustified difference in treatment of a person, whether because of his or her disability or, in the case of a legal entity, the disabilities of its members, shall be punishable by imprisonment of 10 days to 2 years and the fine established by article 26 (3), or by only one of these two penalties, where it consists of:

- (1) A refusal to provide goods or a service;

(2) A refusal to hire a person or the penalization or dismissal of a person, or denial of an internship or training.

The provisions of the preceding paragraph shall not apply to distinctions made between persons where they are objectively justified by a legitimate aim and the means to achieve that aim are appropriate.

18. With regard to full and effective participation and inclusion in society: persons with disabilities are treated equally and enjoy all their civil and political rights, except in the case of protected adults, in which case they are deprived of the right to vote.<sup>4</sup>

19. With regard to respect for difference and acceptance of persons with disabilities as part of human diversity and humanity: see paragraph 7.

20. With regard to equality of opportunity: see paragraph 7 and paragraphs 9 to 11 concerning access to education and employment.

21. With regard to equality between men and women: see paragraph 7.

22. With regard to respect for the development of the capacities of children with disabilities and respect for the right of children with disabilities to preserve their identity: respect for the development of children's capacities is guaranteed by the fact that children can be accommodated either in childcare facilities or at facilities specific or adapted to their disabilities (see reply on access to education). The identity of children with disabilities is fully respected.

#### **Implementation of the general obligations set out in article 4 of the Convention**

23. With regard to the adoption of appropriate legislative, administrative or other measures to implement the rights recognized in the Convention, the Prince's Government had the parliament adopt two laws in this area: Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities and Act No. 1.441 of 5 December 2016 on the accessibility of the built environment.

24. In addition, the Government has adopted several regulations implementing those laws: Sovereign Ordinance No. 5.193 of 30 January 2015 on the Disability Evaluation Board; Sovereign Ordinance No. 5.194 of 30 January 2015 on the Careers Guidance Commission for Workers with Disabilities; Sovereign Ordinance No. 5.353 of 8 June 2015 on the training of family caregivers; Sovereign Ordinance No. 5.744 of 3 March 2016 on assistance with purchasing supplementary health insurance; Sovereign Ordinance No. 6.715 of 21 December 2017 establishing the terms and procedures for partial derogation from the accessibility regulations for new built environments and the implementation of accessibility regulations for existing built environments; Sovereign Ordinance No. 7.121 of 24 September 2018 on regulations for personal support services and in-home assistance to ensure independence; Ministerial Decree No. 2017-893 of 21 December 2017 implementing Act No. 1.441 of 5 December 2016 on the accessibility of the built environment; Ministerial Decree No. 2015-171 of 11 March 2015 establishing the indexation of the Independence Benefit and its supplements paid by the Social Protection Unit; Ministerial Decree No. 2015-380 of 8 June 2015 on social assistance for persons with disabilities, as amended; Ministerial Decree No. 2015-381 of 8 June 2015 establishing the terms and conditions for the granting of financial assistance to facilitate access to employment in an ordinary work environment for workers with disabilities; Ministerial Decree No. 2015-382 of 8 June 2015 on the procedures for issuing parking permits, free transport cards, cards indicating priority and identification cards for persons with disabilities; Ministerial Decree No. 2015-383 of 8 June 2015 on the granting of family caregiver status; and Ministerial Decree No. 2017-894 of 21 December 2017 establishing the terms and conditions for the granting of financial assistance to make establishments open to the public accessible for persons with disabilities.

25. With regard to taking all appropriate measures, including legislative measures, to alter, repeal or eliminate laws, regulations, customs and practices that discriminate against persons with disabilities, as mentioned above, the principle of equal treatment applies under the

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<sup>4</sup> Article 2 of Act No. 839 of 23 February 1968 on national and municipal elections, as amended.

conditions set out in paragraph 7, which was reaffirmed by Act No. 1.410 and Act No. 1.441. There are no laws, regulations, customs or practices in domestic law that discriminate against persons with disabilities.

26. With regard to appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise: see paragraph 11, on access to employment. Unjustified differences in treatment constitute an offence punishable by a prison sentence of 10 days to 2 years and/or a fine of €9,000 to €18,000 under article 55 of Act No. 1.410 of 2 December 2014.

27. In order to provide persons with disabilities with accessible information on mobility aids, devices and assistive technologies, including new technologies, and on other forms of assistance, support services and facilities, an accessibility plan governing the movement of persons with disabilities within the territory is available to the public (Act No. 1.410 of 2 December 2014, art. 53).

28. All the rights recognized by Act No. 1.410 of 2 December 2014 entered into force on 13 December 2014, with the exception of ensured access to transport, provided under article 47, which will be enforceable as from 13 December 2024, and those that required the adoption of implementing regulations to make them effective.

29. Act No. 1.441 entered into force on 17 December 2017, in accordance with the provisions of its article 21, which reads: “The provisions of this Act shall enter into force within one year of its publication in the Official Gazette”.

30. The adaptation of the existing built environment belonging to a public entity and assigned to a public service must be carried out within five years of the entry into force of this law, i.e., by 17 December 2022.<sup>5</sup>

## II. Information on specific rights

### Article 5 – Equality and non-discrimination

31. As previously indicated, articles 17 and 32 of the Constitution enshrine equality before the law in respect of rights not formally reserved for Monegasque nationals. This principle is recognized by the Supreme Court. Any law, regulation or administrative decision affecting this right may be the subject of an appeal before the Supreme Court, which has the power to rescind it and award compensation accordingly.

32. The Office of the High Commissioner for the Protection of Rights, Liberties and for Mediation, established by Sovereign Ordinance No. 4.524 of 30 October 2013, may receive complaints from natural or legal persons who believe that they have been victims of unjustified discrimination in the Principality.

33. Civil remedies are also available (Civil Code, art. 1229); they provide compensation for damages resulting from discrimination.

34. Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of persons with disabilities strengthened the measures already in place in the Principality for individuals with disability status and provided a legal basis for the rights recognized for persons with disabilities.

35. The Act establishes the status of persons with disabilities and of workers with disabilities, with various guarantees, in particular in terms of social and financial support, which were designed to promote individuals’ independence, while respecting their life plans.

36. Among the provisions of this law, article 11, on the health sector, expressly provides that persons with disabilities have the same rights and freedoms as those recognized for other patients, in particular with regard to consent to medical procedures.

<sup>5</sup> Article 16 of Act No. 1.441 of 5 December 2016 on ensuring accessibility to the built environment.

37. Article 34 enshrines the principle in labour law that a person may not, by reason of his or her disability, be subject to any unjustified difference in treatment, in particular with regard to recruitment, remuneration, training or promotion.

38. In particular, this means that an employer cannot refuse to hire workers with disabilities on the basis of their disabilities. On the contrary, the law assigns an obligation to the employer to take appropriate measures to enable persons with disabilities to gain access to employment or to keep it, under the conditions recommended by the Commission, having deliberated on the persons' status, if necessary by means of specific financial assistance provided by the State. This obligation ceases to apply when the burdens or inconveniences of implementing these measures become disproportionate for the employer.

39. Lastly, and with a view to ensuring effective respect for these rights, article 55 of Act No. 1.410 of 2 December 2014 criminalizes discrimination on the grounds of disability, which constitutes an offence when it consists, except in special circumstances, of denying a person with disabilities the supply of goods or services, denying them employment, an internship or training, or penalizing or dismissing them on the basis of their disability.

40. Furthermore, under article 16 of Act No. 1.299 of 15 July 2005 on freedom of expression, incitement of hatred or violence against a person or group by reason of their disability is an offence punishable by imprisonment of 5 years and a fine.

41. Article 24 of the same law punishes the defamation of a person or group on account of their disability with imprisonment of 3 months to 2 years and/or a fine of €18,000 to €90,000.

42. Article 25 of Act No. 1.299 of 15 July 2005 penalizes insults against a person or group of persons on account of their disability with imprisonment of 6 days to 6 months and/or a fine of €9,000 to €18,000.

43. Article 44 of Act No. 1.299 of 15 July 2005 allows the Public Prosecution Department to take legal action, on its own initiative, against a person who has defamed or insulted a person or group of persons on the basis of their disability.

### **Article 8 – Awareness-raising**

44. As part of the annual celebration of the International Day of Persons with Disabilities on 3 December, the Government has since 2012 organized major events which, depending on the year, have taken different forms (conference, exhibition, day of action for schoolchildren, television report). The aim is to highlight the various actions, in particular of the Social Inclusion and Disability Office, and more broadly the action of all stakeholders, and to raise public awareness about questions related to disabilities. These days are thus an opportunity to raise awareness about disabilities, to establish a dialogue between persons with disabilities and public and private officials and to raise awareness about various issues.

45. Various topics have already been addressed, such as the inclusion of persons with disabilities in the labour market, accessibility and leisure activities, the public and private stakeholders working in this field, the national and international legislation and the daily life of persons with disabilities in the Principality.

46. In December 2019, the Government's action in the area of access ways and circulation in the city for persons with visual impairments will be proposed in an innovative format.

47. Furthermore, since 2015, all primary school students in the Principality have benefited from a disability awareness programme. Within this framework, social workers and persons with disabilities lead workshops on disability awareness and education in each grade. Each level has a specific disability education theme so that students complete the whole curriculum over the course of their schooling at the school. The topics covered are: "Visual impairment – Daily life and Braille", "Motor disability: Accessibility and adapted sport", "Hearing impairment – Daily life and sign language", "Intellectual impairment – School inclusion and solidarity" and "Disability and society". Prior to the workshops, information and preparation times are organized with all the teachers. A small booklet is given to each student for each of

the days so that the children have a record of the awareness-raising workshop and can share it with their families afterwards.

48. This action is also the subject of extensive media coverage (television reports on the local news channel, photographs, school exhibits and posts on the school's website) each year. To date, approximately 750 students have already benefited from this awareness-raising activity and 75 new students join the programme each school year.

49. This awareness-raising action has been recognized as a good practice by the Council of Europe's Ad Hoc Committee of Experts on the Rights of Persons with Disabilities and, as such, was the subject of a presentation at the fifth meeting of the Committee, in October 2016.

## **Article 9 – Accessibility**

50. At the legislative and regulatory level, Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities provides, in article 47, that within 10 years of its entry into force, i.e., by 13 December 2024: "All public transport services must be adapted for persons with disabilities. In cases where that is proven to be technically impossible or where the costs are manifestly disproportionate, the providers of these services must implement the means to enable persons with disabilities to use them."

51. The Compagnie des Autobus de Monaco (the Monaco Bus Company), which has the concession for public transport, has fulfilled this obligation to make public transport accessible. Its 42 buses are equipped with ramps for persons with reduced mobility.

52. Of the 87 bus stops, 38 are accessible to persons with reduced mobility. The remaining 49 cannot be made accessible owing to technical impediments related to the footprint, slope or height of the sidewalk, which prevent their adaptation.

53. All the buses of the ZEST network serving the Principality are accessible to persons with reduced mobility. As for the Azur lines (bus lines 100, N100, 100X and 112 of the French southern region, Provence-Alpes-Côte d'Azur), they are all equipped with ramps accessible to persons with reduced mobility.

54. With regard to access to trains, the Monaco-Monte Carlo station is accessible to persons with reduced mobility via the Prince Pierre tunnel, the Sainte Dévote forecourt and the minute drop-off area (with the latter accessible by vehicle or by the car park lifts).

55. Trans-European Railway (TER) trains and high-speed (TGV) inOui trains run by the French State-owned company Société Nationale des Chemins de Fer Français (SNCF) are accessible on the platform to persons with reduced mobility. The France-Italy (THELLO) and Russian Railways (RZD) trains are not accessible on the platform. A platform lift is set up to lift persons with reduced mobility onto those trains.

56. In addition, a service that helps persons with disabilities and persons with reduced mobility to embark and disembark has been set up at the Monaco-Monte Carlo station.

57. Pursuant to articles 49 and 50 of the Act, persons with reduced mobility are issued transport cards: "A free public transport card, accompanied, if necessary, by a specific device adapted to visually impaired persons, shall be issued to all individuals with the status of persons with disabilities." This card allows for priority access to public transport.

58. With regard to obligations concerning road access, when State services issue authorizations to occupy the public domain, in addition to considering the scale of the traffic and the removal of obstacles necessary to organize the flow of travel, they also draw up an accessibility plan organizing the movement of persons with disabilities throughout the territory of the Principality, pursuant to article 53 of Act No. 1.410. This plan indicates the adapted public access ways (roads (indicating their degree of accessibility), vertical connections, sidewalks, boat access accommodations, etc.) and is due to be put online on the Government's websites soon.

59. In terms of road access, another step forward is the equipping, by the end of 2019, of 23 pedestrian crossings with traffic lights with sound signals that provide voice announcements for persons who are blind or have visual impairments.

60. Indeed, the implementation of technical requirements to accommodate persons with visual impairments has recently been a challenge for road services, planning offices, architects and landscape architects. Walking is an important mode of travel for people who are blind or have visual impairments and, despite the many improvements that have been made to roads and public spaces, their access ways, for example, in crossing a roadway with traffic, has not been completely safe.

61. The implementation and development of technical devices to improve the accessibility of the Principality for persons with this type of disability is the focus of study and action now and will remain so in the years to come. When users arrive at pedestrian crossings, they press a button on their remote controls, thereby triggering a message indicating the status of the crossing and the name of the cross streets at that location. The frequency used (868 megahertz) by this equipment complies with the French NF S32002 standard, which governs the operation of audible signals and, as it turns out, is the same as the one already in use for announcements at the bus stops of the Compagnie des Autobus de Monaco.

62. In general, article 54 of Act No. 1.410 establishes that persons with disabilities may access all areas with a service animal: “Access to transport, public places, places open to the public, and those used for professional, training or educational activities is permitted to animals trained for the purpose of assisting persons with disabilities.”

63. In terms of access to information: information on the quality of the infrastructure in the Principality, including practical information, in particular on transport and the road accessibility plan, is posted on the websites of the Government (the government and public services portal) or on specialized websites, to enable residents, members of the public and tourists to come and reside in the country.

64. Moreover, article 1 of Act No. 1.441 of 5 December 2016 on the accessibility of the built environment establishes that persons with disabilities must have access to establishments open to the public, industrial and office buildings, multi-unit residential buildings, temporary buildings and installations, as well as car parks and outdoor areas for their use. Buildings not open to the public that were constructed or completed before 1 September 1947 are excluded from the scope of this law.

65. Act No. 1.441 therefore provides for accessibility of the new built environment and progressive accessibility of the existing built environment as work subject to authorization is carried out. The adaptation of an existing built environment belonging to a public person providing a public service must be carried out within five years of the entry into force of the law, meaning by 16 December 2022 at the latest.

66. With regard to the rules applicable to new built environments in particular, building permits for establishments open to the public are issued only if “the construction project provides that the parts that are open to the public are adapted for use” (Act No. 1.441 of 5 December 2016, art. 10).

67. In addition, any authorization for the construction of a building for industrial or office use is issued only if the project ensures: “(1) that the common spaces are adapted; (2) that there is a number of adapted toilet facilities, according to the modalities determined by ministerial decree; (3) that the external spaces of buildings are adapted” (Act No. 1.441 of 5 December 2016, art. 11).

68. With regard to the construction of multi-unit buildings for residential use: article 12 of Act No. 1.441 of 5 December 2016 reads as follows:

All building permits for multi-unit residential buildings shall be issued only if the construction project provides for the common areas to be adapted accordingly. However, when such a permit is requested by a public person, it shall be granted only if the construction project provides, in addition to compliance with the obligation



provided above, a number of adapted or adaptable apartments which meet a quota set by ministerial decree.

The quota of adaptable apartments provided in article 12 (2) of Act No. 1.441 of 5 December 2016, shall be at least 5 per cent. The number of adaptable apartments thus obtained shall, if necessary, be rounded up to the next whole number.

The quota of adapted apartments provided by article 12 (2) of Act No. 1.441 of 5 December 2016 shall be at least one adapted two-room or three-room apartment for every 30 apartments.

69. With regard to the construction of a car park, the issuance of the building permit is conditional on the adaptation of at least 5 per cent of the total number of spaces for persons with disabilities (Act No. 1.441 of 5 December 2016, art. 13). “Where there are more than 100 parking spaces in the car park, the minimum number of adapted spaces shall be five plus one adapted space for every 100 spaces.”<sup>6</sup> These spaces must be “located close to the entrance, lobby or elevator of the built environment”.

70. Adapted spaces must “allow a person with disabilities to exit the space from a parked vehicle”.<sup>7</sup> Temporary constructions or facilities accessible to the public must provide for “accessibility measures according to the nature of the activity that they house or host, the configuration of the premises and the number of members of the public that they receive” (Act No. 1.441 of 5 December 2016, art. 14).

71. Lastly, works that are subject to authorization on the existing built environment are permitted if the components in question are adapted for use by persons with disabilities.

72. Ministerial Decree No. 2017-893 of 21 December 2017 implementing Act No. 1.441 of 5 December 2016 on the accessibility of the built environment specifies the ways in which the provisions of the Act are to be implemented and establishes the urban planning standards that must henceforth be respected in the Principality.

73. The first part of this regulation sets out, with regard to new buildings, the rules concerning external access ways, entrances and exits, internal circulation, doors, gates, security vestibules, equipment, furniture, control and service devices, toilet facilities, exits and lighting.

74. In addition, Ministerial Decree No. 2017-893 of 21 December 2017 calls for all the accommodations to be made to prevent barriers. These include audio and visual systems, but also the installation of adapted ramps.

75. Therefore, in all aspects listed in the reply concerning article 9, there are provisions for both design and accommodation “to enable independent access for persons with disabilities” (art. 7). As such, the floor of the access way must be “non-moveable, non-slip, non-reflective and free of any wheel obstruction” (art. 12), the access way must be “free of any barriers” (art. 13) and must have, if necessary, “a safety device, such as a guardrail, to prevent falls” (art. 14). There are rules for visually indicating stairs (art. 15) and glass dividers (art. 16) in circulation areas of the exterior access ways, and for lighting (art. 18). If the access way crosses a route used by vehicles, a warning strip, as well as road markings and signs for drivers, must be installed (art. 17).

76. Appropriate signage is called for at the entrance to the built environment and at each intersection of interior access ways. In addition, a textured surface “provides a visual and tactile contrast to its surroundings, which can be detected with a cane or foot” (art. 19).

77. Appropriate measures for persons with disabilities are called for in articles 20 to 22, including calling devices, switches and other disability-appropriate devices. Ways to facilitate visual identification are also ensured.

<sup>6</sup> Article 118 of Ministerial Decree No. 2017-893 of 21 December 2017 implementing Act No. 1.441 of 5 December 2016 on the accessibility of the built environment.

<sup>7</sup> Article 119 of Ministerial Decree No. 2017-893 of 21 December 2017 implementing Act No. 1.441 of 5 December 2016 on the accessibility of the built environment.

78. There are similar provisions for interior horizontal (art. 24) and vertical (arts. 25–32) circulation and for the use of moving walkways, escalators or motorized ramps (arts. 33–38).
79. The Ministerial Decree also addresses the adaptation of doors, gates and security vestibules for use by persons with disabilities (arts. 39–43).
80. There are also provisions regarding equipment, furniture and control devices (arts. 44–46), toilet facilities (arts. 47–52), exits (arts. 53–54) and lighting (arts. 55–56).
81. The Decree also includes measures applicable to new establishments open to the public with regard to internal circulation, reception of members of the public and public address systems (arts. 57–64).
82. There are special provisions for adapting new establishments that receive seated members of the public (arts. 65–71), establishments that provide lodging (arts. 72–78), establishments with cabins or areas for individual use (arts. 79–82) and establishments with cash registers or devices or equipment arranged in blocks or rows (arts. 83–86), to accommodate persons with disabilities.
83. In addition, there are measures that apply specifically to new industrial buildings and office buildings (arts. 87–90).
84. There are specific provisions for new multi-unit residential buildings with regard to the main access to the buildings and internal circulation through doors and common areas (arts. 91–97).
85. The regulation also contains articles setting out the rules for adaptable apartments with regard to the general features of the living unit and internal circulation as well as the features of doors, windows and facilities, kitchens, bedrooms and bathrooms and access to balconies, terraces and loggias (arts. 98–115).
86. With regard to new car parks, dimensions are provided to establish the sizes and technical features of spaces adapted for persons with disabilities to enable their use (arts. 120–123).
87. The Decree also contains provisions applicable to existing buildings where works are to be carried out on external pathways (arts. 130–137), entrances and exits (arts. 138–140), internal circulation paths (arts. 141–146), doors, gates and security vestibules (arts. 147–149), equipment, furniture and control and service devices (art. 150), toilet facilities (arts. 151–153), exits (arts. 154–155) and lighting (art. 156).
88. With regard to existing establishments open to the public, the Decree provides for them to be adapted for persons with disabilities and for the removal of obstacles in external pathways, internal circulation paths, public reception areas and public address systems (arts. 157–163).
89. Ministerial Decree No. 2017–893 concerns the measures taken with regard to existing establishments that receive seated members of the public (arts. 164–166), those that provide lodging (arts. 167–171), those with cabins or areas for individual use (arts. 172–174) and those with cash registers, devices or equipment arranged in blocks or rows (arts. 175–177).
90. Provisions for the adaptation of existing industrial or office buildings are set out in articles 178 to 180.
91. Furthermore, with regard to the use of public procurement provisions and other measures that establish mandatory accessibility standards, while there are no specific accessibility measures in Sovereign Ordinance No. 7.264 of 20 December 2018, which governs the State’s public procurement, the rules laid down in Act No. 1.410 and Act No. 1.441 are universally binding.
92. With regard to the system for monitoring technical standards and directives relating to accessibility, the penalties applicable in the event of non-compliance with the legal provisions and regulations relating to accessibility are established in the two aforementioned laws. Building permits are not issued if they do not comply with the provisions on the accessibility of the built environment, unless a partial derogation has been issued prior to the application for the permits.

93. Furthermore, compliance with these provisions and the monitoring of their application are ensured in the forms and under the conditions established in Ordinance-Law No. 674 of 3 November 1959 on construction, urban planning and roads, as amended:<sup>8</sup>

Violations of the provisions of this Ordinance-Law and those of sovereign ordinances issued pursuant to the foregoing provisions shall be recorded by engineers and sworn officers of the Department of Public Works and by all other officers authorized to prepare official reports.

Obstructing the right of access of such officials and officers shall be punishable by imprisonment of 6 days to 1 month and the fine established in article 26 (2) of the Criminal Code, or by only one of these two penalties.

Beneficiaries of the work, architects, contractors and other persons responsible for the execution of the work who do not comply with this Ordinance-Law, with the sovereign ordinances for which it makes provision or with the authorization requirements issued in accordance with such provisions shall be punished by the fine established in article 26 (4) of the Criminal Code.

The court shall order either the demolition of non-compliant buildings with a view to restoring the premises to their former state, or the execution of the provisions established by law, or the compliance of the buildings with the conditions of the permit. The court shall set a deadline for the offender to implement the prescribed measures, on penalty of a fine of between 5,000 and 50,000 francs per day of delay. Where that deadline is not observed, the periodic penalty payment imposed shall run from the end of that period until the day on which the situation is effectively rectified.

If the situation has not been rectified by the deadline set by the judgment, the Minister of State may have works ordered by the court carried out *ex officio*, at the expense and risk of the offenders.

This is without prejudice to administrative or professional penalties.

When a person convicted under this article commits a further offence under this article, the fine shall be doubled.<sup>9</sup>

94. With regard to the monitoring of the implementation of the policy for persons with disabilities, progress reports are provided on a quarterly basis at plenary meetings attended by representatives of the State services involved in the implementation of this policy (the Department of Urban Amenities, the State Property Authority, the Smart Nation Department, the Public Car Parks Office, the Public Buildings Maintenance Office, the Police Department, the Department of Forward Studies, Urban Planning and Mobility, the Compagnie des Autobus de Monaco and the Tourist and Convention Authority).

95. Moreover, article 22 of Act No. 1.441 of 5 December 2016 stipulates that five years after the Act's entry into force, the Minister of State is to submit a report on its implementation to the National Council.

## **Article 10 – Right to life**

96. Abortion is permitted in the cases covered by Act No. 1.359 of 20 April 2009 on the establishment of a prenatal coordination and family support centre, which amends article 248 of the Criminal Code and article 323 of the Civil Code. The cases are described as follows:

- (1) The pregnancy poses a threat to the life or health of the pregnant woman
- (2) Prenatal examinations and other medical data show a high probability of serious and irreversible fetal disorders or an incurable, life-threatening condition

<sup>8</sup> Article 20 of Act No. 1.441 of 5 December 2016 on ensuring accessibility to the built environment.

<sup>9</sup> Article 13 of Ordinance-Law No. 674 of 3 November 1959 on buildings, urban planning and roads, as amended.

(3) There is a sufficient presumption that the pregnancy is the result of a criminal act and that less than 12 weeks have elapsed from the beginning of the pregnancy.

97. Disability does not constitute grounds for voluntary termination of pregnancy. Moreover, as stated in the replies concerning article 5, equality is guaranteed to all, under the conditions laid down in the Constitution.

98. Furthermore, there is no provision intended to arbitrarily deprive persons with disabilities of their lives.

### **Article 11 – Situations of risk and humanitarian emergencies**

99. Although the provisions contained in this article do not apply much to Monaco, it may be stressed that, in the event of a humanitarian emergency, all State services would be called upon to make a contribution. Act No. 1.283 of 7 June 2004 on the organization of civil protection allows the State authorities to issue orders; its provisions may be implemented by a decision of the authorities when faced with a dangerous situation. Within the framework of this law, the preparation of safeguard measures and the implementation of the necessary means to deal with major risks and disasters are determined within the framework of the Monegasque emergency contingency arrangement known as the Ormose plan and other emergency plans.

### **Article 12 – Equal recognition before the law**

100. Support is available for persons with disabilities to help them exercise their legal capacity and manage their financial affairs. Under Monegasque law, the legal recognition of protected persons is in no way called into question by the introduction of a guardianship measure, nor are, for example, their right to own property or their right to inherit property. However, and in accordance with article 410-4 of the Civil Code, “when adults are incapable of looking after their interests alone because of impairments of either their mental or physical faculties which prevent them from expressing their will, provision shall be made for managing their interests under one of the regimes set out in articles 410-9 to 410-57 ...” This is the legal regime for defending justice and guardianship and for providing an enduring or contingent power of attorney.

101. Furthermore, in accordance with article 410-4-1 of the Civil Code: “Adults shall receive the protection of their person and property that is necessary because of their status or situation, in accordance with the terms and conditions established under this section. Such protection shall be established and ensured, with due respect for the fundamental rights and freedoms and the dignity of the individual. Its purpose is to protect the interest of protected persons. It shall promote their autonomy to the extent possible.”

102. Article 410-4-2 of the Civil Code provides that protective measures shall be ordered by the judge “only in cases of necessity and when the interests of the person cannot be sufficiently defended by provisions of ordinary law on representation, the provisions relating to the respective rights and duties of spouses and provisions of matrimonial property regimes”. In addition, the measure must be “proportionate and individualized, according to the degree of impairment of the personal faculties of the person concerned”.

103. During these procedures, persons with disabilities are provided with safeguards against the misuse of assisted decision-making models. It follows from this that adults should receive protection of their person and property only when their status or situation makes it necessary. Thus, it is important to note from the outset that the existence of a disability does not automatically lead to the introduction of a protective measure, but only to the possibility of introducing a protective measure when it is necessary. As an initial condition for the implementation of such a measure, article 410-4 of the Civil Code provides that “the impairment of mental or physical faculties shall be certified by a report from a doctor, who shall be appointed by the guardianship judge on a simple request or an ex officio basis.”

104. This system operates on the basis of subsidiarity. A finding of impairment alone is not sufficient to subject a person to protection measures. The ordering of a measure is a

possibility to be examined in the light of the principle of subsidiarity: the judge must find that the measure is necessary and that there are no protection systems with less restrictions that would be sufficient to ensure the protection of the person concerned (such as a power of attorney or an enduring or contingent power of attorney).

105. In accordance with article 410-18° of the Civil Code, “the court may refrain from establishing the guardianship and from entrusting the management of the estate of an adult, to the spouse or to an ascendant, descendant or brother or sister who is capable of managing the adult’s property”. Such management powers belong to the legal administrator, who is subject to the oversight of the guardianship judge.

106. Moreover, article 410-19° of the Civil Code specifies that “where it does not appear necessary to establish guardianship, the court may appoint only an administrator”. The text further emphasizes that “this administrator collects the income of the adult and uses it to pay for the latter’s needs and to satisfy his or her maintenance obligations; the remainder shall be paid to an account opened with one of the approved depositories referred to in article 378.”

107. Article 410-19° of the Civil Code further states that “the court may confer on the administrator other powers, as it deems fit. It shall determine, where appropriate, the remuneration to which the latter may be entitled.”

108. Lastly, pursuant to article 410-21° of the Civil Code, the court may allow an adult under guardianship to perform, alone or with the assistance of the guardian or administrator, acts that it specifically indicates. This measure is subject to regular review, as established in article 410-19° of the Civil Code, which states that “each year, administrators shall report on their management to the guardianship judge”. Article 410-28° of the Civil Code correspondingly states that “the court shall order the termination of the guardianship when the situation that led to its establishment has disappeared”.

109. Persons with disabilities fully enjoy the right not to be arbitrarily deprived of their property. Article 24 of the Constitution sets forth, under the heading “Fundamental Freedoms and Rights”, the principle that “property is inviolable. No one may be deprived of property except for public benefit as established by law, and upon a fair, settled and paid compensation in the circumstances and manner specified by law.”

110. In this regard, article 410-7° of the Civil Code reads as follows: “Whatever the applicable protection regime, the person responsible for protecting the interests of an adult who lacks the capacity to give consent may not take possession of the incapable person’s dwelling or the furniture in it.” Article 410-7° (2) states that “unless the guardianship judge decides otherwise and articles 410-13° and 410-32° are applied, the property may only be the subject of agreements of permissive enjoyment which, notwithstanding any legal prescription to the contrary, shall terminate upon the return of the person in question.” Lastly, article 410-7° (3) of the Civil Code specifies that “souvenirs and other objects of a personal nature may be sold only with the authorization of the guardianship judge. They shall be held, as required, by the handling facility, at the disposal of the protected person.”

111. Persons with disabilities fully enjoy the right to own or inherit property. Thus, article 410-27 of the Civil Code expressly provides that adults under guardianship may make a will, in a notarially recorded instrument, as long as they are in a position to express a conscious and free will. They may, under the same conditions and in the same way, revoke or amend their will. Notaries ask persons making wills whether they are subject to guardianship and record the answer in the instrument.

112. In cases of curator or trustee guardianship, adults may make donations inter vivos, provided they are assisted by their guardian. An adult subject to such guardianship may, in addition, and without such assistance, freely make a will under article 410-34 of the Civil Code.

113. Refusal to supply goods or services to persons because of their disability is a criminal offence under articles 55 and 56 of Act No. 1.410 of 2 December 2014.

### **Article 13 – Access to justice**

114. This article, which recognizes the right of persons with disabilities to effective access to justice on an equal basis with others and without exclusion from legal proceedings, has not required specific measures to be taken for its implementation.

### **Article 14 – Liberty and security of person**

115. In Monaco, all persons with any form of disability enjoy the right to liberty and security of person; no one can be deprived of their liberty because of their disability.

116. In that regard, article 19 of the Constitution sets out, under the heading “Fundamental Freedoms and Rights”, the principle that “individual freedom and security are guaranteed. No one may be prosecuted except in cases provided by law, before legally appointed judges and in the manner prescribed by law.” Similarly, article 20 of the Constitution states that “no penalty may be introduced or applied except by law. Criminal law must ensure respect for individual personality and dignity. No one may be subjected to cruel, inhuman or degrading treatment ... The death penalty is abolished. Criminal law cannot have any retroactive effect.” These principal provisions should be seen in the light of article 17 of the Constitution, pursuant to which “all Monegasques are equal before the law. There is no privilege among them.”

117. There is no law that allows for the institutionalization or deprivation of liberty of persons with any form of disability without their free and informed consent. Persons with disabilities who have been deprived of their liberty enjoy the same procedural guarantees as all other persons with regard to the full exercise of the rest of their rights.

118. With regard to persons with disabilities who have been deprived of their liberty, in general, hygiene and health guarantees (as a specific accommodation) are in force in the short-stay prison, as provided by Decree No. 3.782 of 16 May 2012 on the organization of the prison and detention system.

### **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

119. Article 20 of the Constitution prohibits the use of torture or inhuman or degrading treatment of any persons, whether or not they have a disability: “No one may be subjected to cruel, inhuman or degrading treatment.”

120. De jure, the stipulations of the Convention against Torture, article 1 of which provides a definition of torture, under Monegasque law constitute legal norms to which judges may refer, since they do not require implementing measures in the form of domestic legislation.

121. Torture is punishable under article 228 of the Criminal Code, which reads: “Those who, in carrying out their crimes, use torture or commit acts of cruelty shall be punished as murderers.”<sup>10</sup>

122. The particular vulnerability of persons with disabilities is also specifically protected by criminal law through the establishment of personal aggravating circumstances relating to the particular situation of the victim.

123. Article 239 of the Criminal Code thus provides for an aggravating circumstance in the event of serious injury or mutilation. In the cases set out in article 236 of the Criminal Code, offences resulting in serious bodily injury (such as illness or total incapacity to work for a period exceeding eight days) or mutilation, amputation, deprivation of the use of a limb, blindness, loss of an eye or other serious permanent disability (incurring imprisonment of 5

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<sup>10</sup> Article 227 of the Criminal Code reads: “Anyone convicted of premeditated murder, of killing a minor under the age of 16, of parricide, of infanticide or of poisoning shall be sentenced to life in prison.”

to 10 years), when committed against any person whose vulnerability or state of dependency was apparent or known to the perpetrator, are to be punished by:

- The maximum prison term, if the article provides for imprisonment of 10 to 20 years;
- Imprisonment of 10 to 20 years, if the article provides for imprisonment of 5 to 10 years;
- Imprisonment of 10 years, if the article provides for imprisonment. With regard to medical or scientific experimentation, article 9 of Act No. 1.265 of 23 December 2002 on the protection of biomedical research provides, irrespective of the person's potential disability, that:

Prior to conducting biomedical research on a person, the free, informed and explicit consent of the person concerned must be explicitly obtained, in such a way that the researcher, or a physician representing him or her, informs the person of:

- The objective, methodology and duration of the research
- Expected benefits, constraints and foreseeable risks, including in the event of early termination of the research
- The views of the Advisory Committee on Ethics in Biomedical Research, referred to in article 25
- Where appropriate, its entry in the national register for which provision is made in article 17

He or she shall inform persons whose consent is sought of their right to refuse to participate in the research and to withdraw consent at any time without incurring any liability.

On an exceptional basis, when it is in the interest of sick persons that the diagnosis of their illness not be disclosed to them, the researcher may, with due respect for their confidentiality, withhold certain information relating to that diagnosis. In this case, the research protocol must mention this possibility.

The information provided shall be summarized in a written document that is given to the persons whose consent is sought.

Consent is to be given in writing or, if this is not possible, attested by a third party. The latter must be completely independent of the researcher and the contractor.

Once research has been completed, persons who have been involved in the research are to be informed of the overall research results.

However, in the case of biomedical research conducted in emergency situations which do not allow for the prior consent of the person concerned, the protocol submitted for the opinion of the Advisory Committee on Ethics in Biomedical Research referred to in article 25 may provide that the consent of that person shall not be sought, and that only the consent of the members of the person's family shall be sought, if they are present, under the conditions set out above. The person in question shall be informed as soon as possible and his or her consent shall be sought for the possible continuation of such research.

124. Similarly, article 10 provides for the protection of protected adults to ensure their consent under the following conditions, and reads as follows:

When biomedical research is conducted on minors or adults protected by law:

- Consent must be given, in accordance with the rules laid down in article 9, by the holders of parental authority in the case of unemancipated minors. For minors or adults protected by law, consent shall be given by the legal representative, for research with direct individual benefit that does not present a serious foreseeable risk and, in other cases, by the legal representative authorized by the family council or the guardianship judge;

- The consent of minors or adults protected by law must also be sought when they are capable of expressing their will. Their refusal or revocation of consent cannot be overruled.

125. In addition, Ministerial Decree No. 2003-118 of 10 February 2003 establishing the conditions for the implementation of Act No. 1.265 of 23 December 2002 on the protection of persons in biomedical research makes provision for the establishment of a national register of persons who participate in biomedical research, to ensure that people do not engage in several biomedical research projects without direct individual benefit and that they are not in a period of exclusion during which they are not allowed to participate in such experiments (art. 17).

## **Article 16 – Freedom from exploitation, violence and abuse**

126. The particular vulnerability of a person with disabilities is also specifically protected by criminal law, through the establishment of personal aggravating circumstances relating to the particular situation of the victim. Article 421 of the Criminal Code establishes that the following are punishable by imprisonment of 1 to 5 days and by the fine established in article 29 (3), or by one of these two penalties only: insulting a person or group of persons by non-public means, without provocation, on account of their disability, and defaming, by non-public means, a person or group of persons on account of their disability.

127. Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence introduces and amends a number of provisions aimed specifically at protecting minors and vulnerable persons.

128. With regard to threats, article 234-1 of the Criminal Code reads as follows:

Where the threats referred to in articles 230 to 234 have been made against the perpetrator's spouse or any other person living with him or her in the same household or having lived there on a long-term basis, they shall be punishable by double the penalty established in those articles, but the time served in prison may not exceed the maximum penalty incurred under the aforementioned articles.

The same shall apply when the threats referred to in articles 230 to 234 have been made against a person whose vulnerability or state of dependency is apparent or known to the perpetrator.

129. Article 236-1 of the Criminal Code establishes harassment of any person with disabilities as an aggravating circumstance.

130. Pursuant to article 238-1 of the Criminal Code, violence not resulting in illness or total incapacity to work committed against any person whose vulnerability or state of dependency was previously apparent or known to the perpetrator is punishable by imprisonment of 6 months to 1 year and the fine established in article 26 (2).

131. In the cases set out in articles 236 of the Criminal Code, offences resulting in serious bodily injury (such as illness or total incapacity to work for a period exceeding eight days), or mutilation, amputation, deprivation of the use of a limb, blindness, the loss of an eye or other serious permanent disability (incurring imprisonment of 5 to 10 years), when committed against any person whose vulnerability or state of dependency was apparent or known to the perpetrator, are to be punished by:

- The maximum term of imprisonment, if the article provides for imprisonment of 10 to 20 years
- Imprisonment of 10 to 20 years, if the article provides for imprisonment of 5 to 10 years
- Imprisonment of 10 years, if the article provides for imprisonment

132. In addition, under article 262 of the Criminal Code, rape is an offence punishable by the maximum term of imprisonment when the victim is a vulnerable or dependent person and when this was apparent or known to the perpetrator.



133. Under article 243 of the Criminal Code, injuring or beating a minor under 16 years of age, or deliberately depriving a minor of food or care when this has an impact on his or her health, or deliberately subjecting a minor to any other violence or assault other than violence not resulting in illness or total incapacity to work, is an offence punishable by imprisonment of 1 to 5 years and the fine established in article 26 (3).

134. The penalty is to be imprisonment of 3 to 10 years and the fine established in article 26 (4) if the various forms of violence or deprivation have resulted in total incapacity to work for more than 8 days, or if they have been committed with premeditation or ensnarement.

135. The repression of domestic slavery also makes provision for the protection of persons with disabilities, in article 249-2 of the Criminal Code. This offence is punishable by imprisonment of 5 years and a fine.

136. Article 269 of the Criminal Code provides that “procuring prostitutes shall be punishable by imprisonment of 5 to 10 years and the fine stipulated in article 26 (3), when it is committed: ... (2°) in respect of a person whose particular vulnerability, in particular because of age, sickness, illness, physical or mental disability or pregnancy, is apparent or known to the perpetrator.”

137. Repression of the exploitation of a state of weakness, which is punishable by imprisonment of 6 months to 3 years and a fine under article 335 of the Criminal Code, also helps to effectively protect persons with disabilities against criminal acts.

### **Article 17 – Protecting the integrity of the person**

138. Article 1 of Act No. 1.454 of 30 October 2017 on consent and information in medical matters guarantees the principle of consent of the person to medical procedures, as follows:

The free and informed consent of any persons called upon to undergo a medical procedure or treatment shall be obtained beforehand by the responsible health professional, within the framework of his or her competence and in accordance with the professional rules applicable to him or her for conducting or prescribing the procedure or treatment. This consent may be withdrawn at any time.

The health professional shall respect the wishes of the persons concerned after informing them of the consequences of their choices and their seriousness, even when their refusal to undergo a medical procedure or treatment endangers their lives.

Where, by their desire to refuse or interrupt the proposed medical procedure or treatment, the persons endanger their lives, the health professional shall suggest that they reiterate their desire in writing, after a reasonable period of time, which they shall determine according to the circumstances, with particular regard to the urgency of the situation. At the end of this period, the procedures or treatments may not be carried out without the consent of the persons concerned.

139. In addition, article 3 of the same law reads as follows:

In the absence of a decision to the contrary by the court of first instance, taken in accordance with article 410-21° (a) of the Civil Code, article 1 shall apply to adults under guardianship.

Where they must be represented in accordance with article 410-21° (3) of the Civil Code, the adults under guardianship shall be involved, to the degree that they are capable of discernment, in the decision-making processes concerning them.

In an emergency, and when the free and informed consent of their legal representatives is required in accordance with the third paragraph of article 410-21° of the Civil Code, health professionals shall be exempted from this requirement if such consent cannot be obtained in time. They may override the guardian’s refusal if the life of the adult under guardianship is in danger.

In an emergency, when adults under guardianship must be assisted in accordance with article 410-21° (3) of the Civil Code, and such assistance cannot be received in time,

health professionals must respect the wishes they express, unless doing so endangers their lives.

### **Article 18 – Liberty of movement and nationality**

140. No provision or practice of any kind deprives persons with disabilities, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other identity documents, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement.

141. Similarly, no provision or practice deprives persons with disabilities, arbitrarily or on the basis of their disability, of the right to enter their own country.

142. All children are registered immediately after birth and have the right from birth to a name and, as far as possible, the right to know and be cared for by their parents.

143. The right to nationality is specifically addressed by Act No. 1.155 of 18 December 1992 on nationality. Under the terms of this law, Monegasque nationality is acquired by descent, declaration or naturalization. The loss of Monegasque nationality occurs through automatic forfeiture, in particular in the event of the voluntary acquisition of another nationality, or illegal service in a foreign army, or through voluntary renunciation. By law, Monegasque nationality can be reinstated under certain conditions.

144. The acquisition of nationality by declaration is governed by articles 2 and 3 of Act No. 1.155 of 1992. Once the conditions prescribed by law are met, the competent authority cannot oppose it. On the other hand, the acceptance or denial of applications for naturalization is completely at the discretion of the competent authority. The provisions for the acquisition of nationality by declaration were amended by Act No. 1.387 of 19 December 2011.

145. The capacity to make such a declaration is available to both male and female spouses; the spouses must have been effectively married for 10 years for the declaration to be admissible. Unlike naturalized persons, persons acquiring Monegasque nationality by declaration are not required to renounce their previous nationality or nationalities, but they cannot, in the event of dissolution of the marriage, pass on Monegasque nationality to children born of another union. Cases of possible statelessness are thus avoided, without granting the status of subject of the Prince to persons born outside the Monegasque community.

146. Naturalization is governed by articles 5 and 6 of Act No. 1.155 of 1992. Under article 15 of the Monegasque Constitution, after consultation with the Crown Council, the Prince alone exercises the right of naturalization and reinstatement of nationality. He does so by sovereign ordinance which, issued by a sovereign power, is not an administrative decision under ordinary law. Thus, denial of naturalization is exempted from the legal requirement of motivation.

147. After an inquiry into the applicant's character and situation, naturalization may be granted to any person who can prove 10 years' habitual residence in the Principality, after the age of 18, although the Prince may waive this condition for the benefit of any foreigner he deems worthy of the favour. When granted, naturalization entails an obligation on the part of beneficiaries to renounce their previous nationality or nationalities. By virtue of the collective nature of naturalization, the law automatically extends Monegasque nationality to minor children of a naturalized parent, so as to ensure unity of nationality within a family.

148. In the light of the legislation as explained, it is thus worth noting – before outlining the main significant elements below – that persons with disabilities fully enjoy the exercise of their right to acquire a nationality and are not to be deprived of it. Their specific situation is not taken into consideration in any way within the legal corpus on which Monegasque nationality law is based.

149. With regard to the right to a name, articles 44 to 50 of the Civil Code govern the conditions under which a child's birth certificate must be drawn up. This authentic instrument must be drawn up within five days of childbirth (art. 44). It always mentions the name of the child, followed, where appropriate, by a reference to the joint declaration of the father and

mother as to the choice made for the name of their child, and the date on which it was completed (art. 46). Even in cases where the parents are not known, a name is given to the child, by the civil registrar (art. 47).

150. The right to know and be cared for by one's parents is also a restatement of article 7 of the Convention on the Rights of the Child. To reiterate, the principle is that a child's birth certificate is to bear the name of his or her parents (art. 46 (1)).

151. However, children born out of wedlock may be declared without mentioning the names either of both their parents or of one of them (art. 46 (2)). On the other hand, the parents of a child who is found may remain unknown despite the investigation systematically carried out by the police services at the request of the judicial authorities.

152. Lastly, it is possible for a mother to entrust her child at birth to the child welfare services by requesting that the birth be kept a secret. In that case, the parents' names are not mentioned on the birth certificate (art. 47).

153. The right to be raised by one's parents is not directly established in the law. It is derived from the body of regulations governing family law. However, in certain serious cases determined by law and always in the interest of the child, the judge may withdraw the custody of a child from the parents and entrust it to a third person or an institution. The law also establishes, in the absence of an enduring or contingent power of attorney, a system of guardianship when the parents are deceased or legally incapacitated (Civil Code, arts. 333–402).

## **Article 19 – Living independently and being included in the community**

154. The Principality of Monaco has a range of support services, both public and private, for persons with disabilities, providing equal coverage across the entire territory. These services are provided at the request of the person concerned and/or on the recommendation of the competent authority (Medical-Pedagogical Commission, Disability Evaluation Board, etc.). Public services are funded by the State.

155. Some private service providers receive subsidies from the Government and additional funding through the various disability benefits to which the person concerned is entitled. In return for this funding, the Government has a right of oversight over the provider to verify that its services for persons with disabilities are of a high quality, for which purpose it issues certification (see Decree No. 7.121 of 24 September 2018 on regulations for personal support services). In addition to providing evidence that their staff are suitably qualified, these companies must have accessible premises, be contactable in person and by telephone at least five days a week and for seven hours a day, provide follow-up to telephone messages, prepare a procedure for responding to emergency situations, keep written records and carry out evaluations of the services that they provide.

156. Personal assistance: In schools and day-care centres, children with disabilities may, if necessary, be assigned a personal helper (school or social assistant), according to their needs; this service is financed entirely by the State. All persons with disabilities have access to a range of human, technical and material personal support services financed through benefits granted for that purpose in accordance with a disability compensation assistance plan. Every person recognized as having a disability, and his or her family, is entitled to individualized support from the social workers of the Government's Social Inclusion and Disability Office.

157. In-home, residential and other community support services: Persons with disabilities, at all stages of their lives, are entitled to a range of in-home services, both public and private, to support their autonomy in performing routine tasks (domestic help, attendants, delivery of meals to their homes, etc.), in addition to outpatient care services. The Monegasque Association for Assisting and Protecting Children with Disabilities also has three facilities (a sheltered workshop, a vocational training centre and a residential shelter) for adults with disabilities in Monaco. There is also a government social service that provides specific support to persons with disabilities, in close cooperation with other social services in the Principality, such as the Red Cross and the municipal administration.

158. Help with decision-making, including peer support: Government social workers, who have been specifically trained for this purpose, support persons with disabilities and their families in decision-making processes, upon request, by providing personalized counselling in an accessible and adapted format. In certain situations, persons with disabilities may also receive help with decision-making from a guardian. Lastly, the establishment of the Monegasque Mutual Aid Group on 17 May 2016 has since then facilitated the development of a peer support network for adults with psychosocial disabilities.

159. Help with communication, including alternative and augmentative communication: Persons with disabilities who require an alternative and augmentative communication device are entitled to funds to cover the cost of adapted equipment and training in the use of such equipment, on the recommendation of the Disability Evaluation Board. A government social worker also has the necessary knowledge to communicate with persons using sign language.

160. At his or her own initiative or upon referral from a social worker or medical professional, any person wishing to obtain information on these support services may request an appointment with a social worker from the Government's Social Inclusion and Disability Office. The Office may be contacted in person or by telephone from Monday to Friday, without interruption, from 9.30 a.m. to 5 p.m. Home visits can be arranged for persons with limited mobility. Relevant information is also available in various formats (brochures, websites, the Government's Internet portal) and may also be obtained by contacting the relevant department directly.

161. Eligibility criteria depend on the service concerned (public or private) and the nature of the service. For minors, attending a school in the Principality is the main criterion for receiving personal school integration assistance. For adults, being domiciled in the Principality and having a disability recognized by the Disability Evaluation Board confers the right to the establishment and implementation of an assistance plan.

162. At an individual level, all persons with disabilities, or where appropriate their legal representatives, are closely involved in all stages of their disability compensation assistance plans (from development to implementation) requiring the activation of support services. The persons concerned must therefore submit an initial application and enrol in order to benefit from these services. The services provided may be adapted, if necessary, on the basis of assessments by the persons with disabilities with regard to the services that they receive.

163. These services make it possible to meet all the special needs of persons with disabilities throughout their lives, according to an individualized assistance plan defined by the Disability Evaluation Board. During transitional periods, and in the light of changing needs, their situation may be reviewed without delay by the Disability Evaluation Board, which meets quarterly, in order to plan for and adapt the services required to compensate for the disability.

164. Companies specializing in the provision of in-home services have been set up to implement the individualized support plans established by the Disability Evaluation Board and financed through State appropriations.

165. At a collective level, the Government gathers and considers the views of associations representing persons with disabilities with regard to projects concerning them and grants such associations long-term financial support.

166. With regard specifically to children with disabilities, Ministerial Decree No. 2015-380 of 8 June 2015 on social assistance for persons with disabilities establishes the procedures for granting the special education allowance established in article 42 of Act No. 1.410. The allowance is granted to "any persons who have a child with disability status in their care, until such time as the child's entitlement to family benefits under a Monegasque scheme ends", except in the event that the minor with a disability is "placed in a boarding school and his or her subsistence expenses are fully covered by health insurance or social welfare benefits, except during holidays and periods of interruption of care" (Ministerial Decree No. 2015-380 of 8 June 2015, art. 1).

167. A supplement to this allowance may be granted "to the applicant when he or she is in receipt of a special education allowance and the minor with disability status, in respect of whom the special education allowance is paid, has a disability whose nature or seriousness

requires particularly costly expenditure or the daily or constant assistance of a third person to help with essential routine tasks” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 5).

168. Additional financial assistance may be granted when the applicant “is in receipt of a special education allowance and the supplement provided under article 5 is not sufficient to cover the cost of the disability compensation assistance plan. This assistance is allocated on the basis of the needs identified in the plan and the applicant’s social, material and family situation. It may be allocated on a monthly basis for the payment of the service providers involved in the disability compensation assistance plan” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 8).

169. Lastly, a specific supplement may be provided when the minor with a disability requires the assistance of a third person and the applicant responsible for the minor’s care lives alone. This applies to any person “who does not live with another adult, unless the adult is an ascendant or descendant in his or her care” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 9).

170. With regard to adults with disabilities, a guaranteed minimum income, in the form of an allowance provided until the age of 60,<sup>11</sup> was established under article 43 of Act No. 1.410. The allowance “is payable to any person with disability status who is beyond the age of entitlement to the special education allowance, when the monthly income of his or her household is less than 85 per cent of the net reference minimum wage or, where he or she is married or cohabiting with another adult as his or her partner, 170 per cent of the net reference wage” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 16).

171. A supplement, provided under article 44 of Act No. 1.410, is granted to any persons with disabilities when “their condition requires the daily or constant assistance of a third person to help with essential routine tasks and they are not entitled to claim the autonomy benefit provided for in Sovereign Ordinance No. 904 of 8 January 2007, as amended, mentioned above” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 22).

172. Additional financial assistance is provided when this allowance and its supplement do not “cover the cost of the disability compensation assistance plan, provided that the person concerned is not entitled to the autonomy benefit provided for in Sovereign Ordinance No. 904 of 8 January 2007, as amended, mentioned above. This assistance is allocated on the basis of the needs identified in the plan and the applicant’s social, material and family situation” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 25).

173. A supplement for dependent children is provided under article 26 of Ministerial Decree No. 2015-380 of 8 June 2015, corresponding to an amount, per child, “for the first dependent child, equal to 30 per cent of the amount of the allowance for adults with disabilities established in the first paragraph of article 19, and to 20 per cent for the second dependent child, 10 per cent for the third dependent child and 5 per cent for each additional dependent child” (Ministerial Decree No. 2015-380 of 8 June 2015, art. 27).

174. Food assistance is provided to beneficiaries of the allowance for adults with disabilities in the form of service vouchers (Ministerial Decree No. 2015-380 of 8 June 2015, art. 28).

175. Beneficiaries of the allowance for adults with disabilities who are accommodated at an establishment for persons with disabilities must contribute to the costs of their accommodation. Their contributions are calculated as percentages, as established in article 29 of Ministerial Decree No. 2015-380 of 8 June 2015:

- (1) For accommodation five days a week, and when beneficiaries:
  - Work in the protected sector, their contribution shall amount to 30 per cent of their income;

<sup>11</sup> From the age of 60, beneficiaries of the allowance for adults with disabilities are entitled to an old-age disability allowance (Act No. 1.410 of 2 December 2014, art. 42 (1)).

- Are enrolled in a vocational training centre, their contribution shall amount to 50 per cent of their income.
- (2) For accommodation seven days a week, and when beneficiaries:
- Work in the protected sector, their contribution shall amount to 40 per cent of their income;
  - Are enrolled in a vocational training centre, their contribution shall amount to 60 per cent of their income.

If the person concerned receives a supplementary allowance, this allowance shall be paid directly to the establishment, except during periods when the person is living at home. The balance shall be borne by the Social Protection Unit.

176. A housing allowance, provided under article 45 of Act No 1.410 of 2 December 2014, is allocated to “persons with disability status who have Monegasque nationality or who have been legally resident in the Principality for at least three years”, subject to means testing. The amount of the allowance “shall take into account, where appropriate, the amount that the person receives by way of another benefit having the same purpose”. Article 34 of Ministerial Decree No. 2015-380 of 8 June 2015 establishes the following cumulative conditions for the allocation of the housing allowance:

The beneficiary must have an independent residence that does not exceed the normal requirements of the household;

- The beneficiary must be a tenant of this residence, the spouse of the tenant or the cohabiting partner of the tenant;
- The beneficiary must not be the owner, bare owner or usufructuary, in Monaco or within a radius of 15 kilometres, of a dwelling which meets his or her normal requirements and which he or she can legally occupy.

This allowance shall not be payable, however, where the lease has been granted by:

- The spouse of the beneficiary or the cohabiting partner of the beneficiary;
- A brother, sister, ascendant or descendant of the beneficiary, or the spouse or cohabiting partner of such a person.

177. Moreover, article 26 of Act No 1.465 of 11 December 2018 on assistance for Monegasque families and social assistance makes provision for a supplementary invalidity or disability allowance:

Persons of Monegasque nationality who do not meet the minimum age requirement to benefit from the minimum old-age pension under article 30 and who receive the allowance for adults with disabilities from the Social Protection Unit or a disability pension or benefit paid under a compulsory health insurance scheme, or pursuant to the legislation on occupational accidents and diseases, may benefit from a supplementary invalidity or disability allowance. This assistance is also provided, from the age of 60, to beneficiaries of the old-age disability allowance who have Monegasque nationality.

178. The commune, which is the authority competent to provide this allowance, established the terms of payment in Municipal Order No. 2019-679 of 16 April 2019 regulating the supplementary invalidity or disability allowance.

179. In addition, an autonomy benefit was established by Sovereign Ordinance No. 904 of 8 January 2007, which, in article 1, is granted to “persons over 60 years of age who are domiciled in the Principality or at the Résidence du Cap Fleuri and who are affected by a lack or loss of autonomy linked to their physical or mental condition” and “on the recommendation of the coordinating doctor at the Monaco Gerontological Coordination Centre, to persons under 60 years of age with cognitive problems causing a loss of autonomy identical to that linked to pathological ageing”. It is a benefit in kind.

180. Article 45 (1) of Act No. 1.410 of 2 December 2014 makes provision for the allocation of financial support for employment of any workers with disabilities who have Monegasque nationality. If they “do not pass the means test required for the benefit under article 26 of Act

No. 1.465 of 11 December 2018 on account of their income or salary from a work activity, they may, subject to means testing, receive financial support for their employment”.

## **Article 20 – Personal mobility**

181. The task of making the overall living environment accessible to all persons, regardless of any disabilities or mobility problems, is a matter of social justice and improvement of the quality of life. Article 3 of Act No. 1.441 of 5 December 2016 thus provides that “any part of the transport chain that allows users to enter, move around and exit, under normal operating conditions, shall be accessible to persons with disabilities. Such persons shall be able to use any services that are not manifestly incompatible with the nature of their disabilities or individual circumstances. The transport chain consists of the built environment, roads, public spaces, transport systems and their interfaces.”

182. Pedestrian areas have undergone major upgrades (lowered and widened stretches of sidewalk), which, given the extensive network of public elevators, has made the city ever more accessible to persons with disabilities. In addition to the aspects covered in the section of the present report on article 9 of the Convention, the Government has so far brought 519 of the Principality’s 526 pedestrian crossings up to standard. The remaining crossings will be brought up to standard by the end of 2019. In addition, all pedestrian crossings controlled by traffic lights have been fitted with audible devices for blind persons.

183. In order to ensure that quality information is available, an accessibility map of the city has been produced and made available to the public, and specifically to tourists. The map indicates the locations of public elevators, parking spaces for persons with disabilities and possible routes for persons with reduced mobility.

184. In the transport sector, the Government has proactively pursued a policy of making all buses accessible and remodelling stops and the railway station operated by the Société nationale des chemins de fer français (SNCF), the French national railway company.

185. For individual transport, persons with disabilities can be issued with parking permits that allow the holder or an accompanying person to park in spaces that are set aside in Monaco for their use, and also to request that such spaces be reserved near their homes or places of work.

186. Lastly, since 2008, over and above this improvement in public transport, an on-demand transport service known as Mobi’bus has been provided for persons with disabilities and older persons residing in the country who, temporarily or permanently, are physically unable to use the bus service of the Compagnie des Autobus de Monaco. Persons who have been issued with a transport pass by the Department of Social Welfare and Social Services based on medical advice may access the service simply by making a telephone call. Every year, the operating hours of this on-demand service are expanded and the number of vehicles is increased so as to enable such persons to participate in leisure activities in the evenings and on weekends and public holidays.

187. Since 2006, the Handiplage and Audioplage associations have provided bathing opportunities for persons with disabilities or reduced mobility, the visually impaired and blind persons at the Larvotto public beach. Four Handiplage specialists hired by the Government provide these services every summer (in July and August), with the use of special equipment (Tiralos and an Audioplage sound beacon system).

188. In relation to sports, the Government pursues policies to make all types of sports facilities available to persons with disabilities.

189. For several years, the State has undertaken to ensure that all new real estate projects include a quota of apartments designed for persons with reduced mobility. It also funds renovation works required to allow persons with disabilities to remain in their homes.

## Article 21 – Freedom of expression and opinion, and access to information

190. There is no specific legislation on this matter. However, freedom of expression and opinion is a fundamental civil right and principle of democracy and, as such, is enshrined in several international conventions, including the European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 10) and the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (d)). Moreover, the freedom to express one's opinions is enshrined in article 23 of the Constitution, and Act No. 1.299 of 15 July 2005 on freedom of expression guarantees freedom of expression.

191. As the Principality has a small number of persons with disabilities, each of whom has specific needs, an individualized approach is necessary to ensure that information is accessible and to facilitate their official interactions.

192. In their various official interactions, persons with disabilities receive personalized counselling upon request and in an accessible and appropriate format from specially trained government social workers. In certain situations, an assigned guardian or trustee or an association for persons with disabilities may also provide assistance in accessing information and in engaging in official interactions.

193. The State provides funding for the special equipment and, where appropriate, necessary training for persons with disabilities who have been recognized by the Disability Evaluation Board as requiring an external tool for alternative and augmentative communication. Where necessary, and in accordance with the wishes of the person with disabilities, the State also requests and funds the services of sign language interpreters. A government social worker also has the necessary knowledge to communicate with persons using sign language.

## Article 22 – Respect for privacy

194. Article 21 of the Constitution, under the chapter entitled "Fundamental Freedoms and Rights", sets forth the principle that "the domicile is inviolable. No entry and search in the domicile can take place except in cases and in the manner prescribed by law." Article 22 of the Constitution, under the same chapter, sets forth the principle that "every individual has the right to respect of private and family life and confidentiality of correspondence".

195. Articles 22 to 24-1 of the Civil Code guarantee protection of privacy "for all persons, living or dead" and set out the civil court remedies available in the event of a breach of privacy.

196. Article 308-2 of the Criminal Code establishes a penalty of:

... imprisonment of 6 months to 3 years and the fine set in article 26 (4), the maximum of which may be doubled, for anyone who knowingly violates or attempts to violate the right to respect for the private or family life of a person, whether living or dead, as established in article 22 of the Civil Code, by committing one of the following acts without that person's consent:

- Listening to, recording or transmitting, by any means, words spoken by the person in a private place
- Capturing or transmitting an image of the person in a private place

However, consent shall be presumed when these acts are performed in a meeting, in full view of the person concerned.

The order shall be given to confiscate the equipment used and the documents or recordings obtained.

197. At the core of Act No. 1.165 of 23 December 1993 on the protection of personal information are the measures of the country's national law that protect the privacy of the personal, health and rehabilitation-related information of persons with disabilities. Article 12 of the Act states that:



No one may carry out processing operations, whether or not by automated means, that directly or indirectly reveal a person's opinions or political, racial or ethnic, religious, philosophical or trade union affiliations or that involve data relating to health, including genetic data, sexual life, lifestyle or social service measures ...

The first paragraph shall not apply in the following cases:

- Where the persons concerned have freely given their express written consent, including under Act No. 1.265 of 23 December 2002 on the protection of persons involved in biomedical research, except where the law provides that the prohibition set out in the first paragraph cannot be lifted by the consent of the person concerned. At any time, the persons concerned may withdraw their consent and request the controller or user to destroy or delete the information pertaining to them; ...
- Where processing is necessary for the purposes of preventive medicine, medical diagnoses, the provision of care or medication or the management of health and social welfare services, or in the interests of research, and where the information is processed by a health practitioner bound by a duty of professional confidentiality or by another person bound by a duty of confidentiality; ...

198. The applicable penalties are substantial, which is indicative of the level of protection afforded. Article 22 of Act No. 1.165 reads as follows:

Article 22. The following persons shall be subject to imprisonment of 3 months to 1 year and the fine set in article 26 (4) of the Criminal Code, or by only one of these two penalties:

(1°) Persons who, except in cases authorized by law, either directly or indirectly collect, record, store or use information identifying an individual and intended exclusively for the use of specific authorities, institutions, bodies or physical persons, or information that may reveal an individual's opinions or political, racial or ethnic, religious, philosophical or trade union affiliations, or information relating to the individual's health, including genetic data and information on the individual's sexual life, lifestyle or benefit from social welfare measures ...

199. Article 12 of Act No. 1.454 of 30 October 2017 on consent and information in medical matters reads as follows:

Anyone may request access to all the information concerning his or her health that is held in any capacity by health professionals or facilities, whether recorded in writing or in any other form, including information exchanged among health professionals, with the exception of information concerning third parties and the personal notes made by health professionals.

He or she may access and be provided with this information either directly or through a physician, the person's spouse, the trusted person mentioned in article 20 or an ascendant, descendant, brother or sister appointed by the person, within 15 days of the request or, where the information dates back more than five years, within two months. However, at the request of the health professional or facility, the president of the Commission for the Monitoring of Personal Information may, with the Commission's approval, set different deadlines for responses, or derogate altogether from the obligation to respond to requests if they are abusive in terms of their number or their repetitive or systematic nature. In such cases, the person concerned shall be duly notified.

If no reply is received by the deadline, the request for access shall be deemed to have been rejected. The procedure for accessing such information shall be laid down by sovereign ordinance.

200. Article 13 of Act No. 1.454 of 30 October 2017 sets out the provisions applicable to adults under guardianship, who "may have access to information concerning their health only if their capacity for forming their own views allows them to express their will ... The legal representatives of adults under guardianship may have access to such information only if their assistance or representation is required for actions of this kind in accordance with the third paragraph of article 410-21° of the Civil Code."

## Article 23 – Respect for home and the family

201. Persons with disabilities may exercise the right to marry and found a family on the basis of their full and free consent. Without addressing the matter in detail, we should refer in this regard to the legal regime governing marriage, which includes conditions relating to age (Civil Code, art. 116, which states that men and women may not marry before the age of 18 years) and consent (Civil Code, art. 117, which states that no marriage may take place without consent). However, article 124 of the Civil Code provides that:

The marriage of an adult in respect of whom one of the measures has been adopted under articles 410-10, 410-18 and 410-19 (the legal regime for adults under guardianship) must be authorized by the family council, if necessary constituted specifically for that purpose, after the would-be spouses have been heard and the opinion of the attending physician has been obtained.

202. Articles 240 to 297 of the Civil Code set out the legal regime governing adoption. There is no provision stating that persons with disabilities may not benefit from these measures, as long as all the necessary conditions are met.

203. In line with the Committee’s guidance, the criminal law of Monaco provides for measures to prevent the forced sterilization of persons with disabilities. Article 247 of the Criminal Code, under the title “Grievous bodily harm not classified as homicide and other intentional crimes and misdemeanours”, thus specifies that:

Any individual guilty of the crime of castration shall be sentenced to the maximum fixed-term prison sentence.

If such an act leads to death, the perpetrator shall be sentenced to life imprisonment.

The same sentences shall be applicable to any individual who attacks the genital integrity of a female by total or partial removal, including excision, infibulation or any other mutilation.

The provisions of this article are not applicable to genital operations carried out in accordance with the law, professional regulations and the ethical principles governing pharmaceutical, medical and surgical activities.

## Article 24 – Education

204. The Monegasque education system is based on the enrolment of all pupils of compulsory school age (from 6 to 16 years), without discrimination of any kind. With regard to children with disabilities, article 11 of Act No. 1.334 of 12 July 2007 on education provides that “the obligation to provide an education to children and adolescents with disabilities or incapacitating health impairments shall be met by giving them an education in an ordinary school environment or, if necessary, either a special education determined according to their particular needs in health, medical and social welfare or specialized establishments or services, or home schooling under the conditions laid down in article 5.”

205. Children with disabilities or incapacitating health impairments have the right to be enrolled in a school. Schools provide the necessary accommodations to organize, deliver and support the education of children and adolescents with disabilities or incapacitating health impairments. The care and education of children in special or difficult circumstances are addressed in Act No. 1.334 of 12 July 2007, cited above, in articles 46 and 47 of a dedicated section (section IV) of the Act:

Article 46. Children with disabilities or incapacitating health impairments shall have the right to be enrolled in a school.

Schools shall provide the necessary accommodations to organize, deliver and support the education of children and adolescents with disabilities or incapacitating health impairments.

To this end, they shall engage qualified teachers and managerial, care, technical and service staff, as made available to them under the conditions laid down by ministerial decree.

Article 47. In order to ensure that all children and adolescents with disabilities or incapacitating health impairments follow a suitable education programme, they shall each undergo a regular assessment of their skills and needs and the measures adopted as part of the programme, at intervals appropriate to their individual circumstances. This assessment shall be carried out by the Child Guidance Commission mentioned in article 25. Both the children and their parents or the persons responsible for them shall be heard during the assessment process.

206. Concern for the social integration of children with disabilities who attend establishments for children aged under 6 years is recognized. Ministerial Decree No. 2010-154 of 24 March 2010 on the regulation of establishments for children aged under 6 years states that:

Article 1. Establishments and services for children aged under 6 years of age shall ensure the health, safety, well-being and development of the children in their care. They shall contribute to the social integration of those in their care who have disabilities or chronic illnesses. They shall help parents to balance work and family life.

Article 6. Care establishments and services shall draw up a plan for the establishment or service covering the following aspects: ... (3) Where relevant, the special arrangements made for children with disabilities or chronic illnesses ...

Article 17. I. Establishments and services shall ensure regular input from a specialist or other physician qualified in paediatrics or, failing this, a general practitioner with specific experience in paediatrics, who shall be named the establishment or service physician ...

III. In conjunction with the child's family and physician and the staff of the establishment or service, and in consultation with its director or the health professional mentioned in articles 10 and 11 of this Decree, the physicians of the establishments or services shall ensure that the conditions of care permit the proper development and habilitation of children there. In particular, they shall ensure the integration of children with disabilities, chronic illnesses or any health problem requiring special treatment or attention and, where appropriate, draw up or contribute to individualized care plans.

Article 19. I. Childcare attendants or nurses of the establishments or services mentioned in article 11 shall, in their area of expertise, assist the director of the establishment in implementing the measures necessary for the well-being and development of the children. For example, in consultation with the physician of the establishment or service and the family members, they shall: ... (2) Ensure the integration of children with disabilities or conditions requiring special care or attention.

207. When plans for the establishment are drawn up, the specific situation of children with disabilities must be taken into account to make it possible for them to receive schooling. Article 30 of Act No. 1.334 of 12 July 2007, cited above, reads as follows:

Article 30. Every public school shall draw up a plan for the establishment. The school's plan shall set out the specific procedures for the implementation of national education goals and curricula. It shall specify the curricular and extracurricular activities planned in this regard. It shall also indicate the specific means used to provide care for pupils with educational difficulties and children with motor, physical or psychological disabilities, and the procedures for meeting with parents, keeping them informed and involving them in the guidance process.

208. Schools are part of the existing built environment belonging to a public entity and providing a public service and, as such, must be made accessible within five years of the entry into force of Act No. 1.441, or by 16 December 2022 at the latest. The Public Buildings Maintenance Office has conducted an inventory of 42 buildings, including all schools. In

2020, works will be carried out to bring nearly every school into compliance with the regulations on accessibility for persons with reduced mobility. On completion of this first phase, works will be carried out to bring the remaining schools into compliance with the regulations.

209. With regard to individualized reasonable accommodation and necessary support for children with disabilities, as mentioned above, article 46 of Act No. 1.334 of 12 July 2007 reads:

Schools shall provide the necessary accommodations to organize, deliver and support the education of children and adolescents with disabilities or incapacitating health impairments.

To this end, they shall engage qualified teachers and managerial, care, technical and service staff, as made available to them under the conditions laid down by ministerial decree.

210. Moreover, Ministerial Decree No. 2008-813 of 11 December 2008 on care conditions for children below the compulsory school age reads as follows:

Article 3. The Director of Education, Youth and Sport and the Medical Inspector for Schools shall jointly draw up an individualized care plan or integration plan for every child with physical or mental disabilities or incapacitating health impairments.

Where specific measures are required under the integration plan, the child's file shall be submitted to the Child Guidance Commission.

211. The Principality's schools thus admit children with disabilities of all types, as long as their disabilities have been medically recognized as being compatible with mainstream collective education. In order to facilitate the educational inclusion of pupils with disabilities or difficulties, specific classes and arrangements have been set up to provide children with suitable individualized teaching focused on basic learning and socialization, while also promoting "gateways" to mainstream classes.

212. With regard to early "screening" for disabilities, from a child's first day at preschool, teaching teams are particularly attentive and attuned to any learning and/or behavioural difficulties. If a teaching team has concerns about such difficulties, the child's parents are notified and invited to make an appointment with a medical inspector to discuss them. After assessing the situation, the physician may advise the family to contact a medical specialist to look into the difficulties encountered by the child. Sometimes, this may result in a diagnosis, which in turn leads to the provision of the necessary forms of assistance, accommodation and compensation to help the child to thrive.

213. Throughout their schooling, pupils with special needs thus benefit from a suitable education programme and, depending on their needs, from the necessary assistance, whether human (special needs assistants or integration support teachers) or technical. In accordance with their specific circumstances, these pupils receive the care, rehabilitation and learning support required for their integration into a mainstream school environment.

214. For all such pupils, the Child Guidance Commission chaired by the Director of the Department of Education has the task of drawing up an education plan setting out support measures. The Department of Social Welfare and Social Services is responsible for providing special needs assistants. There are various ways in which these assistants can support pupils. For example, they can:

- Help to create safe and comfortable conditions
- Support learning
- Facilitate integration into the school
- Support communication
- Provide technical assistance to pupils

215. From preschool onwards, pupils in mainstream classes can receive educational support from teachers to help them to develop or strengthen any skills in which they are

deficient. However, despite the assistance and accommodations provided in mainstream classes, some pupils continue to experience major difficulties. In such cases, they may be enrolled in small, specialized classes (of no more than 10 pupils), while also being included in a class with peers of their own age as often as possible.

216. The Principality has classes in which pupils with severe learning difficulties (such as dyslexia, dysphasia, dyspraxia or attention disorders) can learn to compensate for them, including by using computerized tools. In addition, pupils with severe cognitive disorders may be taught by a specialized teacher in an inclusive class. For each such pupil, the teacher draws up a personalized education plan to enable him or her to acquire knowledge and skills. Every pupil thus has a personalized timetable that includes therapeutic care and educational activities.

217. With regard to sensory impairments, the Principality works closely with specialized French services in order to meet the needs of pupils with hearing or visual impairments. These pupils can therefore benefit from assistive devices and have access to the modes of communication that seem most appropriate. These care services can provide training to children, young people and their families, and to teaching teams as well.

218. The Department of Education, Youth and Sport works with the French Ministry of Education and various other professionals (psychiatrists, psychologists, speech therapists, psychomotor therapists, professionals from voluntary associations, etc.) to provide training for teachers and all education sector employees in ways of working with pupils with special educational needs.

219. For every child who goes to school in the Principality, regardless of any difficulties or disabilities that he or she may have, the goal is to draw up a plan geared towards securing employment after the end of compulsory schooling. To this end, pupils have the opportunity to complete internships in a mainstream or sheltered working environment so that they can gradually settle on a future career.

220. In addition, following consultations between voluntary associations and the government bodies responsible for schools, health and education, the Ministry of Health and Social Affairs approved the establishment of a specialized educational centre. The centre, which opened in 2018, provides individualized educational support that takes into account every aspect of children with disabilities, by using appropriate educational methods to support their education, social integration and increased independence and by helping parents. Following guidance from the Disability Evaluation Board, the centre's teams supplement the therapeutic care provided for the children and the education that they receive in the Principality's schools (or elsewhere, if schooling has been suspended following a medical decision) by ensuring that one-off and regular educational activities are carried out in all the places frequented by the children, including the home, and at dedicated premises.

221. There are several objectives:

- To provide educational activities as part of a multidisciplinary, comprehensive and coherent care plan that meets the specific needs of minors with disabilities educated in the Principality
- To address behavioural and interpersonal difficulties related to the disability and promote independence and socialization through sustained and coordinated educational activities with the children in the different places where they are active (home, school and elsewhere)
- To provide support for parents through regular educational activities in the home and help the family to accept and manage the disability and/or behavioural disorder in everyday life
- To support education in mainstream schools by supplementing the care provided at school and/or to prepare and help the children and their families to fulfil a plan for the future

222. Lastly, children who are temporarily or permanently unable to remain in their usual surroundings may be referred to a medico-social facility that can provide them with the right balance of education, learning support and therapeutic care. As there are no such facilities in

the Principality, the Departmental Centre for Persons with Disabilities refers such children to the one in the French department of Alpes-Maritimes most suited to their health conditions.

## **Article 25 – Health**

223. “Legislative and other measures that protect against discrimination and ensure that persons with disabilities have the same access to quality health services, including in the area of sexual and reproductive health.” Overall, there is no discrimination in access to health services. In this regard, article 12 of Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities reads as follows: “All persons with disabilities shall have access to the same health facilities and the same quality of care as other patients and be charged the same fees.” Moreover, as the country is small and the number of persons with disabilities is limited, it can be said that all such persons receive the necessary medical treatment under optimal conditions.

224. Article 7 of the Code of Medical Ethics, approved by Ministerial Decree No. 2012-312 of 29 May 2012, specifies that “physicians must listen to, examine, advise and treat all persons with the same diligence, regardless of their origin, lifestyle or family situation, their membership or non-membership of a given ethnic group, nation or religion, their disability or the state of their health, their reputation and any feelings that they may have towards them. They must assist them in all circumstances.”

225. Concerning access to sexual and reproductive health services, Act No. 1.359 of 20 April 2009 on the establishment of a prenatal coordination and family support centre, amending article 248 of the Criminal Code and article 323 of the Civil Code, ensures access to quality sexual and reproductive health services without any discrimination on the basis of disability.

226. In fact, article 1 of the Act states that the very purpose of establishing the centre 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”. Women facing difficulties, including disability-related difficulties, are thus clearly the focus of special attention.

227. Article 2 of the Act states that the centre is to be staffed by a multidisciplinary team that includes social workers, which ensures that persons with disabilities are taken into account and that their specific needs are addressed by qualified professionals who understand their situation.

228. “Measures taken to ensure that persons with disabilities have access to disability-related health rehabilitation in their community freely and without financial cost.” With regard to medical and paramedical rehabilitation care, the Physical Medicine and Rehabilitation Department of the Princess Grace Hospital Centre is responsible for treating patients who present with functional limitations or disabilities resulting from orthopaedic surgery or trauma, rheumatological diseases, neurological disorders, respiratory diseases, balance or walking problems, bladder control problems, childbirth, amputations, cardiovascular diseases and certain paediatric disorders. This versatile rehabilitation department serves both outpatients and inpatients from the medical and surgical departments.

229. The Department provides medical services in the form of specialized consultations, rehabilitation follow-up and coordination, postural evaluations, gait analysis and isokinetic exercises. It also provides paramedical services in the form of all-round or specialized rehabilitation in one-on-one sessions. Group rehabilitation sessions are also organized for certain conditions.

230. The medical and paramedical staff provide comprehensive, complete (from diagnosis to rehabilitation follow-up) and personalized (individualized rehabilitation programme) care across multiple areas of disability and use a wide range of techniques, including manual therapy, mechanotherapy, electrotherapy and physiotherapy, postural and perineal biofeedback, balneotherapy, ventilation and airway clearance, lymphatic drainage, breathing

retraining, orthopaedic appliance applications, optokinetic stimulation, isokinetic exercises and spinal decompression.

231. The technical facilities include a gymnasium (with walking rails and mats, a treadmill, cycle ergometers, treatment tables, pulley therapy equipment, a stand-up lift and exercise stairs, etc.), an assessment room with posturography and isokinetic exercise equipment, treatment rooms (with massage chairs, training stairs, equipment for physiotherapy, electrotherapy, transcutaneous electric nerve stimulation, ionization therapy, cryotherapy, shockwave therapy, mechanical lymphatic drainage and mechanotherapy and a spinal decompression table, etc.), a vestibular rehabilitation room, a pulmonary rehabilitation and breathing retraining area (with a treadmill, cycle ergometer, upper body ergometer, step platform and specific apparatus), a pelvic and perineal rehabilitation room, an occupational therapy room, a hand and orthosis rehabilitation workshop and a warm-water balneotherapy area.

232. Moreover, persons with disabilities may of course freely access the services of health professionals practising in the city. “Health services, early detection and intervention programmes, as appropriate, to prevent and minimize the emergence of secondary disabilities, paying attention to children, women and the elderly, including in rural areas.” There are no rural areas in Monaco.

233. In general, the medical follow-up care for pregnant women (involving ultrasound examinations, routine blood tests and other tests, as appropriate) and for all children from birth (tests performed in the maternity ward) and throughout their growth (maintenance of health records, mandatory medical checks at school, etc.) ensure the early detection of disabilities and make it possible to intervene as soon as possible.

234. For older persons, the Rainier III Clinical Gerontology Centre offers geriatric consultations where patients can receive rapid specialist advice, referral to other parts of the health-care system and dependency assessments; schedule check-ups; make preparations for life in a care home; quickly receive an opinion from experts in geriatric care, internal medicine, health education and infectious diseases; and use the comprehensive geriatric assessment (CGA) tool. The Centre also has long-term care, follow-up care and rehabilitation units. The aim is always to allow older persons with disabilities to return their homes, insofar as possible.

235. The Monaco Gerontological Coordination Centre draws up personalized assistance plans for older persons to ensure that their return home takes place in satisfactory conditions. For instance, it handles requests for home adaptations required to meet the specific needs of older persons with reduced mobility and disabilities (for example, for the replacement of the bathtub with a shower, installation of a ramp, or widening of a doorway or hallway, etc.).

236. “Legislative and other measures to ensure that general public health campaigns are accessible for persons with disabilities.” In Monaco, general public health campaigns are carried out across multiple media to ensure that they are visible and accessible to everyone. These media include broadcasts on public and free-to-access television channels, radio broadcasts, posters displayed in the city (at bus stops and on billboards), brochures in pharmacies and doctors’ surgeries, and posters in health-care facilities and the offices of various administrative services. More targeted campaigns may be carried out in places identified as particularly relevant to certain campaigns, such as in schools.

237. “Measures put in place to train doctors and other health professionals on the rights of persons with disabilities, including in rural areas.” Again, there are no rural areas in Monaco.

238. Since there is no faculty of medicine in Monaco, all doctors practising in the country receive their medical degrees abroad, mainly in France, which means that the State has no control over their initial medical training. The same applies to other health professionals, with the exception of nurses and auxiliary nurses. However, the Monaco School for Continuing Medical Education offers training modules in a wide range of subjects, some of which are potentially relevant to the care of persons with disabilities.

239. Disability forms an integral part of the training of nurses and auxiliary nurses, who are the only health professionals to train and receive their qualifications in Monaco. All aspects of disability, including the rights of persons with disabilities, are addressed in their

training. In addition to these theory courses, trainee nurses and auxiliary nurses visit San Salvadour Hospital in Hyères (French department of Var), where on-site training and internships are proposed. Disability may also be covered as part of in-service training modules, particularly for auxiliary nurses, at the request of the employer.

240. There are also measures in place to provide special adapted support to prospective trainee nurses and auxiliary nurses with disabilities. Of course, the nature of their disabilities must be compatible with the requirements of the nursing and auxiliary nursing professions. However, the Monaco College of Nursing does not have the necessary equipment to make adaptations for all forms of disability, in view of the small size of the country and the school itself. Prospective trainees whose needs cannot be met in Monaco are thus generally advised to enrol in the French Rehabilitation and Professional Integration Centre in Castelnau-le-Lez (French department of Hérault), which is reserved for persons recognized as workers with disabilities by the Commission on the Rights and Independence of Persons with Disabilities and which trains nurses and other professionals. Close collaboration has been established with the Centre, which is the only establishment of its kind in France.

241. “Legislative and other measures to ensure that any health treatment is provided to persons with disabilities on the basis of their free and informed consent.” Article 11 of Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities provides that “all persons with disabilities have the same rights and freedoms as other patients, including with regard to consent”.

242. More specifically, the first article of Act No. 1.454 of 30 October 2017 on consent and information in medical matters reads as follows:

The free and informed consent of any persons called upon to undergo a medical procedure or treatment shall be obtained beforehand by the responsible health professionals, within the framework of their competence and in accordance with the professional rules applicable to them for conducting or prescribing the procedure or treatment. This consent may be withdrawn at any time.

The health professionals shall respect the wishes of the persons concerned after informing them of the consequences of their choices and their seriousness, even when their refusal to undergo a medical procedure or treatment endangers their lives.

Where, by their desire to refuse or interrupt the proposed medical procedure or treatment, the persons endanger their lives, the health professionals shall suggest that they reiterate their desire in writing, after a reasonable period of time, which they shall determine according to the circumstances, with particular regard to the urgency of the situation. At the end of this period, the procedures or treatments may not be carried out without the consent of the persons concerned.

243. In the specific case of persons whose disability requires that they be assigned a guardian, article 3 of Act No. 1.454 provides that:

In the absence of a decision to the contrary by the Court of First Instance, ... article 1 shall apply to adults under guardianship.

Where they must be represented ..., the adults under guardianship shall be involved, to the degree that they are capable of discernment, in the decision-making processes concerning them.

In an emergency, and when the free and informed consent of their legal representatives is required ..., health professionals shall be exempted from this requirement if such consent cannot be obtained in time. They may override the guardian’s refusal if the life of the adult under guardianship is in danger.

In an emergency, when adults under guardianship must be assisted ... and such assistance cannot be received in time, health professionals must respect the wishes they express, unless doing so endangers their lives.

244. Furthermore, in accordance with article 4 of Act No. 1.454, “Where persons requiring medical treatment are not in a condition to express their will, but their consent is required beforehand in accordance with the provisions of the present Act, no medical procedure or



treatment may be carried out without beforehand obtaining the free and informed consent of the trusted person referred to in article 20 or, failing this, of the person's spouse or legal representative or, failing this, of an ascendant, descendant or sibling."

245. "Legislative and other measures that ensure protection against discrimination in the access to health insurance and other insurance, when these are required by law." Enrolment in the social insurance systems in the Principality is compulsory and linked to employment; these systems are open to private-sector employees, State and communal agents and officials and self-employed workers, including persons practising liberal professions. They cover the risks related to illness and provide benefits related to maternity, old age and, for private-sector employees and public agents and officials, paternity, invalidity, occupational accidents, dependants and unemployment. Persons with disabilities who exercise a professional activity in the Principality, whether in open employment or as an employee of an association, are therefore required to enrol in the social benefit system corresponding to their area of work, and they enjoy all the rights provided under that system.

246. Persons with disabilities who are employed in the private sector or are self-employed are covered by the Monegasque Social Insurance Funds, which provide the same conditions of coverage for insured persons with disabilities as they do for insured persons without disabilities.

247. In addition, special legal provisions have been adopted to take account of the particular situations of persons having disabilities or who are affected by illness. Thus:

- Under the pension scheme for salaried employees, periods of compensated absence from work owing to illness, an occupational accident or disability are taken into account in pension calculations, with no charge
- Under the pension scheme for self-employed workers, it is possible to collect an early pension from 60 years of age in the event of unfitness for work (this option is available to all salaried employees, without the condition that they be declared unfit for work)

248. Like the Monegasque Social Insurance Funds, the State Medical Benefits Office provides the same conditions of coverage for insured persons and beneficiaries with disabilities as it does for insured persons and beneficiaries without disabilities. It ensures a high rate of reimbursement for illness compared with those of other countries, especially in Europe, namely 80 to 100 per cent, without discrimination, and without any requirement to make contributions.

249. In addition, the State Medical Benefits Office may exempt insured persons and beneficiaries with disabilities from making co-payments towards medical expenses, irrespective of the nature of their illness, without discrimination on the basis of disability. The co-payment corresponds to the remainder of the medical expenses that fall to the insured person after reimbursement by the Office, which does not cover medical charges exceeding the statutory fee. The payment or reimbursement of this remainder by the insured person may be waived; the insured person is, in such cases, reimbursed at 100 per cent of the current reimbursement rate for medical procedures, treatment and services. Both first-time applications and requests for the renewal of exemptions must be submitted by the attending physician to the Medical Advisor of the State Medical Benefits Office. Exemptions are granted by the Office's Director, subject to the approval of the Medical Advisor, for a limited, renewable period, to public officials and agents living with one of the illnesses appearing on an official list drawn up by ministerial decree. Exemptions may also be granted in respect of certain services determined by the current regulations governing the reimbursement of medical procedures.

250. The State Medical Benefits Office thus enables insured persons and beneficiaries with disabilities to exercise their right to the enjoyment of the highest attainable standard of health and to access, without discrimination, quality health services and appropriate and affordable products and services, including in the areas of sexual and reproductive health, reintegration into public life and early detection and intervention programmes to prevent and minimize the emergence of secondary disabilities.

251. Employees with adult disability status are entitled to a housing allowance provided by the employee medical and family benefits system.

252. Article 13 of Act No. 1.410 of 2 December 2014 reads as follows:

Where persons with disability status are not entitled to compulsory health insurance under a Monegasque or foreign social insurance system as insured persons or beneficiaries, they may request free medical assistance covered by the Social Protection Unit for themselves and, where applicable, their beneficiaries, in accordance with the conditions laid down by sovereign ordinance.

The right to free medical assistance also entitles them to receive a family benefit allowance from the Social Protection Unit, in accordance with the conditions laid down in Act No. 595 of 15 July 1954, as amended.

253. “Measures taken to ensure that sanitation facilities are not simply available, but fully accessible.” The facilities of the Princess Grace Hospital Centre, the only hospital in Monaco, are fully accessible to persons with disabilities, with access ramps and external and internal elevators to each department. Wheelchairs are available on a self-service basis. The same will of course be true of the new hospital currently under construction.

254. “Measures taken to increase awareness and information in various accessible formats, including in Braille, for HIV/AIDS and malaria prevention.” The issue of preventing and combating malaria is not relevant to Monaco, as there are no cases of malaria in the country.

255. The Principality is particularly active when it comes to awareness-raising and information activities to prevent HIV/AIDS, with information campaigns in the media, schools, health-care institutions, the premises of administrative services and even in public spaces during specific events.

256. However, these campaigns use traditional formats that are not specifically adapted to the needs of persons with disabilities. Nevertheless, given the small size of the country and the personalized support offered to persons with disabilities, in practice they have access to the same prevention services as the general population and to the same information and knowledge.

## **Article 26 – Habilitation and rehabilitation**

257. For information on the implementation of article 26, please see paragraphs 229 to 233 of the present report.

## **Article 27 – Work and employment**

258. With regard to the prohibition of discrimination in employment on the grounds of disability, Title V of Act No. 1.410 of 2 December 2014 on the protection, autonomy and promotion of the rights and freedoms of persons with disabilities addresses work. Article 34 enshrines the principle of the prohibition of all forms of discrimination:

Persons with disabilities shall not, by reason of their disability, be subject to any unjustified difference in treatment, in particular with regard to recruitment, remuneration, training and promotion.

Workers with disabilities shall be subject to the laws, regulations and agreements in force for the employment they hold.

259. Moreover, Act No. 1.441 of 5 December 2016 on the accessibility of the built environment and the ministerial decree that regulates its implementation indirectly combat discrimination based on disability by requiring that buildings open to the public and offices be adapted to the needs of persons with disabilities.

260. Article 34 of Act No. 1.410 is also aimed at protecting the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and redress for grievances.

261. Workers with disabilities, just like all Monegasque workers, enjoy freedom of association by virtue of article 28 of the Constitution and Act No. 957 of 18 July 1974 on the exercise of the right to organize in enterprises.

262. Access to general technical and vocational guidance programmes, placement services and vocational and continuing training is the responsibility of the Careers Guidance Commission for Workers with Disabilities, according to articles 26 to 29 of Act No. 1.410, article 26 of which reads as follows:

A careers guidance commission for workers with disabilities shall hereby be established, whose mandate shall include issuing recommendations in relation to:

- Granting of worker disability status
- Opportunities for the integration of workers with disabilities into the workplace and measures to facilitate such integration, including through vocational training
- Characteristics of the jobs that workers with disabilities may perform, in particular with regard to working conditions and working hours
- Guidance of workers with disabilities in the mainstream working environment or, where appropriate, towards an establishment adapted to the employment of persons with worker disability status

263. The system in place to facilitate the integration of workers with disabilities into the mainstream working environment, in the public and private sectors, involves:

- Educational support for every worker with a disability, leading to the preparation of a personalized integration plan that reflects his or her ambitions and skills, including the definition of a personal plan, a skills assessment, adapted individual and collective training and internships
- Conclusion, where necessary, of a tripartite placement agreement between the employer, the worker with a disability and the public authorities, including incentives for the employer and guarantees for the worker with a disability, covering such areas as the definition of tasks, adaptations, working hours and follow-up, etc.
- Implementation of a personalized workplace support system, with reinforced, daily support from a specialized counsellor for workers who require support
- Large-scale and tailored promotional activities to raise awareness among employers with regard to the integration of workers with disabilities into the workforce (using means such as conferences, brochures and interviews)

264. In addition, the Government plans to establish free adapted training courses on e-learning platforms, featuring personalized educational support. These courses will be available to all persons with disabilities, allowing them to acquire the tools and strategies needed to deal with a variety of stressful situations and conflict at work, or simply to acquire the specific skills and knowledge required for a successful integration into the workplace. The corresponding training modules are currently under development.

265. Article 37 of Act No. 1.410 of 2 December 2014 encourages retention in employment by establishing a financial assistance programme. Ministerial Decree No. 2015-381 of 8 June 2015 established the terms and conditions for the granting of financial assistance to facilitate access to employment in the mainstream work environment for workers with disabilities. The article reads as follows:

Financial assistance may be granted by the State to employers to facilitate access to employment for workers with disabilities.

Such assistance shall include a contribution to the cost of any works required to make adaptations to the work premises or equipment.

The terms and conditions of this assistance shall be defined by ministerial decree.

266. Article 6 of Act No. 1.348 of 25 June 2008 provides for the convening of classification committees, whose job consists in ensuring that employers seek to reclassify the positions of employees declared unfit to work, in accordance with the recommendations of an

occupational physician. For reference, 133 committees were convened in 2018, compared with 57 in 2017. This increase is the result of a court decision obliging employers to convene a classification committee even if a worker is declared unfit to hold any position in the company.

267. A provision under Act No. 636 of 11 January 1958, which amends and codifies legislation on the declaration of occupational accidents and related compensation and insurance, also addresses assistance for persons with disabilities. Article 23 bis provides for the compensation of losses incurred by an employee as a result of partial incapacity for work, taking into account the job in question, and not only the rate normally applied according to the pathology in question. The article reads as follows:

Whenever a medical examination is carried out in accordance with the preceding article, the judge responsible for dealing with occupational accidents, the court of first instance or the court of appeal may, on the basis of the report of the expert physician, order an assessment of the residual earning capacity of accident victims, taking into account the situation of the labour market, the scope of employment appropriate for the victims and their potential performance in the new occupation that they may be obliged to take up.

This assessment shall be carried out by a committee of five members, including the chair, whose composition shall be determined by sovereign ordinance, after consultation with the Council of State.

Upon receipt of the copy of the medical report, which shall be sent to the chair by the General Court Registry within five days of its submission, the chair is required to convene the committee and to inform the General Court Registry of its conclusions within a maximum period of 30 days from the date on which the committee meets.

The conclusions of the committee shall be attached to the report of the medical expert and be presented by the General Court Registry to the court that requested them. The court shall not be bound by these conclusions.

268. To promote opportunities for self-employment, entrepreneurship, the development of cooperatives and enterprise creation, article 38 of Act No. 1.410 of 2 December 2014 includes a provision that “self-employed workers with worker disability status are also entitled to request the State financial assistance referred to in the preceding article”.

269. With regard to the employment of persons with disabilities in the public sector, there are eight workers with disabilities in the civil service.

270. With regard to the private sector, in addition to the assistance provided under article 37 of Act No. 1.410 of 2 December 2014, article 35 of the same Act provides that “the employer must, according to the requirements of the specific situation, take appropriate measures to enable workers with disabilities to have access to employment under the conditions recommended by the Careers Guidance Commission for Workers with Disabilities and to ensure that they continue to enjoy satisfactory conditions”.

271. In some places, tripartite agreements between businesses, employers and the Social Welfare and Social Services<sup>12</sup> define employees tasks, in order to facilitate their integration into the workplace. Under such agreements, part of the employee’s salary is paid by the Department of Social Welfare and Social Services (85 per cent of the applicable minimum wage).

272. In addition, financial incentives, such as bonuses whose amount varies according to the line of work and nationality of the person with a disability, and increased social and educational support allow workers with disabilities who cannot obtain a job on their own in the mainstream work environment to access or keep a job through “assisted contracts”. Employers who place a post at the disposal of the Department of Social Welfare and Social Services are responsible for paying 15 per cent of the applicable minimum wage and related

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<sup>12</sup> Department of Social Welfare and Social Services.

social insurance costs of the incumbent. The remaining 85 per cent is paid by the State (Act No. 1.410 of 2 December 2014, art. 39).

273. With regard to reasonable accommodations for persons with disabilities in the workplace, in addition to articles 35 and 37 of Act No. 1.410 of 2 December 2014, Ministerial Decree No. 2017-893 of 21 December 2017, which regulates the implementation of Act No. 1.441 of 5 December 2016 on the accessibility of the built environment, makes reference to the accommodations that must be made to premises and buildings used as workplaces for persons with disabilities.

274. With regard to vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities, in addition to article 35, mentioned above, articles 40 and 41 read as follows:

Article 40 – Workers with disabilities employed in an establishment adapted to the employment of persons with worker disability status shall have the status of salaried employees.

The number of hours of work performed by a worker with a disability in an establishment adapted to the employment of persons with worker disability status may not be less than the minimum number of hours required under the system of benefits payable to employees in the event of sickness, accident, maternity, disablement or death.

The beginning and end of the employment of a worker with a disability in an establishment adapted to the employment of persons with worker disability status shall be determined by the Director of the Department of Health and Social Services after consultation with the Careers Guidance Commission for Workers with Disabilities.

Article 41 – The Social Protection Unit shall reimburse 85 per cent of the remuneration paid to the worker with a disability to the establishment adapted to the employment of persons with worker disability status.

275. Article 45 (1) allows for the provision of financial support to Monegasque nationals (since March 2019):

Persons with worker disability status who have Monegasque nationality and who do not pass the means test required for the benefit under article 26 of Act No. 1.465 of 11 December 2018 on account of their income or salary from a work activity may, subject to means testing, receive financial support for employment.

This financial support for employment shall be provided by the Social Protection Unit.

Beneficiaries of the financial support for employment for which provision is made in the first paragraph are also entitled to the additional social assistance provided under article 31 of Act No 1.465 of 11 December 2018.

276. Lastly, the Principality has also taken measures to ensure that persons with disabilities are not held in slavery or in servitude and are protected, on an equal basis with others, from forced or compulsory labour. Articles 55 and 56 of Act No. 1.410 of 2 December 2014 provide for criminal penalties for any difference in treatment in decisions to refuse to hire, to penalize or to dismiss persons or to deny them internships or training opportunities. Moreover, workers with disabilities can file work-related claims with the Labour Inspectorate. They may also assert their rights before the Office of the High Commissioner for the Protection of Rights and Liberties and for Mediation or the Labour Court.

## **Article 28 – Adequate standard of living and social protection**

277. With regard to access to housing for persons with disabilities, a housing allowance is provided to all persons who have been granted disability status, provided they have Monegasque nationality or, failing that, have resided lawfully in the Principality for at least three years and their name is on their lease. It may be awarded in addition to any other housing allowance to which the person is entitled. In such a case, the amount granted is reduced so

that the total amount received through the two benefits is equal to the amount of the housing allowance normally provided by law.

278. With regard to access to public housing programmes, the criteria for allocating public housing to persons of Monegasque nationality and their families, which are governed by Ministerial Decree No. 2007-519 of 19 October 2007, take account of disability. Types of accommodation are attributed according to the basic requirements of applicants and their families, and for each type of accommodation, allocations are made according to an order of priority determined by the number of points that applicants accrue through a grid of criteria. The criteria include whether a child with a proven disability is constantly present and whether applicants and their families are experiencing permanent difficulties or permanent and disabling difficulties related to their current accommodation.

279. There are no provisions that discriminate on grounds of age or sex in the legislation governing social protection (health, disability and occupational accident insurance). Persons with a proven disability are generally reimbursed for their health-care expenses at 100 per cent of the statutory rate and are exempt from co-payments for all forms of treatment, not only treatment related to the pathology in question.

280. Persons with disabilities who are employed in the private sector or are self-employed are covered by the Monegasque Social Insurance Funds, which provide the same conditions of coverage for insured persons with disabilities as they do for insured persons without disabilities.

281. Like the Monegasque Social Insurance Funds, the State Medical Benefits Office provides the same conditions of coverage for insured persons and beneficiaries with disabilities and as it does for insured persons and beneficiaries without disabilities. It ensures a high rate of reimbursement for illness compared with other countries, especially in Europe, namely 80 to 100 per cent, without discrimination and without any requirement to make contributions. In addition, the State Medical Benefits Office may exempt insured persons and beneficiaries with disabilities from making co-payments towards medical expenses, irrespective of the nature of their illness, without discrimination on the basis of disability (see para. 250 above). The State Medical Benefits Office thus enables insured persons and beneficiaries with disabilities to exercise their right to the enjoyment of the highest attainable standard of health and to access, without discrimination, quality health services and appropriate and affordable products and services, including in the areas of sexual and reproductive health, reintegration into public life and early detection and intervention programmes to prevent and minimize the emergence of secondary disabilities.

282. Persons having disability status who are not entitled to compulsory health insurance under a Monegasque or foreign social insurance system as an insured person or beneficiary may request free medical assistance from the State for themselves and, where applicable, for their beneficiaries. The right to State medical assistance also entitles the person concerned to a family benefits allowance.

283. In general, disability status entitles the holder to a number of rights, including guaranteed income support from the State in the form of means-tested allowances and funds made available through a disability compensation assistance plan, which provide for measures to ensure that persons with disabilities enjoy the greatest possible independence in their life plans. The payment of a minimum to cover living expenses, combined with benefits in kind, allows persons with disabilities to participate in social life.

284. The cost of appliances (chairs, crutches, prostheses, etc.) is covered by the statutory benefits provided to persons with disabilities who work and any children or spouses with disabilities of persons who work. If there is a difference between the cost of the appliance and the amount paid as reimbursement, all or part of this difference may be covered by the social funds of one of the various schemes that provide financial support, in collaboration with other institutions or associations, for the adaptation of vehicles and housing. Stays in specialized centres and the cost of transport to and from such centres are also covered.

285. Older persons can receive help from the Monaco Gerontological Coordination Centre to draw up assistance plans covering the provision of paramedical care, home help (domestic help or attendants), home adaptations, day care in adapted facilities, and more.

286. Lastly, to guarantee an adequate standard of living throughout life, persons with disability status receive, upon reaching 60 years of age, a means-tested old-age disability allowance of the same amount as the allowance provided to adults with disabilities, and a housing allowance.

### **Article 29 – Participation in political and public life**

287. Participation in political and public life and democratic processes is essential. Persons with disabilities must have the opportunity to play a role in shaping their communities and to be involved in decision-making. It is therefore important that they should be able to exercise their right to vote and participate in political life and public affairs. However, adults who lack capacity within the meaning of articles 410-2° to 410-9° of the Civil Code do not have the right to vote, in accordance with article 2 of Act No. 839 of 23 February 1968 on national and communal elections. Similarly, persons under guardianship cannot exercise the right to vote in Monaco.

288. With regard to measures of judicial protection, Act No. 1.474 of 2 July 2019 addresses judicial supervision, enduring or contingent powers of attorney and the activities of the judicial representative for the protection of persons. Under the Act, the detailed medical certificates submitted with applications for such measures must set out the consequences that they would have on the need of the adult for assistance or representation in the conduct of the person's civil affairs, whether in relation to the control of assets or matters of personal concern, and on the exercise of the right to vote (Civil Code, art. 410-9-1).

289. In order to ensure that persons with disabilities are able to exercise their electoral rights, measures have been taken to organize proxy voting and ensure that the polling station is physically accessible to persons with reduced mobility. The situation of persons with disabilities has thus been taken into account in the procedures for the implementation of proxy voting, which are governed by article 12.2 of Sovereign Ordinance No. 927 of 23 January 2007.

### **Article 30 – Participation in cultural life, recreation, leisure and sport**

290. Article 5 (2) of Act No. 1.441 of 5 December 2016 reads as follows:

The following are deemed to be facilities open to the public, which must therefore be accessible:

- Public gardens and squares, excluding their street furniture
- Outdoor areas for sports activities or events and areas for spectators at such events, excluding their equipment
- Outdoor areas for sports activities or events that have been specially equipped for persons with disabilities and areas for spectators at such events

291. New facilities open to the public must be accessible and existing ones must be made accessible as and when renovations are carried out, regardless of the age of the building. The necessary arrangements vary in accordance with the nature of the facility (facilities with seating, facilities providing lodging, facilities with cubicles or areas for personal use and facilities with checkout desks or devices or equipment arranged in blocks or rows) to ensure that persons with disabilities can use and access them under the same conditions as all other persons.

292. Since 2006, the Handiplage and Audioplage associations have provided bathing opportunities for persons with disabilities or reduced mobility, the visually impaired and blind persons at the Larvotto public beach. Four Handiplage specialists hired by the Government provide these services every summer (in July and August), with the use of special equipment (Tiralos and an Audioplage sound beacon system).

293. With regard to the educational activities on offer to students of all grades, from preschool to the upper secondary level, the Department of Education, Youth and Sport invites

the various schools (primary, lower secondary and upper secondary) to sign up for a range of educational projects every year. As part of this initiative, pupils participate in activities that are accessible to all, without distinction. In addition, the New National Museum of Monaco and the Monte-Carlo Philharmonic Orchestra offer specially tailored workshops for students with significant cognitive difficulties.

294. The Pass'Sport Culture initiative enables young people aged 11 to 25 years to participate in cultural and sporting activities during the school holidays, in collaboration with the Principality's sporting and cultural associations. Depending on their preferences and schedules, the participants can select either week-long courses or taster sessions of between a few hours and a day in duration. The objective is to give all young people the opportunity to participate in activities that are suited to their wishes and capacities. The flexibility and breadth of the programme (46 activities in 2019), which includes water sports and artistic and cultural activities, allows all young people, including those with disabilities, to make the most of the activities that they choose. The premises and activity areas have been equipped for persons with reduced mobility, and motivated and professional supervisors have the necessary skills to meet the specific needs of young people with disabilities.

295. On Wednesday afternoons and during school holidays, the Prince Albert II Leisure Centre opens its doors to all children between the ages of 3 and 13, including children with motor, sensory and cognitive disabilities. Aides are available to facilitate the participation of pupils with disabilities in the activities and their social inclusion. In addition, the Leisure Centre's management has received training in the coordination of disability projects, in partnership with the relevant French Departmental Directorate of Social Cohesion. The team of counsellors who supervise the children will soon receive dedicated training on working with children with disabilities.

296. With regard to school sports, whether practised in physical education and sports classes or as part of the activities of the National School Sports Association, adjustments are made so that all pupils, regardless of any disabilities that they might have, are able to practise a sport without being stigmatized. In 2020, a training course will be organized for physical education and sports teachers to help them meet the specific needs of pupils with motor or practical difficulties.

297. Sports associations accept all children and adults who wish to join, without discrimination, and adapt to the characteristics and needs of their members. The Principality also has several sports associations specifically for persons with disabilities. Persons with disabilities can thus choose to practise sports in the setting that best suits them, in traditional sports associations, or in parasports associations.

298. Many types of equipment are used to make theatre venues easier to access from the outside, and some venues (the Grimaldi Forum and the Princess Grace Theatre) dismantle seats to accommodate wheelchair users. However, there are some cultural sites (such as the Villa Sauber) that still need to be improved to ensure accessibility for all.

299. Some of the initiatives in the cultural sector are undertaken by associations such as the Compagnie Florestan, which runs drama courses for persons with disabilities who are members of AMAPEI.<sup>13</sup> Similarly, the New National Museum organizes guided tours of its temporary exhibitions for persons with visual or hearing impairments. The New National Museum also runs workshops and special learning groups for all during the holidays and has expressed the desire to develop these activities every year.

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<sup>13</sup> Monegasque Association for Assisting and Protecting Children with Disabilities.



### **III. Segment of the report relevant to the specific situation of boys, girls and women with disabilities**

#### **Article 6 – Women with disabilities**

300. Girls and women with disabilities enjoy all human rights and fundamental freedoms on an equal basis with boys and men with disabilities. Under articles 17 and 32 of the Constitution, all persons are equal before the law, regardless of their sex, and there is no discrimination on the basis of disability.

301. Girls and women with disabilities enjoy all human rights and fundamental freedoms on an equal basis with girls and women without disabilities. Under articles 17 and 32 of the Constitution, all persons are equal before the law, regardless of whether they have disabilities.

#### **Article 7 – Children with disabilities**

302. Monaco has no specific policy or strategy to combat discrimination against girls and boys with disabilities. Girls and boys with disabilities enjoy all human rights and fundamental freedoms on an equal basis with girls and boys without disabilities. They are therefore educated in mainstream schools like all other children.

303. For information on the measures taken to support the learning of children with disabilities, their inclusion in schools and their access to quality education, see paragraphs 205 to 223.

304. Children with disabilities are viewed as rights holders on an equal basis with other children. Under articles 17 and 32 of the Constitution, all persons are equal, regardless of whether they have disabilities.

305. Decisions concerning boys and girls with disabilities are made on the basis of their interests. As a general rule, any decisions that need to be made concerning children should be guided by their interests. Such decisions relate to extremely varied areas (adoption, marriage, divorce, custody and access rights, etc.). Thus, it was recalled in a judgment of the Court of Revision of 29 November 2007 that, under articles 9 and 12 of the United Nations Convention on the Rights of the Child, which was adopted in New York on 20 November 1989 and entered into force for Monaco pursuant to a sovereign ordinance of 1 September 1993, “children who are capable of forming their own views should be able to express their views freely in all matters affecting them and, for this purpose, be heard in any judicial and administrative proceedings; these views are not binding on the courts to which the proceedings are brought, which must take into account only the best interests of the child”.

306. Boys and girls with disabilities can express their views freely in all matters affecting them and receive disability- and age-appropriate assistance to exercise this right. The law envisages a number of specific circumstances in which children must express their views, agreement or consent or in which they may take the initiative in procedural matters:

- Children aged 13 years or over must thus consent to a change of their last names in the event that ties of filiation are established in respect of the two parents when they are aged 13 years or over and the name chosen differs from that which would be conferred by law (Civil Code, arts. 77-2-1 and 77-2-2)
- Children aged 13 years or over must consent to any change of first name requested by an adoptive parent (Civil Code, art. 77-6)
- Children aged 13 years or over on the day that an application for their adoption is submitted must personally consent to the adoption (Civil Code, art. 244)

307. Under article 833 of the Code of Civil Procedure, a minor may request the guardianship judge to apply the child protection measures provided under articles 317 to 322 of the Civil Code. Under article 835, the guardianship judge may hear the child when deciding on a child protection measure. Article 836 stipulates that the child must be notified

of the guardianship judge's order. According to article 844, the minor may appeal the order within eight days of notification.

308. On 22 October 2008, the Principality signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in Lanzarote on 25 October 2007, which contains dedicated provisions on taking children's pronouncements into consideration and sets out specific procedural measures.

309. There are safeguards in place to protect minors, including those with disabilities, during hearings:

- The law (Criminal Code, art. 268-2) provides that any minor who is a victim of one of the especially serious offences specified in the text (threats of murder, poisoning, killing or violence; grievous bodily harm; honour crimes; female genital mutilation; abuse of a person's weakness; rape; indecent behaviour or assault; procuring) is to be assisted by a lawyer when he or she is heard by the investigating judge. If the minor's legal representatives or ad hoc administrator fails to appoint a lawyer, the judge is to promptly notify the president of the court so that he or she may appoint a lawyer for the minor.
- The Public Prosecutor or the investigating judge may require a psychologist, physician or even a family member of the minor victim to be present during hearings, including hearings at which the minor is brought face to face with the alleged offenders.
- Under article 268-1 of the Criminal Code, the Public Prosecutor or investigating judge may appoint an ad hoc administrator to protect the interests of a minor victim in the ensuing proceedings, with a view to addressing shortcomings in the minor's legal representation.

## **IV. Segment of the report relevant to specific obligations**

### **Article 31 – Statistics and data collection**

310. Number of persons granted disability status as at 31 December 2018:

- Minors: 51
- Adults: 282
  - Of whom workers with disabilities in sheltered workplaces: 28
  - Of whom workers with disabilities in mainstream workplaces: 92

311. Number of children supported by a special needs assistance as at 30 June 2019:

- Preschool: 20
- Primary school: 36
- Secondary school: 9

### **Article 32 – International cooperation**

312. In accordance with article 32 of the Convention, the Government supports projects geared towards capacity-building for organizations of persons with disabilities, inclusive education, social and vocational integration, early detection, care, rehabilitation and advocacy, all as part of its development cooperation policy. Since 2018, the Principality has lent its support to a campaign by Handicap International to end the use of explosive weapons in populated areas.

313. Since 2007, more than 50 projects to improve the socioeconomic living conditions of persons with disabilities, in particular children, have been granted public subsidies (official development assistance). This aid is distributed in the Mediterranean region and in Africa, particularly in the least developed countries, through State bodies, international organizations

and local and international non-governmental organizations. The total that has been allocated to such projects is approximately €7.4 million, of which around €1 million was allocated to 11 projects in 2019. For example, since 2013, Monegasque Cooperation has made an annual contribution to support the implementation in Mali and Madagascar of the physical rehabilitation programme of the International Committee of the Red Cross. For 2020, €860,000 has already been earmarked for projects for persons with disabilities.

314. Seven participants in the International Volunteers of Monaco programme have worked in care or medical and/or educational facilities for persons with disabilities.

315. The Government has fully taken stock of how perceptions of disability have changed, now that it is seen not as an individual pathology but as a social one resulting from the interaction between persons with disabilities and their environment. It is seeking to establish markers to ensure that activities and initiatives that do not specifically address persons with disabilities are accessible to them and, above all, do not create new barriers.

### **Article 33 – National implementation and monitoring**

316. The delegate with responsibility for persons with disabilities under the Department of Social Welfare and Social Services has been designated to serve as the point of contact for matters relating to the implementation of the Convention.

317. The only recent development of note is the adoption of Act No. 1.474 of 2 July 2019 on judicial supervision, enduring or contingent powers of attorney and the activities of the judicial representative for the protection of persons.

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