



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

Distr.: General
26 July 2012
English
Original: French
French and English only

Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention

Responses by the Government of the Principality of Monaco to the concluding observations of the Committee against Torture (CAT/C/MCO/CO/4-5)*

Addendum

Monaco

[Received on 6 June 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Responses by the Government of Monaco to the concluding observations issued by the Committee against Torture following its consideration of the fourth and fifth periodic reports of Monaco (CAT/C/MCO/4-5)

Non-refoulement (para. 9)

1. The authorities of Monaco wish to submit the following comments to explain in detail the procedure for granting refugee status in the Principality of Monaco.
2. The Government wishes to point out that the Committee's observations on both points 1 and 2 seem to confuse the general regulations applied by the Immigration Police, which cover decisions on expulsion or refoulement, with the specific regulations applicable to refugees and stateless persons.
3. Deportation and refoulement orders take the form of reasoned administrative decisions, as required by Act No. 1.312 of 29 June 2006 on justification of administrative actions. This makes it easier for the courts to verify their legality if an appeal is brought before the Supreme Court.
4. The reasoning provided is always related to considerations of public order, in the interest of protecting the security of the State, persons or property. This overriding public interest explains why, as a matter of principle, such decisions are immediately enforceable.
5. However, the option of combining a request for a stay of execution with the appeal to have an administrative decision overturned makes it possible to reconcile the public interest with the interests of the person subject to the decision, since the court can suspend the execution of the deportation order if it considers the lawfulness of the relevant decision to be, *prima facie*, questionable.
6. The Government is of the view that this is a fair balance that meets the standards of the rule of law.

Monitoring detention conditions (para. 10)

7. The Monegasque authorities wish to make the following comments on this point.
8. In accordance with the Committee's recommendations, and taking as a starting point the bilateral agreement with France on transfers (Convention on Good-Neighbourliness of 1963, art. 14), the Monegasque authorities have opened discussions with their French counterparts on amending the agreements between France and Monaco to ensure more effective monitoring of the detention of transferred prisoners.
9. To this end, a meeting was held in Monaco in July 2010 with the French justice minister, in the presence of the French ambassador to Monaco.
10. Monegasque and French officials agreed at the meeting that, rather than amend the Convention on Good-Neighbourliness (which would have entailed diplomatic negotiations), administrative letters should be exchanged between the French Minister of Justice and the Monegasque Director of Judicial Services. This process is now nearing completion.
11. In any event, it is expected that a person appointed by the Monegasque authorities — a judge in fact — will make periodic visits to the French prisons to meet with the prisoners sentenced by Monegasque courts.
12. This judge, whose name would be communicated to the Ministry of Justice at the time of the visit, would have free access to the French prisons concerned once he or she has

notified the Interregional Directorate of the Prison Service about the visit and named the prisoners he or she would like to meet with.

13. It has also been decided that after each visit the Monegasque authorities will draft a report to be sent to the relevant French authorities.

14. The Monegasque authorities wish to remind the Committee that only a small number of transfers are carried out, since only prisoners with a significant amount of time left to serve in prison (generally more than 6 months) are eligible. Moreover, very long prison sentences are rare, so that only seven persons convicted by the Monegasque courts are currently being held in French prisons.

Domestic violence (para. 11)

15. The Monegasque authorities wish to make the following comments on this point.

16. Bill No. 869 has been adopted by parliament, becoming Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence.

17. With regard to corporal punishment of children, Monegasque law fully guarantees the protection of children from any form of violence.

18. Monegasque legislation provides for the prosecution and punishment of any violence against children that might result from corporal punishment, in accordance with the provisions of ordinary law on physical assault, as set out in articles 236 to 239 of the Criminal Code.

19. Even though the physical assault of a minor is not classed as a specific offence, the physical assault of one's legitimate, illegitimate or adoptive children nevertheless constitutes an aggravating circumstance.

20. Act No. 1.344 of 26 December 2007, on stiffer penalties for crimes and offences against children, provided a timely supplement to existing criminal provisions, amending articles 243 et seq. of the Criminal Code to provide for:

- A penalty of 1 to 5 years' imprisonment for the physical assault of a minor under 16 years of age, rising to 3 to 10 years' imprisonment if the assault is premeditated or results in a temporary incapacity to work lasting longer than 20 days
- A penalty of 5 to 10 years' imprisonment if the offender is the child's parent or a person with authority over or custody of the child

21. Article 421 of the Criminal Code also prohibits acts of violence against children when it results in light physical injuries. Under this provision, anyone who commits such acts is liable to a class 3 fine.

22. Corporal punishment is therefore punishable, whether it occurs within the family, in schools or in places where children are cared for.

23. Generally speaking, there are several steps involved in the prevention and detection of violence against children.

24. The Prenatal Coordination and Family Support Centre, which reports to the Directorate of Health and Social Affairs, was established under Act No. 1359 of 20 April 2009.

25. The education ministry, the Princess Grace Hospital (the public hospital in Monaco), schools, and sports and youth associations are all in a position to detect violence against children.

26. All detected cases are reported to the Government Councillor for Internal Affairs. In urgent cases, the Prosecutor-General is also notified and can order that a child or young person whose safety, health, education or morals are compromised be placed in a local shelter.

27. The public hospital and the Medical Rehabilitation Centre can provide medical treatment and/or socio-educational support.

28. Action against proven acts of violence may take the form of criminal penalties, withdrawal of parental rights, or protection measures, such as placement in emergency accommodation in order to keep victims away from an environment where they would be at risk.

29. The above-mentioned Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence takes into account the extreme vulnerability of victims of such violence, especially children:

- With regard to enforcement, if the acts of violence are committed by persons who are living or have lived on a permanent basis under the same roof as the victim, the bill calls for much stiffer penalties, either doubling the penalty provided for the offence under ordinary law or imposing the maximum penalty for the offence

30. Concerning protection for victims, the Act gives the judiciary the option of forbidding the offender from making contact with the victim or going to certain places, such as the victim's home, schools and their surroundings, or leisure facilities frequented by the victim, for a given period of time and at every stage of the proceedings.

31. With regard to prevention, the Act also provides for a programme to raise awareness about specific forms of violence, particularly against children.

32. The Act provides for a training programme to be established for professionals who come into contact with victims in the course of their work, to help them identify and assist victims of domestic violence.

33. The resulting synergy between the police, the judiciary, health professionals and teachers will make it easier to implement the national plan to combat specific forms of violence, including through measures in the areas of information, prevention, education, criminalization, prosecution and punishment.
