



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

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**Committee against Torture**

**Concluding observations on the sixth periodic report of  
Monaco**

Addendum

**Information received from Monaco on follow-up to the  
concluding observations\***

[Date received: 7 December 2017]

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



1. The Committee against Torture considered the sixth periodic report of Monaco (CAT/C/MCO/6) at its 1468th and 1471st meetings (CAT/C/SR.1468 and SR.1471), held on 11 and 14 November 2016, and adopted its concluding observations at its 1494th meeting on 30 November 2016.

### **Follow-up procedure**

2. The Committee requests the State party to provide, by 7 December 2017, information on follow-up to the Committee's recommendations set out in paragraphs 13 and 19.

### **Follow-up to the recommendations in paragraphs 13 and 19**

#### **Non-refoulement**

13. For the purpose of ensuring legal certainty, the State party should ensure that the procedures applicable to asylum seekers and the procedure for cooperation with the French Office for the Protection of Refugees and Stateless Persons (OFPRA) are made clearer and accessible to all.

In addition, the Committee would like to receive data on the number of applications submitted to and examined by OFPRA and the number of cases in which the Monegasque authorities have accepted or rejected the opinions of OFPRA and the reasons for doing so.

The Committee would also like to know how many expulsion orders have been appealed since 2011 and whether these appeals have had a suspensive effect during the deliberations of the Supreme Court. The Committee reiterates its previous recommendations (CAT/C/MCO/CO/4-5, para. 9) and urges the State party to establish a mechanism for following up on the cases of asylum seekers dealt with by OFPRA.

#### **Replies of Monaco**

3. Some 30 refugees currently reside in the Principality, in other words, 1 refugee per thousand inhabitants in a territory of 2 km<sup>2</sup>.

#### *Asylum applications*

4. There are two possible scenarios:

(a) An individual submits an asylum application from his or her country of residence or from Monaco. It is extremely rare for an asylum seeker to arrive directly in Monaco, given the geographical location of the Principality, enclosed in the Schengen area;

(b) Asylum seekers can already be granted refugee status in the host country in which they find themselves. If they consider that reception conditions there do not meet their needs, they may wish to settle in Monaco. Such cases are known as "resettlement", and the file is submitted by the Office of the United Nations High Commissioner for Refugees (UNHCR).

#### *The asylum or resettlement procedure*

5. The procedure remains the same whether it is an asylum application or a "resettlement":

- The Minister of State refers the case to OFPRA for examination and opinion, if the Government deems the application justified
- Once the opinion has been rendered, the sovereign decision is then notified to the applicants

- The decision is notified by the Department of Foreign Affairs and Cooperation of Monaco to UNHCR and OFPRA
  - If the application is approved, the decision is also notified to the Department of the Interior and the Embassy of France in Monaco in order to process the request for a settlement visa for Monaco
6. In the case of a request for asylum, the journey is organized and paid for by the applicants. In the case of a “resettlement”, the journey is organized by UNHCR and paid for by Monaco.
7. In both cases, the departments are informed of the decisions taken.
8. When it comes to the hosting of refugees in the country, it is the responsibility of the Secretariat-General of the Government to issue a travel permit and of the Department of the Interior, through the Directorate of Public Security, to issue a residence permit.
9. Thus, the decision to grant asylum or not is taken by the Monegasque authorities alone. In the event of refusal, the applicant may file an appeal before the Supreme Court of Monaco, which has jurisdiction over such cases.

*Cooperation procedure with OFPRA*

10. The principle of consulting OFPRA is set out in the provisions of the Convention on Good-Neighbourliness between France and Monaco of 18 May 1963. Article 2 of the Convention states that “the Princely Government is committed to maintaining its legislation on the entry, stay and residence of foreigners in harmony with French legislation in this area”.
11. Consultation is also provided for in the Convention of 8 November 2005, intended to adapt and strengthen administrative cooperation in this area.
12. Under this general framework for mutual administrative assistance, and as a result of the accession of the Principality to the Convention relating to the Status of Refugees of 1951, the specific issue of the management of asylum applications is governed by an exchange of letters dating from 1955, which provides that the Principality can request the support of OFPRA for dealing with the applications.
13. OFPRA is requested to investigate and render an advisory opinion, and the Monegasque authorities take the final decision.

*Number of rejected asylum applications*

14. Decisions rejecting applications for asylum are individual administrative acts issued by the Ministry of State. These decisions are reasoned based on the facts and the law.
15. Applications for reconsideration may be lodged with the regulatory or dispute authority, while appeals concerning abuse of power are heard by the Supreme Court. These appeals do not have suspensive effect. They may, however, be combined with a motion to stay execution (articles 39 and 40 of Sovereign Ordinance No. 2984 of 16 April 1963 on the organization and functioning of the Supreme Court).
16. In principle, there is nothing to prohibit the applicant from being assisted by counsel in the exercise of either remedy, in accordance with the procedural rules governing hearings before the Supreme Court.
17. The number of cases in which the Monegasque authorities have not followed the recommendations of OFPRA is as follows:
- 2 opinions not followed
  - 1 opinion followed

*Refoulement following rejection of an application for asylum*

18. Refoulement is provided for by article 22 of Sovereign Order No. 3.153 of 19 March 1964 on requirements for entry and stay. This measure is a reasoned individual administrative decision against any foreigner, whether he or she is a resident or not.

19. In any case, the applicant is not removed. In practice, the applicant will either need to obtain a type C travel visa to stay in and move around the Schengen area from the French authorities or to apply for asylum. After a stay of three months, he or she will have to apply for a type D Schengen visa.

*Number of expulsion orders issued*

20. Concerning the data on the number of expulsion orders appealed since 2011, 13 appeals were lodged before the Supreme Court against measures of refoulement from the Monegasque territory, one of which was combined with a request for a stay of execution.

**Monitoring of the conditions of transferred detainees**

19. The State party should take urgent measures to:

(a) Ensure that Monegasque enforcement judges may conduct follow-up visits of prisoners serving their sentences in France and submit the reports on these visits to the Committee;

(b) Formally establish by law the need to obtain the explicit consent of a person convicted in Monaco to his or her transfer to France, in accordance with the Committee's previous recommendations (CAT/C/MCO/CO/4-5, para. 10); and

(c) Implement the procedure for the exchange of administrative letters between the French Ministry of Justice and the Monegasque Director of Judicial Services.

**Replies of Monaco**

21. (a) While the principle of visits by enforcement judges to detainees transferred to France has been established, it has not yet been implemented. Such visits seem difficult to organize in practical terms given that the detainees in question are spread across different French prisons that are some distance from Monaco. However, the Directorate of Judicial Services has close ties with the French Ministry of Justice and a procedure has been put in place to regularly send to the competent French authorities an updated list of persons convicted by the Monegasque courts and transferred to France to serve their sentences, in accordance with article 14 of the Franco-Monegasque Convention on Good Neighbourliness of 1963. This list is added to by the French authorities, indicating the place of detention of the detainees in question. This procedure ensures better monitoring of prisoners convicted by the courts in Monaco.

22. (b) The recommendation concerning the obtention of the explicit consent of convicted prisoners to their transfer to France would require a legislative amendment. In accordance with the provisions in force (article 14 of Sovereign Ordinance No. 3.039 of 19 August 1963 implementing the Convention on Good-Neighbourliness signed at Paris on 18 May 1963), their consent is not required. Specifically, their transfer currently falls under the discretionary joint responsibility of the judicial and prison authorities in France and Monaco.

23. (c) The procedure has been properly implemented in that eight detainees were recently transferred to French prisons, making it necessary to visit them in their places of detention. In this regard, an agreement in principle for the enforcement judge of Monaco to visit French prisons to enquire about the conditions of detention of these persons was reproduced in an exchange of letters.