



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

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Committee against Torture

**List of issues prior to the submission of the sixth periodic
report of Monaco, adopted by the Committee at its fiftieth
session (6–31 May 2013)**

At its thirty-eighth session, the Committee against Torture adopted a new optional procedure (see A/62/44, paras. 23 and 24) which consists of the preparation and adoption of a list of issues to be transmitted to States parties prior to the submission of their respective periodic reports. The State party's replies to this list of issues will constitute its periodic report under article 19 of the Convention.

Article 1

1. In light of the Committee's previous concluding observations¹ (para. 7), please provide up-to-date information on their incorporation in criminal law. Please note that the definition of torture must be fully consistent with article 1 of the Convention.

Article 2²

2. In light of the Committee's previous concluding observations (para. 8), please indicate whether the Criminal Code has been amended to incorporate provisions expressly prohibiting defendants from invoking exceptional circumstances or an order from a superior officer as a justification of torture. Please provide information on the legislative, administrative, judicial and other measures that have been adopted to prevent acts of torture, including those adopted with a view to strengthening safeguards for any officer who refuses to carry out an illegal order given by a superior officer.

3. In light of the Committee's previous concluding observations (para. 11) and with reference to the State party's follow-up reply of 6 June 2012,³ please describe the measures taken to monitor the effective implementation of Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence so as to ensure the effectiveness of the law in preventing and combating violence against women, children and people living with disabilities. Please indicate how the State party assesses the effectiveness of the programmes called for by the Act in raising awareness among and providing training to professionals on how to identify and assist victims of domestic violence. Please also provide data on the application of the stricter penalties for domestic violence called for by the Act, and on the application of Act No. 1.344 of 26 December 2007 on stiffer penalties for crimes and offences against children.

4. In light of the Committee's previous concluding observations (para. 14), please specify whether a more precise definition of terrorist acts has been adopted by the State party in order to ensure that all measures taken by the State party to combat terrorism comply with all of its obligations under international law, including article 2 of the Convention.

5. In light of the Committee's previous concluding observations (para. 15), please provide up-to-date information on the establishment of an independent national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex). In particular, please indicate whether the institution

¹ The paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published in document CAT/C/MCO/CO/4-5.

² The issues raised under article 2 can also be addressed under other articles, including, but not limited to, article 16. As indicated in paragraph 3 of general comment No. 2 (2007) on the implementation of article 2 by States parties: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. (...) In practice, the definitional threshold between ill-treatment and torture is often not clear." See also section V of this general comment.

³ CAT/C/MCO/CO/4-5/Add.1.

has the human and financial resources it needs to perform its role effectively, including investigating allegations of torture.

Article 3

6. In light of the Committee's previous concluding observations (para. 9) and with reference to the State party's follow-up reply of 6 June 2012,⁴ please send information on the establishment of a mechanism for following up on the cases of asylum seekers dealt with by the French Office for the Protection of Refugees and Stateless Persons (OFPRA). Please also provide data on the total number of asylum seekers referred by the State party to OFPRA since consideration of the previous State party report, including their countries of citizenship. Please also indicate the number of persons subject to return or deportation who, since consideration of the previous report, have filed appeals against such orders with the Supreme Court, and specify whether the asylum seekers subsequently applied for stays of deportation and whether such applications had a suspensive effect during the deliberations of the Supreme Court.

Article 4

7. In light of the Committee's previous concluding observations (para. 7), please provide information on the incorporation in the Criminal Code of specific provisions that allow for torture to be treated as an offence distinct from other crimes and one of particular gravity, thereby increasing the deterrent effect of the absolute prohibition of torture.

Articles 5, 7 and 8

8. Please indicate whether for any reason, since consideration of the previous report, the State party has refused any request for the extradition of an individual suspected of having committed acts of torture. Please specify whether in such cases it has subsequently initiated its own legal proceedings. If so, please provide information on the current status and the outcome of the proceedings.

Article 10

9. In light of the Committee's previous concluding observations (para. 13), please indicate whether training sessions on human rights, including the provisions of the Convention and the absolute prohibition of torture, have been included in training programmes for judges, law enforcement officials and other professionals. Please indicate whether the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) has been incorporated in training programmes for medical personnel and other professionals.

Article 11

10. In light of the Committee's previous concluding observations (para. 10) and with reference to the State party's follow-up reply of 6 June 2012,⁵ please provide up-to-date

⁴ Ibid.

⁵ Ibid.

information on negotiations with the competent French authorities to conclude an agreement that will allow for more effective monitoring of the detention of prisoners convicted by the Monegasque courts and serving their sentences in French prisons. Please provide information on the current state of progress in the exchange of administrative letters between the French Ministry of Justice and the Monegasque Director of Judicial Services, with a view to facilitating monitoring of the treatment of such prisoners and the conditions in which they are held. Please indicate whether, as mentioned in the follow-up information from the State party, the State party has appointed a judge to periodically visit such prisoners at French prisons. Please specify the number of visits carried out, the number of such prisoners held at present and how many have met the official, with what outcome of the visits, including information on whether the official's reports to the French authorities on the visits are made public. Please indicate whether the need for persons convicted in Monaco to explicitly consent to their transfer to France has been formally enshrined in law.

Articles 12 and 13

11. Please provide detailed statistical data, disaggregated by ethnicity, age and sex, on complaints of acts of torture or ill-treatment committed by law enforcement officials, and also on any investigations that may have been conducted into such acts, and the prosecutions carried out and criminal or disciplinary sanctions applied. Specific examples of offences and sanctions should also be provided.

Article 14

12. In light of the Committee's previous concluding observations (para. 12), please indicate whether specific provisions on redress and compensation for victims of torture or ill-treatment, including in the event of the victim's death as a result of an act of torture, have been incorporated in Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence, in accordance with article 14 of the Convention and general comment No. 3 (2012) on the implementation of article 14 by States parties.

Other issues

13. Please provide up-to-date information on measures adopted by the State party to respond to potential terrorist threats. Please indicate whether these measures have had any impact on human rights safeguards in law or in practice, and if so, in what way, and indicate what steps the State party has taken to ensure that counter-terrorism measures are consistent with all its obligations under international law. Please describe the training given in this subject to law enforcement officials, and specify the number and types of convictions handed down under counter-terrorism legislation and the remedies available to persons subjected to antiterrorist measures. Please also indicate whether any complaints of non-observance of international standards have been made and, if so, what the outcome of these complaints was.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

14. Please provide detailed information on any relevant legislative, administrative, judicial or other measures that have been taken since the consideration of the previous report to implement the provisions of the Convention or to give effect to the Committee's recommendations. These may also include institutional changes, plans or programmes.

Please specify the resources allocated and provide statistical data or any other information that the State party may consider useful.
