



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**Comments by the Government of the Principality of Monaco on the concluding
observations of the Human Rights Committee (CCPR/CO/72/MCO)**

[7 March 2003]

1. The Government has carefully examined the concluding observations of the Human Rights Committee and sets out below its replies to the questions put by the Committee on the lack of justification for administrative measures relating to the expulsion of foreigners and on exile.

Lack of justification for administrative measures

2. The Committee stated that it was concerned about the lack of justification for administrative measures relating to the expulsion of foreigners.

3. At present, there is no legislative or statutory measure requiring the Minister of State to justify any expulsion decision he may take.

4. However, under article 90 B of the Constitution, as an administrative matter, an expulsion measure can be referred to the Supreme Court.

5. The Supreme Court has long refused to consider whether such a decision is appropriate or valid.

6. Henceforth, however, the Supreme Court will consider that it has the authority to ask the administration to explain the reasons for a decision so as to ensure that it is lawful. In an interim decision dated 13 March 2002, the Supreme Court stated that: "Although the decision by which the Minister of State expelled the applicant from Monegasque territory did not have to be justified, the Supreme Court does have to ensure that the reasons given by the Minister of State as the basis for his decision are accurate and lawful; that in response to the applicant's claim that the facts invoked for ordering him to leave Monegasque territory are materially inaccurate, the Minister of State did not comment on these facts and simply emphasized that his decision did not have to be justified; and that he has thus made it impossible for the Supreme Court to ensure that the decision is lawful" (Supreme Court, 13 March 2002, Mr. Isley, recorded on this date).

7. This decision represents a major step forward in jurisprudence for the protection of human rights.

8. At the same time, it is increasingly frequent for legislation to establish the obligation to justify certain administrative decisions in various areas. For example, this is the case with Act No. 1231 of 12 July 2000 relating to the professions of independent auditor and chartered accountant; Act No. 1264 of 23 December 2002 relating to private activities for the protection of property and persons; Act No. 1266 of 23 December 2002 relating to cosmetic products; Act No. 1241 of 3 July 2003 amending Act No. 1194 of 9 July 1997 relating to portfolio management and similar brokerage activities; and Sovereign Order No. 13839 of 29 December 1998 relating to the status of hospital doctors at Princess Grace Hospital.

9. In particular, moreover, a bill is currently being drafted on the justification of administrative acts. The text provides for the establishment of a genuine right to a justification of administrative decisions. It is due to be submitted to the office of the National Council this year.

Exile

10. The Committee's second concern relates to the maintenance of criminal legislation providing for exile (article 12 of the Covenant). The Government recognizes that this legislation is outdated, but points out that this penalty has not been applied by Monegasque courts for decades. There are thus plans to repeal this legislation, which has become totally obsolete.

11. As indicated above, it may be considered that the Government has begun to implement the two recommendations by the Human Rights Committee.
