



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

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COMMITTEE AGAINST TORTURE

Thirty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 599th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 6 May 2004, at 3 p.m.

Chairperson: Mr. MARIÑO MENÉNDEZ

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.599/Add.1.

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Monaco (CAT/C/38/Add.2; HRI/CORE/1/Add.118,
written replies) (continued)

1. At the invitation of the Chairperson, members of the delegation of Monaco took places at the Committee table.
2. The CHAIRPERSON invited the delegation of Monaco to respond to the Committee's questions.
3. Mr. GASTAUD (Monaco) said that in the hierarchy of Monegasque legislation, international Conventions ranked below the Constitution, but above the law. In cases where an international instrument contained provisions contrary to those of the Constitution, the Government would either amend the Constitution or submit a reservation in respect of the incompatible provision of the international instrument. Such a situation had not arisen between the Constitution and the Convention against Torture. The Penal Code did not contain a definition of torture, since a definition was contained in article 1 of the Convention and the article was self-executing within the Monegasque legal system. The Code of Criminal Procedure had been amended to allow perpetrators of acts of torture to be prosecuted in Monegasque territory. The Criminal Code had not been amended, as it was considered to be in line with the Convention in its existing form. Sovereign Ordinance No. 10,542 of 14 May 1992, which gave the Convention force of law, had been published in the Journal de Monaco (the official gazette) of 22 May 1992.
4. Mr. ADAM (Monaco) said that Monegasque criminal law provided grounds for exemption from liability for certain offences such as manslaughter and grievous bodily harm in exceptional circumstances, such as self-defence or mental disorder. However, the Criminal Code did not contain any provisions on exceptional circumstances by which acts of torture could be justified.
5. Mr. GASTAUD (Monaco) said that appeals lodged with the Supreme Court against extradition orders had suspensive effect only in exceptional circumstances pursuant to article 40 of Sovereign Ordinance No. 2984 of 16 April 1963.
6. Mr. ADAM (Monaco) said that all detainees were able to telephone their next of kin to inform them about their detention, on the authorization of either the investigating judge or the director of the remand centre. All detainees had access to a lawyer, who could also inform the next of kin about the detention. Solitary confinement was used only if considered necessary for the purposes of investigation or as a disciplinary measure if detainees broke the rules of the remand centre. Detainees involved in the same case could be separated from each other if specified by the investigating judge. As a disciplinary measure, detainees could be placed in solitary confinement for a period not exceeding 15 consecutive days. Remand conditions were set down by a Sovereign Ordinance, which stipulated that the prison physician must regularly visit detainees held in solitary confinement, and must report to the institution director in the

event that he considered such detention to be detrimental to the physical or mental health of the prisoner. Prisoners held in solitary confinement were entitled to write to members of their family, their counsel, the chaplain or social workers. Prisoners had the right to request solitary confinement if they so wished. Detainees had access to counsel under all circumstances.

7. Mr. GASTAUD (Monaco) said that under the Franco-Monegasque Convention on Neighbourly Relations, Monegasque authorities were not obliged to transfer long-term prisoners sentenced in Monaco to the French authorities.

8. Mr. ADAM (Monaco) said that although Monegasque legislation did not provide that custody registers had to be kept by the police, in practice police services had kept custody registers (registre d'écrou) for many years. Such registers contained records of the duration and reason for detentions, detainees' personal belongings and the meals they had been served. A draft amendment to the Code of Criminal Procedure would incorporate and specify such practice. Medical consultations were not recorded in the custody register, but were submitted to the judge. The Procurator General was informed of all arrests made by the police and all cases of detention in police custody.

9. Mr. GASTAUD (Monaco) said that in the event that an international convention that had been incorporated into the Monegasque legal system contained self-executing provisions, the administrative or judicial authorities applied such provisions without referring to domestic law. If, however, an international convention provided that the State party authorities should adopt implementing measures, the Monegasque authorities would draft whatever texts were required to fulfil the obligations set forth in that convention.

10. Mr. ADAM (Monaco), regarding training in torture prevention for legal staff, said that all magistrates in Monaco had access to continuous training at the French National School of the Magistrature, which included courses at the European Court of Human Rights.

11. Mr. NOGHES (Monaco) said that the ratification of the Rome Statute of the International Criminal Court by the Principality was still under consideration, due to incompatibilities between the Statute and the Monegasque Constitution, since it was not possible to submit reservations in respect of the provisions of the Statute. Monaco had ratified several other international instruments for the protection of human rights, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

12. Regarding refugees, there were currently 20 refugees residing in Monaco and 8 stateless persons. Refugees residing in Monaco had either been given refugee status by the Monegasque authorities, or by authorities in another State, and had since decided to take up residence in the Principality. There was no specific legislation governing the situation of refugees.

13. Mr. ADAM (Monaco) said that over the previous six years there had been no complaints of ill-treatment inflicted by police officers or criminal administration staff. All police officers were trained to treat detainees with respect for their human dignity and in conformity with constitutional and international law. All citizens were guaranteed the opportunity to lodge a complaint against ill-treatment, which would be investigated by a judge, whose impartiality was guaranteed by the Constitution.

14. Mr. NOGHES (Monaco) said that statistics on prisoners incarcerated in France, broken down by sex and type of offence committed, had just been circulated to the members of the Committee.

15. Mr. ADAM (Monaco), replying to a question on how Monaco ensured that the prisoners concerned were properly treated, said that the detainees could complain to the Monegasque authorities about their conditions of detention in France and even request release on parole, in which case the Monegasque authorities could request a report on their situation. Article 599 of the Code of Criminal Procedure stipulated that all disputes regarding the execution of custodial sentences should be referred to the court that had delivered the sentence. The court then heard statements from a representative of the Office of the Public Prosecutor, the prisoner's defence counsel and, where appropriate, the prisoner him or herself.

16. Mr. GASTAUD (Monaco), responding to a question about public or private institutions for older persons, said that no complaint of ill-treatment had ever been filed regarding either the two private institutions or the public institution.

17. Mr. ADAM (Monaco), replying to a question about sexual violence in police custody or other places of detention, said that the authorities had received no complaints to date of such abuse. A forensic psychiatrist attached to the Aix-en-Provence Court of Appeal provided training on such matters for all staff of Monaco's short-stay prison. The delegation had described the conditions in which complaints could be filed at the previous day's meeting with the Committee.

18. The CHAIRPERSON invited the delegation of Monaco to return later in the session to receive the Committee's conclusions and recommendations.

The public part of the meeting rose at 3.50 p.m.