



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

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Committee against Torture

List of issues prior to submission of the seventh periodic report of Monaco*

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/MCO/CO/6 para. 24),¹ the Committee requested the State party to provide it with information on the follow-up to its recommendations concerning: (a) clarification of the procedures applicable to asylum seekers and the arrangements for cooperation between the State party and the French Office for the Protection of Refugees and Stateless Persons; and (b) the follow-up of prisoners serving their sentences in France following a transfer, formal legislative recognition of the need for prisoners' consent to such a transfer, and the implementation of the procedure for the exchange of letters between the French Ministry of Justice and the Monegasque Director of Judicial Services in order to give effect to the follow-up of transferred prisoners. These recommendations are set out in paragraphs 13 and 19 of the Committee's previous concluding observations. In the light of the information received from Monaco on 7 December 2017, concerning follow-up to the concluding observations (CAT/C/MCO/CO/6/Add.1), and the letter dated 20 August 2018 from the Committee Rapporteur for follow-up to concluding observations to the State party, the Committee regrets to note that its recommendations have not been implemented. The above issues are addressed in paragraphs 5 to 11 of the present document.

Articles 1 and 4

2. In the light of the recommendations contained in the Committee's previous concluding observations (para. 9), please indicate the measures taken to incorporate in the State party's criminal law a definition of torture in accordance with article 1 of the Convention. Please also indicate whether the State party intends to make torture an imprescriptible offence and incorporate in its legislation the principle of the invalidity of statements obtained by torture.

* Adopted by the Committee at its sixty-eighth session (11 November–6 December 2019).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.



Article 2²

3. With regard to fundamental legal safeguards, please provide the Committee with information on the implementation of article 60-7 of the Code of Criminal Procedure, which provides for the right of persons taken into police custody to contact a member of their family by telephone straight away, a principle subject to one exception: in the event that the criminal investigation officer considers that such communication would be detrimental to the investigation, he or she refers the matter to the principal public prosecutor or investigating judge for a decision. Please indicate the frequency of the application in practice of this exception to the rule, and the remedies available for defendants. Please also indicate whether there are any plans to amend article 60-7 of the Code of Criminal Procedure to ensure that all detainees, regardless of the offence in question, may exercise, from the outset of their deprivation of liberty, the right to notify a person of their choice of their detention.

4. Please describe the measures taken by the State party to ensure that the Office of the High Commissioner for the Protection of Rights and Freedoms and Mediation can be accredited as complying with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) by the Global Alliance of National Human Rights Institutions. Please also indicate whether the State party intends to ratify the Optional Protocol to the Convention and establish a national preventive mechanism against torture. To that end, please describe the conclusions of the impact assessment on ratification announced by the State party.³

5. Please provide information on any measures taken to strengthen the independence of the judiciary. In particular, please indicate whether there are plans to reform the constitutional principle of delegated justice, according to which judicial power is vested in the Prince, who delegates its full exercise to the courts and tribunals, which render justice on his behalf. Please describe any measure taken to strengthen the role of the High Council of the Judiciary as guarantor of the operational independence of justice and ensure the nomination of judges and prosecutors using transparent and objective criteria.

Article 3

6. Please provide information, for the period under review, on the number of persons returned, extradited or expelled since the consideration of the State party's sixth periodic report,⁴ describing the procedures in place and the measures taken to ensure that such returns are consistent with the principle of non-refoulement. Please provide details of the grounds on which these persons were sent back and the list of the countries to which they were sent.

7. In the light of the Committee's previous concluding observations (para. 13), and the written replies submitted by the State party, please provide updated statistical data for the period since 2017, disaggregated by sex, country of origin and age group, of persons seeking asylum, on: (a) the number of asylum applications registered; and (b) the number of successful applications for asylum or other forms of humanitarian protection, specifying, where appropriate, the number of persons whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please also provide statistical data on the number of appeals lodged against asylum decisions before the Supreme Court and their outcome. Please also indicate the number of requests for stay of execution received and their outcome. Please specify whether the French Office for the

² The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's 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 under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such 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 chapter V of the same general comment.

³ A/HRC/40/13/Add.1, para. 43.

⁴ CAT/C/MCO/6.

Protection of Refugees and Stateless Persons has any role in the procedure at the appeal stage. Please describe the follow-up to the Committee's recommendation (para. 13) to establish 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.

Articles 5–9

8. In the light of the information provided by the State party in its sixth periodic report,⁵ particularly the information that the Convention is fully part of the Monegasque legal system, having been brought into force by Sovereign Order No. 10542 of 14 May 1992, please provide examples in which the Monegasque courts declared themselves competent to hear cases of offences under article 4 of the Convention. Please indicate on which jurisdictional bases, under article 5 of the Convention, such cases have been tried.

9. Please provide details of the execution by the State party of the request for mutual assistance from the Prosecutor of the International Criminal Court pursuant to a letter of request regarding a person being prosecuted on charges of crimes against humanity and war crimes.

10. Please indicate whether, since its sixth periodic report, the State party has concluded any new extradition treaties which include provisions relating to acts of torture. Please also provide examples of judgments and cases in which extradition has been granted or refused. Lastly, please indicate whether the State party has received or itself filed requests for mutual judicial assistance in any criminal proceedings relating to cases of torture.

11. Please describe the measures taken by the State party to comply with the obligation to extradite or prosecute (*aut dedere aut judicare*), set out in article 8 (2) of the Code of Criminal Procedure, and the cases brought under this provision, if any.

Article 10

12. In the light of the Committee's previous concluding observations (para. 23), please provide detailed information on the training programmes relating to the Convention that have been, are being, or are due to be provided to all public officials involved in the custody, interrogation or treatment of persons deprived of their liberty, including medical personnel, judges and prosecutors, contractual law enforcement agents, constables, non-commissioned officers and volunteer deputy gendarmes and the staff of private security firms. Please also provide equivalent information with regard to guidelines for the detection of signs of torture and ill-treatment, reflecting the standards set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Please indicate whether the State party has established a method for assessing the effectiveness and impact of training and educational programmes for the reduction of cases of torture, violence and ill-treatment.

13. Please also explain whether clear instructions concerning the prohibition of torture and ill-treatment are included in the relevant regulations, and in particular those intended for officials in contact with persons deprived of their liberty. Please indicate whether specific information on non-coercive investigation techniques is included in such training.

Article 11

14. In the light of the Committee's previous concluding observations regarding detention conditions (para. 17) and the written replies provided by the State party, please describe the measures taken to resolve the structural incompatibility of the short-stay prison (*maison d'arrêt*) of Monaco and its facilities with its current purpose and indicate whether there are plans to transfer detainees from the short-stay prison to new facilities. Please also describe the measures that have been taken to ensure that all new detainees receive a routine medical examination. Lastly, please indicate the measures taken to offer detainees a range of educational, sport and work activities.

⁵ Para. 2.

15. In the light of the replies provided by the State party, please describe the measures taken to implement the Committee's recommendations (paras. 19 (a) and (b)) to ensure that Monegasque enforcement judges conduct effective follow-up of prisoners transferred to France and to obtain the consent of prisoners transferred to places of detention in France to serve their Monegasque sentences there. Given that, according to information provided by the State party in paragraph 91 of its sixth periodic report, several detainees have requested to remain in the short-stay prison in Monaco, please indicate whether there are plans to establish a procedure setting out the right of detainees to be heard on their possible transfer and formalizing the need for their consent to any transfer.

16. Given that, under the Code of Criminal Procedure, police custody may be extended for up to 96 hours, please indicate whether the State party intends to amend its legislation to ensure that the maximum duration of police custody does not exceed 48 hours, regardless of the charges, with the possibility of one extension in exceptional circumstances. Please describe the measures taken within police establishments to ensure that, in the meantime, persons taken into custody have access to fresh air. Please also provide updated statistics on the duration of custody and custody facilities.

17. Please describe the rules applicable to visiting arrangements for remand prisoners. Please also describe the policy applicable to all detainees regarding their right to make telephone calls to family and friends.

18. Please indicate whether the State party intends to adopt, in parallel with the prohibition of violence against children under the Monegasque Criminal Code, a law containing an explicit prohibition of corporal punishment in the family, in educational establishments and in places where children are cared for. Please indicate whether bill No. 984 of 9 November 2018 amending certain provisions on sentencing provides for such a prohibition and a legislative timeline for its adoption.

19. Given that the State party has not provided a response to the Committee's recommendation (para. 15) on the subject, please describe the measures taken to amend the Code of Criminal Procedure, article 60-14 of which currently allows for the detention of minors under 13 years of age for the purposes of an investigation.

20. Please provide updated statistics on the detention of minors at the short-stay prison, if relevant. Please indicate whether any minors have been detained in the short-stay prison since the renovation of the Princess Charlene Home for Children. Please also describe the measures taken to limit the detention of minors in prisons.

Articles 12–13

21. Please provide updated, disaggregated information on the number of complaints, investigations, prosecutions and convictions relating to acts of torture or ill-treatment recorded since the consideration of the State party's sixth periodic report.

Article 14

22. In the light of the Committee's previous concluding observations (para. 21) and its general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on the measures taken to adopt specific legislation on redress for and rehabilitation of victims of torture and to implement a policy for the rehabilitation of these victims.

Article 15

23. Please describe the measures that have been taken to ensure that the principle of inadmissibility of evidence obtained through torture or ill-treatment is observed in law and in practice. Please provide examples of cases that have been dismissed by the courts because evidence or witness testimony obtained as a result of torture or ill-treatment was submitted.

Article 16

24. Please provide information on the implementation of Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence, which criminalizes marital rape, including updated statistics on the number of related complaints, investigations and convictions.

25. Please provide information on the laws and procedures in place to prevent trafficking, including for the purposes of forced prostitution, particularly with regard to women and children. Please describe, where applicable, the support and rehabilitation measures for victims and the measures taken or planned to raise awareness of this problem among law enforcement officials. Please also provide updated information on any judicial decisions pertaining to cases of trafficking or related offences, such as procuring.

26. Please describe the measures taken to ensure in law and in practice that corporal punishment of children is unlawful in all circumstances. Please indicate the measures taken to amend the relevant legislation, including in respect of the adoption of bill No. 984 amending certain provisions on sentencing.

General information on other measures and developments relating to the implementation of the Convention in the State party

27. Please indicate whether, following its signing of the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007, the State party intends to initiate a process of ratification.

28. Please describe the measures taken and planned to make the declaration under article 22 of the Convention, allowing the Committee to consider individual communications.

29. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the State party's sixth periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and provide statistical data. Please also provide any other information that the State party considers relevant.
