



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Second and third periodic reports of States parties due in
2005

Monaco*

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I. Introduction

1. The Principality of Monaco acceded to the United Nations Convention on the Rights of the Child on 21 June 1993; the Convention came into force in Monaco on 21 July 1993.
2. Monaco submitted its initial report to the Committee on the Rights of the Child, which considered it on 9 June 1999 and published its conclusions and recommendations on 9 July 2001.
3. In accordance with article 44 of the Convention, Monaco is submitting for the consideration of the Committee its second and third periodic reports in the form of a single consolidated document.
4. This document combines two biennial reports that were not submitted on time and includes the Government's response to the Committee's conclusions and recommendations.
5. The comments of the Monegasque authorities are ordered by topic to set out implementation policy in respect of children's rights. The document firstly goes through some of the fundamental principles relating to the rights of the child and then describes developments that have affected different aspects of Monaco's legislation on the subject. It further specifies, where appropriate, those areas in which domestic law has been brought into line with the provisions of the United Nations Convention on the Rights of the Child of 20 November 1989, or with those of other United Nations conventions to which the Principality has recently become a Party.

II. Civil rights and freedoms

6. The definition of a child given in article 1 of the Convention corresponds to that used in Monaco's civil legislation. However, in Monegasque law, the term "minor" is substituted for that of "child".

Age of majority

7. In Monaco, a minor was formerly any person under 21 years of age. This rule and its effects were amended by Act No. 1.261 of 23 December 2002, which lowered the age of civil majority to 18, and its implementing Sovereign Ordinance No. 15.973 of 25 September 2003 (Civil Code, arts. 298 and 410-1).
8. Article 410-1 of the Civil Code provides that: "The age of majority is set at 18 years; at that age, persons have the capacity to perform all acts of civil life".

Legal age of marriage

9. Article 117 of the Civil Code, as amended by Act No. 1089 of 21 November 1985, provides that: "Men under the age of 18 and women under the age of 15 may not enter into marriage. Nevertheless, the Prince may grant exemptions from this age requirement when compelling grounds exist."
10. Bill No. 869, designed to help combat and prevent specific forms of violence, provides for an amendment to article 116 of the Civil Code to raise the age of marriage for women to 18 years, making it the same as for men. The bill demonstrates the Government's wish to amend the Civil Code in the direction recommended by the Committee.

11. Any marriage requires the consent of the spouses (art. 116). Furthermore, the consent of either parent or, where appropriate, an ascendant, the family council or the guardianship judge is required before a minor may enter into marriage (arts. 118–122). An illegitimate child may marry under the same conditions as a legitimate child (art. 119).

12. Article 403 of the Civil Code stipulates that a minor is emancipated by marriage as a matter of right and thus has the legal capacity of an adult to perform all acts of civil life (art. 410).

Family name

13. Every child must be registered immediately after birth and must have a name.

14. Article 44 of the Civil Code stipulates that: “The birth of a child shall be declared to the registrar within four days of its birth. The birth certificate shall be drawn up immediately.”

15. Under article 45, “The birth of the child shall be declared by the father or, in his absence, by persons who attended the birth, or the person on whose premises the mother gave birth”.

16. Article 46 provides that: “The birth certificate shall set out the date, time and place of birth, the sex and given forenames of the child, the forenames, family name, date and place of birth, profession and place of residence of the father and mother and, where appropriate, the forenames, family name, occupation and place of residence of the person reporting the birth. If the father or the mother, or both, of an illegitimate child are not indicated to the registrar, there shall be no mention in this respect on the register. Any birth certificate issued for an illegitimate child shall be reported by the registrar to the guardianship judge within three days.”

17. Articles 77 et seq. address the different procedures for giving a family name to: a legitimate child; a child whose paternity has been denied; a legitimized child; an illegitimate child; and an adopted child.

Transmission of nationality

18. The rules for obtaining Monegasque nationality are governed not by *jus soli* but by *jus sanguinis*. The law on nationality is governed by Act No. 572 of 18 November 1952 concerning the acquisition of Monegasque nationality, amended by Act No. 1.155 of 18 December 1992 on nationality, section II of which determines the procedures for acquiring Monegasque nationality through naturalization. These were most recently revised by Act No. 1.276 of 22 December 2003.

19. Naturalization is a royal prerogative which belongs to the Prince; a number of minimum conditions must be met, after consultation with various bodies, such as the Directorate for Judicial Services and the Commune.

The restrictions linked to the transmission of nationality between men and women are becoming of less importance. Act No. 1.155 of 18 December 1992 on nationality, as amended by Act No. 1.276 of 22 December 2003, determines the criteria for nationality.

20. Thus, according to article 1, the following have Monegasque nationality:

- Any person born of a Monegasque mother who acquired Monegasque nationality by naturalization, recovery or in accordance with the provisions of article 6, second subparagraph, or article 7, fourth subparagraph of this Act

- Any person born of a mother who acquired Monegasque nationality by declaration following simple adoption

21. Article 2 (first subparagraph, amended by Act No. 1.162 of 23 December 2002 and by Act No. 1.276 of 22 December 2003) provides as follows: “A foreigner of less than 18 years of age who has been adopted under the simple adoption procedure, pursuant to articles 264 et seq. of the Civil Code, by a person of Monegasque nationality, in accordance with the provisions of article 1 above, may acquire Monegasque nationality by declaration. A legal representative shall act on behalf of a minor who fulfils the legal requirements.”

22. Article 5 (first subparagraph, amended by Act No. 1.162 of 23 December 2002) provides that: “A foreigner who can demonstrate that he or she has been resident in the Principality for 10 years after reaching the age of 18 may apply for naturalization.”

23. Article 6 (second paragraph, amended by Act No. 1.276 of 22 December 2003) states that: “Any minor children of a father or a surviving mother who obtains Monegasque nationality through naturalization shall become Monegasque. They may, however, renounce Monegasque nationality by declaration within one year after reaching the age of majority, as provided by the Civil Code.”

24. Article 7 (fourth subparagraph amended by Act No. 1.276 of 22 December 2003) provides that: “The minor children of a Monegasque father or mother who, pursuant to the provisions of article first of this law, recovers Monegasque nationality, are Monegasque. They may, however, renounce Monegasque nationality by declaration within one year after reaching the age of majority, as provided by the Civil Code.”

25. Act No. 1.296 of 12 May 2005 on the transmission of nationality by mothers having so opted pursuant to the provisions of article 3 of Act No. 572 of 18 November 1952 (repealed), provides for a mother who has obtained Monegasque nationality through naturalization to transmit her nationality to her children:

- Any person born to a mother who, prior to the birth, acquired Monegasque nationality pursuant to article 3 of Act No. 572 of 18 November 1952 may acquire Monegasque nationality by declaration in the year following the publication of this Act, provided they can demonstrate that they were actually resident in Monaco at the date of publication of this Act or have been resident in the Principality for at least 18 years

Rights of illegitimate children

26. Article 227 of the Civil Code, as amended by Act No. 1.278 of 29 December 2003, states that: “Children born out of wedlock have the same rights and duties as legitimate children with regard to non-proprietary relations with their father and mother.”

Obligations of spouses in respect of children

27. Under article 182 of the Civil Code, “The spouses jointly ensure the moral and material guidance of the family and contribute to supporting it. They provide for the children’s education and prepare for their future.”

28. Article 187 of the Civil Code, as amended by Act No. 1.336 of 12 July 2007, includes other obligations, as follows:

- The spouses undertake to live together maritally. The family residence is chosen by agreement between the spouses and constitutes their main place of establishment. In the event of disagreement, or if the chosen residence gives rise to moral or physical

dangers for the family, the guardianship judge may, of his or her own accord should it be in the best interests of the child, set the family's place of residence or, alternatively, authorize the spouses to reside separately. A spouse may not without the other spouse's agreement alienate the assets on which the family's place of residence depends, nor the furnishings of that residence. The spouse who does not agree may have such an act annulled. The annulment action may be initiated in the same year that the spouse becomes aware of the act, but no more than one year after the cancellation of the couple's matrimonial property contract.

29. The exercise of parental authority is determined by articles 300 et seq. of the Civil Code, as amended most recently by Act No. 1.278 of 29 December 2003.

- Children are subject to the authority of their parents until they reach the age of majority or emancipation. Parents have towards their children the rights and duties of care, supervision and education, in order to protect their security, health and morality, and to allow for their development, with the respect due to their person. Each parent contributes to the upkeep and education of the children in proportion to his or her resources, to those of the other parent, as well as to the needs of the child. This obligation does not cease as a matter of right when the child reaches the age of majority. No hindrance may, without serious cause, be placed on the personal relations between the child and his or her ascendants. In case of difficulty, the terms and conditions of these relations are settled by the guardianship judge. The guardianship judge may, in the interests of the child, also grant a right of correspondence or access to other persons. The guardianship judge shall act in accordance with the rules laid down in articles 839 et seq. of the Code of Civil Procedure (art. 300).
- Parental authority is exercised jointly by the father and the mother. However, when parenthood is established in regard to either the father or the mother more than two years after the birth of a child whose parenthood has already been established in regard to the other parent, that parent shall retain the exclusive right to exercise parental authority. The same applies where parenthood is declared by the courts in regard to the child's other parent. Parental authority may, nonetheless, be exercised jointly where a joint declaration is made by the father and mother before the guardianship judge or at the latter's decision. In relation to bona fide third parties, both father and mother are considered as being entitled to exercise, with the other's consent, the usual measures of parental authority in relation to the person of the child (art. 301).
- At the request of the father or the mother, of any interested party or of the State prosecution service, the guardianship judge shall rule on the terms of the exercise of parental authority or the difficulties they raise, in the light of the child's best interest (Act No. 1.336 of 12 July 2007). To help the parents exercise parental authority on the basis of consensus, the guardianship judge may offer them or direct them to follow a family mediation procedure (art. 303).
- Where the father or the mother, as a result of unfitness, absence, distance or any other cause, is unable to make his or her wishes known, he or she shall lose or be temporarily deprived of parental authority. In such cases, as in the case of the death of the father or the mother, the previously joint parental authority is vested fully in the other parent (art. 303-1).
- A minor may not leave the family residence, or the residence to which he or she has been assigned, without the permission of his or her father and mother, or the permission of the guardianship judge (art. 304).

- When the father and mother have joint parental authority, they administer the property of the unemancipated minor. In other cases, the parent who has parental authority shall be responsible for the statutory administration of the minor's property (art. 305).
- The statutory administration of a minor's property shall be placed under the control of the guardianship judge if either the father or the mother dies, or is in one of the categories provided for in articles 303-1, 323 and 323-1. This shall also be the case, unless they hold joint parental authority, when the father and mother are divorced or judicially separated, or when the minor is an illegitimate child (art. 306).
- The statutory administrator shall represent the minor in all acts of civil life, except where legislation or, for the purposes of daily life, custom allow minors to act on their own behalf. When the statutory administrator's interests are in opposition to those of the minor, he or she must request the guardianship judge to appoint an administrator on an ad hoc basis (art. 307).

30. The Government of Monaco helps to maintain the role of grandparents and siblings by adopting laws and regulations that guarantee a balance within the family unit.

31. Act No. 1.278 of 29 December 2003 amending certain provisions of the Civil Code, the Code of Civil Procedure and the Commercial Code, has done away with the notion of "paternal power" and has substituted for it that of "parental authority" which is defined as a set of rights and duties of married or unmarried parents in raising their children. The Act amends family law by giving equal rights to the man and the woman in the couple and in respect of the children. It also provides the possibility of giving grandparents the right of access to their grandchildren.

32. Articles 375 et seq. of the Civil Code set out the obligations of legal guardians:

- The family council manages the general conditions for the upkeep and education of the child, while respecting, as far as possible, the wishes of the father and the mother (art. 375)
- The guardian takes care of the minor and represents him or her in all acts of civil life, except where legislation or, for the purposes of daily life, custom allow minors to act on their own behalf (art. 376)

33. Domestic legislation provides for measures to promote the rights of children, in their best interests, and to afford them procedural rights and facilitate the exercise thereof by authorizing them to express their views in family proceedings, particularly those related to the discharge of parental responsibilities conducted in the presence of a judicial authority. The term "judicial authority" means the guardianship judge.

34. The functions of the guardianship judge, particularly those defined in book I, section XII of the second part of the Code of Civil Procedure (arts. 830 et seq.), are performed by a judge of the court of first instance, appointed for a period of three years by order of the Director of Judicial Services. The position of guardianship judge, replacing that of "children's judge", was instituted by Act No. 894 of 14 July 1970. This court of first instance judge has special jurisdiction to facilitate access to justice for children. The judge's special functions give him or her authority to take all measures necessary for the protection of minors. In such matters, judges may assume jurisdiction on their own initiative.

35. Guardianship judges are competent to decide, in the cases provided for by law, on the difficulties that can arise from family relationships.

36. To that end, they may, *inter alia*:
- Take the measures necessary to protect minors and legally incapacitated adults; in such matters they may assume jurisdiction on their own initiative
 - Change the habitual residence of a minor whose parents are separated or divorced and determine the amount of the contribution to the maintenance and educational costs of a minor that the parent with whom that minor is not habitually resident must pay
 - Decide on the conditions for the exercise of parental authority or the difficulties those conditions cause, in the light of the child's best interest
 - Accord, in the best interest of the child, the right of correspondence or visitation to the child's ascendants or other persons
37. In the interest of the child, guardianship judges do not give decisions in public. They are assisted in the exercise of their responsibilities by a clerk of the court or, if the latter is unable to assist, by a person whom the judge swears in to perform this task. Furthermore, the Directorate of Judicial Services provides them with the assistance of a social worker to carry out, under their authority, any task involving the acquisition of information, supervision or enforcement that is considered necessary.
38. Orders issued by a guardianship judge must state the grounds for the decision and may be referred to the Court of Appeal, which takes a decision in chambers within a month of the appeal.
39. Under article 833 of the Code of Civil Procedure, a minor may petition a guardianship judge for educational support measures, as provided for by articles 317–322 of the Civil Code, and the child may be personally heard. The guardianship judge's decision is communicated to the child, who has a right of appeal.

Adoption

40. Act No. 892 of 21 July 1970 revised the rules relating to adoptive descent which constitute section VIII of book I of the Civil Code.
41. Article 240 establishes the principle that adoption, whether by the legitimization procedure or the simple adoption procedure, "must be justified, first and foremost, by the interests of the adoptee".
42. Under the terms of article 261, "Adoption by the legitimization procedure confers on the child a permanent substitute for his or her original filiation; he or she ceases to belong to his or her family, subject to the prohibitions to marriage referred to in articles 127, 128 and 129 of the Civil Code. However, in the case of adoption by the legitimization procedure of the child of a spouse, under the second paragraph of article 242, the filiation of origin between the child and the spouse of the adopter remains."
43. Articles 262 and 263 state, respectively: "The child has the status of a legitimate child in his or her adoptive family" and "Adoption by the legitimization procedure may not be revoked".
44. Simple adoption has different effects:
- An adopted child who has personally agreed to the adoption takes the name of the adopting parent, by adding it to his or her own. An adopted child who was under the age of 15 at the time the application was made takes the name of the adopting parent. The decision on the adoption may depart from the provisions of the preceding two paragraphs.

45. It may also order that the first names of the adopted child be changed, if the adopting parent so requested in the application (art. 274).

The adopting parent is invested with parental authority in respect of the adopted child. He or she may consent to the child's marriage; if two spouses were involved in the adoption, their disagreement implies consent.

46. In the event of a child being adopted by the spouse of his or her father or mother, that parent shall exercise parental authority jointly with the adopter (art. 275).

The adopted child nevertheless remains in his or her family of origin and retains all rights therein. However, he or she cannot require maintenance from his or her ascendants unless the adoptive parent is not able to provide it (art. 276).

47. Simple adoption may be revoked (art. 284):

If the behaviour of the adopted child or of the adoptive parent raises serious reasons for discontent, the adoption may be judicially revoked, at the request of the adoptive parent, of the adopted child or, if the latter is a non-emancipated minor, of his or her father or mother. The State prosecution service may also refer the case to court. A revocation request submitted by an adoptive parent is admissible only if the adopted child is over the age of 15.

Parental responsibility

48. As a subject of law, a child can inherit property. The parents must administer such property and collect any proceeds therefrom until the minor reaches 16 years of age. If both parents are deceased, a member of the family or, failing this, the State takes charge of the child's person and property.

49. Underage children, being legally incapable, cannot themselves exercise any rights until their eighteenth birthdays, when they acquire full civil capacity.

50. Generally speaking, however, minors may act on their own behalf in matters concerning everyday life.

Effects of divorce on children

51. In the context of divorce proceedings, article 202-3 of the Civil Code stipulates that: "The court of first instance can hear minor children or request a third person to ask the children their opinions. The children may be heard alone or, if it is in their interest, be accompanied by a person designated to this effect by the court of first instance. The fact of children being heard in court does not make them parties to the proceedings."

52. If conciliation fails, the courts can, as a provisional measure, issue an order ruling on interim custody of the children, rights of access and the conditions for their education. This decision can be appealed against within eight days of being served.

53. When a divorce order is issued, the Civil Code provides that the father and the mother retain joint exercise of parental authority.

54. Article 204-7 provides that: "The court of first instance may also entrust parental authority to either the father or the mother, if the interests of the children so dictate."

55. In the absence of an approved agreement, the court decides on the right of access and the right to receive visits from the child, as well as the contribution to maintenance and

education costs, and decides whether the children will have their habitual residence with the father or the mother.

56. The court of first instance may, however, decide that the children are to reside with another person or institution which will take on all the usual measures pertaining to their supervision and education.

57. Whatever the decision may be, the father and the mother retain the right to supervise the care and education of their children and are required to contribute to it in accordance with their resources.

58. In the event of divorce, articles 830 et seq. of the Code of Civil Procedure give jurisdiction to the guardianship judge to rule on any difficulties that may arise from the family relations and particularly the custody of a minor whose parents are in the process of separation or divorce, to organize access rights and to change the proportion and amount of child maintenance provided.

Withdrawal of parental authority

59. Act No. 1.278 of 29 December 2003 instituted book I, chapter II, section III of the Civil Code, entitled “Full or partial withdrawal of parental authority”. Parents who are found guilty as perpetrators or co-perpetrators of or accomplices to an offence, who are sentenced for an offence committed against the person of their child, or who jeopardize the health, safety, morals or education of their child, may have their parental authority partially or totally removed (Civil Code, arts. 323–332).

60. However, as a child is legally incapable, only his or her legal representatives may bring criminal indemnification proceedings on the child’s behalf. In the event of a conflict of interest (for example, where parents have used violence against their children), an ad hoc administrator may be designated, without prejudice to the protection generally exercised by the State prosecution service in respect of minors. The bill on specific forms of violence also makes provisions in this respect.

61. It further provides for compulsory legal support for the victim from a lawyer at the time of his or her hearing by the investigating judge.

62. The Principal State Prosecutor’s Office plays an important role in protecting minor victims. It may require that all necessary safeguards be taken to protect their physical or mental integrity and/or their interests. To this end, the Principal State Prosecutor’s Office may apply to the guardianship judge for an educational support measure to be taken, together with, if necessary, placement in a children’s home in order to remove the minor from the family environment, seek the appointment of an ad hoc administrator responsible for assisting the victim in the judicial process and seek the appointment of a lawyer to provide legal assistance.

63. The Directorate of Health and Social Welfare, which includes the Division of Social Action, in partnership with all the services concerned (Directorate of Judicial Services, Directorate of National Education, Youth and Sports) and other organizations (such as associations), is responsible for prevention, and the protection and monitoring of children in the family and during placement in an institution or with a foster family.

Respect for the views of the child

64. The minor child, although a subject of law, does not have full legal capacity in civil matters. This does not mean that a child cannot be heard or that his or her interests are not

taken into account. Thus, the law provides specifically for various situations in which the child must express his or her views, agreement or consent, or in which he or she may take some procedural initiatives.

65. The law further stipulates that children's views must be taken into account and defended when their interests conflict with those of their legal representatives. In such a case, an ad hoc administrator will be appointed by a specialized judge to represent the specific interests of the minor.

66. In this area too, on 22 October 2008, Monaco signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in Lanzarote on 25 October 2007, which includes specific provisions on the need to take due account of the child's views and specific procedural measures.

67. From a legal point of view, Bill No. 869 on controlling and preventing specific types of violence, submitted to the office of the National Council on 14 October 2009, is intended to strengthen respect for children's views by giving them stronger procedural rights.

Best interests of the child

68. The concept of the best interests of the child lies at the basis of the right to protection and underpins Monaco's family law and judicial policy in respect of children.

69. The courts regularly refer to this concept, as the child's interests must always guide their judgements in the relevant cases or decisions that must be taken. The areas concerned are very diverse (adoption, marriage, divorce, custody and visitation rights, proprietary rights, etc.). A Court of Review judgement of 29 November 2007 reiterates that, under articles 9 and 12 of the United Nations Convention on the Rights of the Child, adopted in New York on 20 November 1989 and given the force of law in Monaco by the Sovereign Ordinance of 1 September 1993, "A child capable of forming his or her own views must be able to express those views freely in all matters affecting the child and, to this end, be heard in any judicial and administrative proceedings affecting the child; this opinion is not binding on the courts, who must take only the best interests of the child into account."

70. Other decisions by different levels of court in Monaco are also taken in application of these provisions of the Convention (Court of Appeal, 3 November 2006, *C.R. v. S.M.* in the presence of the State prosecution service; Court of First Instance, 10 May 2007, 8 November 2007, 22 July 2008).

III. Education

Right to education

71. Under article 27 of the Constitution, "Monegasques are entitled to free primary and secondary education". Act No. 1.334 of 12 July 2007 on education sets the requirements for the exercise of this constitutional principle.

72. Article 1 of this Act states: "Education is a national public service. The State is responsible for the organization and content of education, definition and awarding of diplomas, recruitment and management of staff under its authority, distribution of resources, regularization of the entire educational system and monitoring and assessment of educational policies."

73. Article 2 establishes the principle of freedom of education for public and private institutions located in Monaco.

74. Article 3 sets out the principle that: “Education is compulsory for any child of either sex up to the age of 16 years: first, of Monegasque nationality or, second, of foreign nationality whose parents, legal representative or natural or legal person exercising custodial responsibility reside or are lawfully established in Monaco.”

75. This rule prohibits discrimination of any kind on any grounds.

76. In addition, if parents enrol their child in an educational establishment outside the Principality, they must inform the national education authority thereof in writing.

77. The same rule is applicable to home schooling by the parents or a tutor.

78. Article 11 sets out specific rules relating to children with disabilities, as follows: “The obligation to provide an education to children and adolescents with disabilities or incapacitating health impairments shall be met by giving them an education in an ordinary school environment or, if necessary, either a special education determined according to their particular needs within health, medical and social welfare or specialized establishments or services or home schooling under the conditions laid down in article 5.”

79. Article 12 establishes the principle of free education and the following exceptions thereto: “Compulsory education is free in public educational institutions. In private grant-aided educational institutions, tuition is charged according to the schedule of fees set by the agreement governing relations between the State and such institutions, in accordance with the provisions of chapter I of title III. Tuition fees may be freely set in private educational establishments not bound by such agreements.”

80. Article 17 establishes health check-ups for students, as follows: “Any child attending a public or private educational institution or receiving home schooling must undergo an annual medical and dental examination as part of the school physical examination. Students may not abstain from check-ups and examinations organized for them.” Students are thus free to consult with doctors, nurses and school psychologists without charge.

81. The Child Guidance Commission, responsible for students with special needs or learning disabilities, may, where there are problems with a student’s progress or curriculum options, propose:

First, measures to assist students whose physical or mental state or behaviour require medical care or monitoring within the institution in which they are enrolled or, secondly, a course of studies involving specific or specialized education for students whose physical or mental state or behaviour clearly makes schooling under ordinary conditions impossible. The Commission’s proposals are submitted to the director of the national education authority, who decides whether such action is necessary and notifies the parents, the child’s legal representative or the person exercising custodial responsibility, or the student if he or she is of age, by registered letter with acknowledgement of receipt. In the event of a disagreement, the latter persons may appeal to the director of the national education authority to delay or change his or her decision pending further deliberation of the Commission. The director of the national education authority shall provide notification of his or her decision by registered letter with acknowledgement of receipt.

82. There are various categories of public and private educational establishments in Monaco.

83. They include schools that provide general education, nursery schools, primary schools, secondary schools, schools that provide specialized education in specific subjects or disciplines or training for careers in the arts or sport and institutions of higher education (art. 27).

84. Public schools are created by sovereign ordinance on the advice of the National Education Committee (art. 29) while private schools are accredited by ministerial decree on the advice of the Committee (art. 31). Private schools may request to enter into a public education partnership agreement with the State if they meet a recognized educational need, provided that they fulfil certain conditions specified by ministerial decree. In that event, private schools under such agreements enjoy State grants in an amount that depends on the number of students enrolled and kind of education provided (art. 33). Private schools that are not bound by an agreement reached with the State under the foregoing article are free to choose their teaching methods, curricula and textbooks (art. 34).

85. The subjects taught in grant-aided primary and secondary schools include: (1) religious instruction in the apostolic Roman Catholic faith, unless a dispensation is requested by the parents, the child's legal representative or person who exercises custodial responsibility; and (2) the study of the Monegasque language, the history of Monaco and the political, administrative, economic and social organization of the Principality (art. 38). Computer skills and information and communication technologies are taught throughout compulsory education from nursery school onwards. The teaching involves appropriate training and monitoring to enable students to use computers safely and minors in particular to be protected. Teaching also includes moral education and civics and health and hygiene education (art. 39).

86. A child with disabilities or incapacitating health impairments is entitled to enrol in an educational institution. Educational institutions must make the necessary arrangements for children and adolescents with disabilities or incapacitating health impairments in organizing, developing and supporting their education (art. 46).

87. Special education is also provided for students with severe learning difficulties (art. 48).

Education of children with disabilities or children with severe learning difficulties

88. Beginning with day care, it is possible to accommodate children with disabilities by:

- Making available a childcare assistant if necessary
- Providing appropriate facilities
- Waiving the school-age requirement to enable children whose condition precludes them from enrolling in nursery school to stay an extra year in day care

89. The recent Education Act recognizes the right of every child with disabilities or an incapacitating health impairment to enrol in school.

- Nursery school children are provided with special support to meet their individual needs
- Primary schoolchildren attend the adaptation and integration section where there are 2 tutors to assist 3 teachers for every 20 students
- In secondary school, at the Charles III School, the children benefit from special equipment, free transport services, health-care assistants, and a room in which a medical auxiliary may provide physiotherapy

90. Furthermore, the children are accommodated at an outdoor extracurricular activities centre with the permission of the schools medical inspector according to established school procedures.

91. On leaving the adaptation and integration section, the children are directed, taking into consideration their disabilities or extent to which they have fallen behind at school, into year 6 (adaptation) at the Charles III School, the special general and vocational section at the Lycée technique (vocational school) or into a specialized institution.

92. Such decisions are always taken by the Child Guidance Commission.

93. The pace of learning is adapted to the needs of the children so that those receiving care are in no way placed at a disadvantage relative to their classmates.

94. Schooling is provided in conjunction with the following health-care institutions in the Principality:

The Medical and Psychological Centre

95. The Centre is an outpatient diagnostic and treatment centre for children from infancy up to 18 years of age who either go to school in the Principality or are domiciled there and have not reached school age.

96. Few of the children currently being cared for are suffering from mental disabilities.

The Part-Time Treatment Centre

97. The increase in needs since the opening of the Medical and Psychological Centre in 1992 have highlighted the necessity to deal with increasingly complex diseases requiring longer periods of treatment and complementary health-care procedures to those offered by the Centre.

98. The Part-Time Treatment Centre is a health-care facility that takes children in groups on a part-time basis. The timetable for the treatment is flexible, depending on the individual treatment plan (one to three times per week).

99. Treatment at the Centre combined with regular schooling should enable children in need (who currently number some 30 students) to stay as long as possible in their usual environment.

The Princess Grace Hospital Centre

100. Care for adolescents through the establishment of specialized surgeries operating as part of a network with local doctors, the Paediatric Service (two beds set aside for adolescents) and Nice University Hospital Child Psychiatry Service is one of the priority areas of health policy.

101. Misconduct or breaches of school rules may result in the imposition of school punishment or disciplinary measures (art. 51).

102. The following constitute disciplinary measures within the meaning of the current law: (1) warnings; (2) reprimands; (3) suspension from school for up to 48 hours; (4) suspension for a period of between 48 hours and 1 month; and (5) permanent expulsion (art. 52). Any decision taken pursuant to article 52 must be individual and commensurate with the acts that it is punishing. It must be justified and notification must be sent to the parents, the child's legal representative or person who exercises custodial responsibility and indeed the students themselves if they are of age (art. 54). The law also provides that before any decision is taken pursuant to article 52 the student in question must have his or her explanation heard or be duly called to provide such an explanation. The student must receive a summons at least five days before the date of his or her appearance before the disciplinary council in order to prepare his or her defence. The student may be assisted by a person of his or her choice. The parents, legal representative, person who exercises custodial responsibility or the person referred to in the previous sentence or a student who

is of age may read his or her disciplinary record at the office of the head of the institution (art. 55). When a student subject to mandatory schooling is permanently expelled, the director of the national education authority is informed thereof without delay and sees to it that every appropriate measure is taken to ensure that this obligation is met (art. 58).

103. Any failure to meet the requirements of compulsory education is a punishable offence.

104. A child's parents, legal representative or the person exercising custodial responsibility who fail to enrol the child in a public or private educational institution or do not make it known that they intend to provide the child with home schooling in accordance with article 2 are liable to a penalty of 6 month's imprisonment and the fine provided for in article 26, category 2, of the Criminal Code.

105. A child's parents, legal representative or the person who exercises custodial responsibility who repeatedly fail to make known the reasons or provide inaccurate reasons for the child's absence or allow the child to miss more than four half-days of schooling per month without a legitimate reason or valid excuse, or who disregard the declaratory obligations imposed on them by articles 4 and 5 are subject to the penalties provided for in article 29, category 2, of the Criminal Code (art. 65).

106. A child's parents, legal representative or the person who exercises custodial responsibility who disregard the obligations for medical check-ups prescribed in article 17 and measures taken to fulfil them are subject to the penalties provided for in article 26, category 1, of the Criminal Code (art. 69).

107. Instruction in French as a second language is provided in certain educational establishments at the nursery and elementary level to non-French-speaking children.

108. Under article 45 of the same law, study grants or grants for advanced or specialized foreign language courses are awarded by the Directorate of National Education to students of educational establishments in the Principality. The grants are a contribution from the State to the costs of receiving an education or vocational or technical training borne by families or students. They are awarded to students of Monegasque nationality and students of foreign nationality who have resided in Monaco for at least 15 years. They cover all forms of education.

109. Civic education is part of the educational curriculum in both primary and secondary schools. Teaching staff endeavour to establish relations with their pupils based on the respect, tolerance and cooperation that life in society demands and that constitute values essential to building a civic conscience and human rights education.

110. Retirees volunteer their spare time to the Je lis, Tu lis, Nous lisons (I read, you read, we read) Association to whet the appetite of nursery school, preschool and primary schoolchildren for reading.

Apprenticeship

111. Act No. 1.341 of 3 December 2007 concerning apprenticeship contracts sets the principal rules for this particular form of education.

112. Article 1 states: "An apprenticeship contract is a special work contract under which an employer undertakes to provide or ensure the provision of paid vocational training to an apprentice who in return undertakes to work for the employer during the period of the contract and undergo hands-on training provided in the company in tandem with the theoretical training provided in the educational establishment that the student attends."

113. In addition to the specific legal measures that cover the contract, “the apprenticeship contract is governed by labour law, collective agreements and common practices of the Principality in force in the profession and in the company”.

114. An apprenticeship contract may be concluded with young persons aged no less than 16 years and no more than 26 years at the start of the apprenticeship. “The apprentice must be registered or in the process of being registered in an educational establishment to pursue the theoretical training course mentioned in the apprenticeship contract.”

115. Candidates for apprenticeships may be of Monegasque or foreign nationality, domiciled in Monaco or the communes in France neighbouring the Principality.

116. The Directorate of Labour and the educational establishment in which the apprentice is enrolled are responsible for monitoring implementation of the apprenticeship contract and ensuring that he or she acquires the necessary skills.

Citizenship education

117. From primary school onwards, each class draws up a code of conduct to ensure that everyone’s rights, duties and obligations are respected. Students also take part in various activities that foster civic behaviour, including on road safety, energy efficiency and environmental protection.

118. At secondary school, the subject of democratic citizenship is taught, especially during student elections.

119. Health education and citizenship education committees have been established in secondary schools since 2008/09 in response to the results of the survey on addictive behaviour among the young by the Observatoire français des drogues et des toxicomanies (French monitoring service for drugs and drug addiction) under the European School Survey Project on Alcohol and Other Drugs.

120. The participation of students in these committees gives them the opportunity to express themselves and give their views on the policies or projects proposed, particularly those involving health (combating addiction) and policy implementation.

121. When certain projects are put in place the students work directly with other young people to get across prevention messages, as was the case with the guardian angels project set up by students of the Health Education Committee of the Vocational and Hotel School on 21 May 2010.

122. Each educational establishment has its own health education committee.

- The members include the head of the establishment, teachers, students, school counsellors, librarians and the school psychologist and social workers
- It is open to any partner depending on the measures taken under a programme
- Everyone must know who they are
- The committee members are responsible for putting together the school’s health education programme in accordance with identified needs and/or students’ wishes
- They are also responsible for examining, assessing and validating measures proposed by outside contributors that could be included in the programme and for disseminating information among various stakeholders in school communities

123. Measures taken in the framework of citizenship education in primary schools include discussion of environmental protection projects, which naturally leads students to adopt more socially aware attitudes (towards energy and water saving or waste sorting).

Measures are put in place in establishments after consulting with the students, some of whom are responsible for passing on the information to their classmates. This is particularly true of the schools registered in the Eco-Schools programme (including Révoires since the 2007/08 and Saint-Charles since the 2009/10 academic year). Révoires district school has already twice been distinguished with labels for measures taken in the school on the issue of waste (2007/08) and water (2008/09). In the current year, Révoires school took up the issue of biodiversity and Saint-Charles school looked at energy.

Human rights education

124. The Universal Declaration of Human Rights and the Convention on the Rights of the Child are always taken as points of reference for school activities, in particular those in the humanitarian field.

125. For nearly 10 years, all the schools in Monaco have been raising funds through various activities organized in the context of European and Universal Children's Day. The funds are allocated to humanitarian associations.

126. Education for democratic citizenship and human rights education are incorporated into the in-service training given to teachers through the promotion of teaching methods that instil a sense of responsibility in pupils and encourage their participation.

127. School trips are held from time to time by the teaching staff of secondary or upper schools on specific topics that require significant preparation. In 2005, for example, final year students travelled to Germany for the commemoration of the sixtieth anniversary of the Shoah.

128. In addition, the Council of Europe, of which Monaco is a member State, began a new campaign in 2006 entitled "All different all equal", which has been taken up by Monaco's schools and was launched to coincide with Children's Rights Day.

129. The campaign is intended to raise young persons' awareness about one and the same message: everyone, everywhere, has the right to be themselves and to be treated with fairness and justice. We are all different, all equal, regardless of our skin colour, culture, religion or physical and mental capacities. The campaign against intolerance and discrimination is based on one of the pillars of the Council of Europe, namely respect for human rights.

130. A number of activities were proposed during the 2006/07 academic year in Monaco.

131. In particular, all the classes of each primary school prepared an interdisciplinary project that dealt with a different theme every trimester, as follows:

- First trimester: difference and handicap
- Second trimester: difference and skin colour
- Third trimester: difference and culture or difference between girls and boys

132. Nursery school classes worked on children's literature, putting together picture books, posters and games to raise awareness about the consequences of disabilities.

133. For example:

- A tactile and audible book was developed for visually impaired students in Mouans Sartoux (in the French department of Alpes Maritimes)
- A "blind walk" was set up
- A poster was made showing the daily lives of children throughout the world

134. In the first two years in primary school, classes are assigned to study children's literature, various disciplines, world music and the film *Azur & Azmar* and:

- To make a giant globe representing various ethnic groups
- To design a game in the form of a wheel that quizzes students on rights

135. In the next three years of primary school (years 3 to 5), in addition to work with literature, the same subjects are covered in all disciplines, particularly civic education, history and geography, the arts and physical education, including:

- Sporting matches involving the Monegasque Association for the Assistance and Protection of Children with Disabilities and students
- Meetings between students and athletes with disabilities to discuss disabilities and prepare a report that is subsequently presented to other students at school
- Preparation of a play on the theme "All different all equal"
- Meetings with the writer Julie Pacquet (author of a series of stories whose heroine Cléo Clic Clic travels to different countries with the help of a magic camera)
- Work on Louis Braille includes a visit to the Eze guide dog training school and a meeting with visually impaired children at the Chateau School in Nice (France)
- Composition of a detective novel whose main character becomes a suspect because he or she is different from others

136. Lastly, the Cyberdodo Edupack on children's rights made up of seven comics books covering the articles of the Convention on the Rights of the Child has been distributed to primary school students in years 3 to 5. The Edupack was presented on Children's Rights Day on 20 November 2007.

137. Children are directly involved in the projects from the outset. There is a lot of discussion and everyone can have a say and truly play a part, taking their first steps towards responsible adult civic life.

138. These projects are carried out throughout the year for different exhibitions, performances, discussions or events.

139. Monaco is a party to the Convention for Facilitating the International Circulation of Films of an Educational Character (Geneva, 11 October 1933), given effect by Sovereign Ordinance No 1.646 of 30 September 1934.

Provisions for prevention and screening

140. Prevention and screening measures have been made available for young persons.

141. The Government has adopted various ways of working in its policy to deal with sexually transmitted diseases and HIV/AIDS. It brings together the many stakeholders concerned (administrative services, social organizations, public institutions and school, sporting, community and professional organizations).

142. The Directorate of Health and Social Affairs provides general information concerning HIV infection to any person residing or working in Monaco. The information is aimed at various groups (the public at large, young people, workers, health professionals and others).

143. The Directorate of National Education and the Directorate of Health and Social Services oversee education about and prevention of sexually transmitted diseases and

HIV/AIDS in schools. First of all, information relating to the transmission of such diseases are an integral part of the curriculum in secondary and upper schools.

144. In addition, in collaboration with health services, medical doctors visit the schools for educational talks. Furthermore, upper school students are invited each year to visit the centre for anonymous and free testing that was established in 1988 at the Princess Grace Hospital Centre, and the health centre, which is particularly aimed at teenagers and answering their questions.

145. Another important preventive measure consists in facilitating access to condoms by installing condom-vending machines (on the street in the area around pharmacies, stores and supermarkets), making them available on an ad hoc basis during media campaigns and raising awareness about them among pharmacists.

146. In addition, in collaboration with relevant associations, the Monegasque Red Cross and Fight Aids Monaco (an association that came about with the merger of Monaco SIDA (Monaco AIDS) and femmes face au SIDA (Women Confronted by AIDS)), the Directorate of National Education organizes information sessions for school students, that contribute to the effectiveness and continuity of the preventive work. Thus, on World AIDS Orphans Day, middle and upper secondary school students in Monaco are encouraged to wear a sticker in the form of a red heart as a sign of their solidarity with AIDS orphans and banners are put up in the city to heighten public awareness about this distressing problem.

147. Each year, on World AIDS Day, the Monegasque Red Cross conducts a prevention campaign for young people of the Principality. Literature, posters and condoms are distributed to adolescents by school nurses and at the Princess Grace Hospital AIDS testing centre. Cards with the telephone number and address of the testing centre, the AIDS information service helpline and useful Monegasque associations are also handed out.

148. Monegasque associations are also very active in this area. For example, an evening event on the theme of prevention was held in October 2003 under the patronage of Princess Stephanie. The audience were involved in the performance in order to raise their awareness of the reality of the AIDS phenomenon. The proceeds from an auction organized for the occasion provided funding for prevention campaigns and assistance for persons affected and their families.

149. Many other events are organized and the proceeds from them are used to combat this scourge.

150. In addition, the Government has made a substantial contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

151. In the framework of the Intergovernmental Agency of la Francophonie, the Principality has taken part in a programme to mobilize young people in French-speaking places involving campaigns on the ground to combat sexually transmitted diseases and HIV/AIDS.

152. Designed to prevent high risk behaviour, the campaigns address tobacco, alcohol and drug addiction and the prevention of obesity caused by unhealthy diets.

153. Prevention campaigns are regularly organized by the national education authority and the Directorate of Health and Social Affairs in the form of short conferences.

154. In addition, the Cross-disciplinary Research, Documentation and Treatment Centre for Addiction has helped to launch a general campaign to raise awareness and inform upper secondary school students about the risks linked to the consumption of psychoactive substances, including use, abuse and dependence. The campaign aims to train and further involve educational staff in the prevention work, to include students in these activities and encourage them to have trust in the school setting. The staff of the social and educational

services and the teachers throughout the school system have received specific training enabling them to act as intermediaries (with staff trained to recognize when young people are in trouble, be attentive to their concerns, respond to their needs and organize projects in schools). Such training has been extended to every social sector in Monaco (administrative services, public establishments and community groups).

155. Monaco participated in the World Conference on Doping in Sport organized by the World Anti-Doping Agency in March 2003. The Conference resulted in the adoption of a resolution and the signing of the Declaration on Anti-Doping in Sport by some 50 Governments, including Monaco. A Monegasque anti-doping committee has been established to provide the Principality with the practical and financial means to tackle doping effectively. A permanent secretariat attached to the Directorate of National Education, Youth and Sports coordinates the Monegasque anti-doping committee's efforts and ensures that the Government anti-doping policy is followed up.

156. Lectures are also given to year 10 students by sports medical inspectors on the topic of doping. The lectures, given during physical and sports education classes, address the risks associated with taking doping substances. The Directorate of Health and Social Affairs also carries out ad hoc campaigns. For example, a touring exhibition entitled "Sport and Dependency" aims to inform students in school of the adverse effects of doping and all addictions.

157. When it receives reports of situations in which children are in danger, the Minors and Social Protection Section of the Directorate of Public Security immediately informs the guardianship authorities for referral to the competent administrative services (the Directorate of Health and Social Affairs and Directorate of National Education, Youth and Sport) or judicial services (guardianship judge in the case of juveniles).

158. Among the recent measures, the law (Act No. 890 of 1 July 1970 on narcotics, as amended by Act No. 1.261 of 23 December 2002, art. 4) provides for severe penalties for persons who put a minor in possession of narcotics or help a minor to use them, as follows:

When one of the offences set out in articles 2, 2-1 or 3 is committed with the intention or effect of putting a minor in possession of narcotics, helping a minor to use narcotics or implicating the minor in the commission of such an offence, or when the offence is committed in a prison establishment, an educational institution, a social services centre or their immediate vicinity, or other places where pupils and students are engaged in educational, sporting or social activities, the penalties provided for under articles 2 and 3 shall be doubled; the penalties referred to in article 2-1 may also be doubled.

IV. Protection

Right to life and development

159. In its article 20, the Constitution of 17 December 1962 states that: "The death penalty is abolished".

160. Act No. 763 of 8 June 1964 on the death penalty specifies in its single article that: "In legislation currently in force, the death penalty shall be replaced by penal servitude for life".

161. Title II of Monaco's Criminal Code provides penalties for, in particular, indictable offences against individuals, which are addressed in its chapter 1.

162. The Code differentiates between murder (*meurtre*) (intentional homicide) (art. 220) and premeditated murder (*assassinat*) (homicide with premeditation or by ambush) (art. 221). Articles 222 et seq. define ambush and premeditation.

163. The Code defines parricide as the murder of the perpetrator's "father or mother, whether legal, adoptive or natural, or of any other legitimate ascendant", and infanticide, which is usually considered to be the murder of a child or a young person, as the murder of a newborn child.

164. Under article 228 of the Criminal Code, crimes committed with acts of torture or cruelty are treated in the same way as premeditated murder and incur the maximum penalty, that is, life imprisonment.

165. Poisoning is also defined, and is punishable by life imprisonment under articles 226 and 227.

166. Under article 236, assault and battery that results in involuntary manslaughter is punishable by between 10 and 20 years' imprisonment.

167. Articles 239 et seq. provide for aggravating circumstances in such cases if the offence was committed against a legitimate ascendant or a legal, natural or adoptive father or mother, in conjunction with others, with the use of a weapon, or against a child under the age of 15.

168. Under articles 250 et seq. of the Criminal Code, involuntary manslaughter committed "by clumsiness, imprudence, inattention, negligence or breach of regulations" is liable to a prison sentence of between 6 months and 3 years.

169. The Code also lists grounds that may reduce the penalties incurred for indictable offences.

170. Article 253 provides that: "Both murder and assault and battery may be excusable if they were provoked by battery or serious violence toward individuals". They may also be excused if they were committed to repel an individual wishing to enter an inhabited dwelling (art. 254).

171. However, there are never grounds of excuse in the case of parricide (art. 255).

172. The Criminal Code provides that there is no indictable offence if the perpetrator was of unsound mind or was compelled by force which he or she was unable to resist (art. 44).

Abortion

173. Pursuant to Act No. 1.359 of 20 April 2009 on the establishment of an antenatal and family support coordination centre, amending article 248 of the Criminal Code and article 323 of the Civil Code, abortion is justified when:

- (1) The pregnancy places the life or physical health of the pregnant woman at risk;
- (2) The prenatal examinations and other medical data indicate a strong likelihood of serious, irremediable disorders or an incurable life-threatening condition for the foetus;
- (3) There are sufficient grounds for presuming that the pregnancy was the result of a criminal act and that less than 12 weeks have elapsed since the beginning of the pregnancy.

174. In other cases, abortion is a criminal offence punishable by a prison term of 1 to 5 years and the fine provided for in category 3 of article 26 of the Criminal Code.

175. The centre helps women in cases where the birth of the child presents difficulties.

Protection against the sexual exploitation of children

176. The small size of the country and the monitoring system (police, workplace inspections) facilitate monitoring and thus the prevention of trafficking.

177. In view of the mainly transnational nature of this criminal activity, Monaco generally takes a practical and targeted approach, focusing on developing cooperation projects in areas prioritized by the Government, namely, combating trafficking in persons and, more specifically, protecting children:

- To combat transnational organized crime, Sovereign Ordinance No. 16.025 of 3 November 2003 made the following international instruments enforceable in Monaco:
 - The United Nations Convention against Transnational Organized Crime, adopted in New York on 15 November 2000
 - The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted in New York on 15 November 2000
 - The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, adopted in New York on 15 November 2000

178. Sovereign Ordinance No. 605 of 1 August 2006 brings the Convention and its two additional protocols into force.

179. Monaco signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted by the United Nations General Assembly on 25 May 2000, on 26 June 2000 and ratified it on 24 September 2008; it came into force in Monaco on 24 October 2008.

180. Act No. 1.335 of 12 July 2007 approving the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was designed to incorporate these international standards into Monaco's legislation.

181. In addition, offences involving the exploitation and sexual abuse of children, including child pornography, are punishable under Act No. 1.344 of 26 December 2007 which increased the penalties for indictable offences against children. The Act has, firstly, changed the statute of limitation for prosecution for indictable sexual offences against a minor, raising it to 20 years after the victim reaches the age of majority. Other offences related to child pornography (Criminal Code, arts. 294-3 et seq.) still carry a period of limitation for prosecution of 3 years from the date on which the offence was committed. Secondly, the Act has introduced the criminal offences listed below into Monaco's criminal legislation.

182. "Sexual abuse" includes the following:

- Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities (Criminal Code, art. 265)
- Engaging in sexual activities with a child where: use is made of coercion, force or threats; abuse is made of a recognized position of trust, authority or influence over

the child, including within the family; abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence (Criminal Code, art. 266)

183. “Child pornography” covers the following conduct (Criminal Code, art. 294-3):
- Producing child pornography
 - Producing child pornography for the purpose of its distribution through a computer system
 - Offering child pornography, including through a computer system
 - Making available child pornography, including through a computer system
 - Distributing child pornography, including through a computer system
 - Transmitting child pornography, including through a computer system, as well as procuring child pornography for oneself or for another person
 - Procuring child pornography through a computer system for oneself or for another person
 - Possessing child pornography
 - Possessing child pornography in a computer system or on a computer-data storage medium
 - Knowingly accessing child pornography through communication and information technologies
184. The participation of a child in pornographic performances (Criminal Code, article 294-5), includes the following conduct:
- Recruiting a child into participating in pornographic performances or causing a child to participate in such performances
 - Coercing a child into participating in pornographic performances
 - Profiting from or otherwise exploiting a child for such purposes
 - Knowingly attending pornographic performances involving the participation of children
185. “Child prostitution” (Criminal Code, arts. 268 and 269) comprises the following conduct:
- Recruiting a child into prostitution or causing a child to participate in prostitution
 - Coercing a child into prostitution
 - Profiting from or otherwise exploiting a child for such purposes
 - Having recourse to child prostitution
186. “Corruption of children” (Criminal Code, art. 294-5) covers the intentional causing, for sexual purposes, of a child who has not yet reached the legal age for sexual activities to witness sexual abuse or sexual activities, even without having to participate.
187. “The solicitation of children for sexual purposes” or “Grooming” (Criminal Code, art. 294-6) includes the following conduct:
- The intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the legal age for sexual activities, for

the purpose of committing one of the following offences against the child, where this proposal has been followed by material acts leading to such a meeting

- Engaging in sexual activities with a child who, under the relevant provisions of national law, has not yet reached the legal age for sexual activities
- Producing child pornography

188. Under the laws in force in Monaco, the term “child pornography” (Criminal Code, art. 294-3) includes any material that visually depicts:

- A minor engaged in sexually explicit conduct
- A person appearing to be a minor engaged in sexually explicit conduct
- Realistic images representing a minor engaged in sexually explicit conduct
- Any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child’s sexual organs for primarily sexual purposes

189. In addition, Monaco’s Criminal Code contains specific provisions on the protection of children against exploitation and sexual abuse over the Internet (arts. 266, 294-3 and 294-6).

190. Finally, Monaco is equipped with a system for preventing and filtering Internet sites that contain child pornography. The effect of the system is to block access to these sites. If the subscriber attempts to connect to an Internet address that has illegal content, access to the site is interrupted by the operator and an explanatory message is displayed. Furthermore, the website of the Directorate of Public Security allows any Internet user who so wishes to report sites that have illegal content, for possible legal proceedings to be brought. The Principal State Prosecutor’s Office is kept regularly informed of the number of attempted connections, and is able to requisition information to identify an Internet user.

191. A bill designed to help combat and prevent specific forms of violence by providing greater protection to women, children and persons with disabilities was submitted to the Board of the National Council on 13 October 2009.

192. The bill provides for child victims of sexual offences to undergo a medical and psychological examination to assess the nature of the injuries suffered and to establish whether there is a need for appropriate treatment or care. Similarly, an ad hoc administrator will be appointed if the child’s interests are not fully protected by his or her legal representatives. The child may also be given the assistance of a lawyer, who may be appointed automatically if the child’s legal representatives or the ad hoc administrator fail to do so.

193. Monaco’s legislation will include rules that take account of the vulnerability of victims and the very varied forms that violence can take. The bill strengthens the protection of women, children and persons with disabilities by introducing specific measures for prevention, protection and punishment. It focuses on: domestic violence involving spouses or persons who are living, or have lived, in the same household on a long-term basis, “honour crimes”, female genital mutilation and forced marriage.

194. Under this bill, as under Bill No. 190, in all cases where such offences are committed by a spouse or a person who is living, or has lived, in the same household as the victim on a long-term basis, the penalties are increased substantially: either the sentence corresponding to the offence under ordinary law is doubled, or the maximum sentence is applied. In addition, a failure to fulfil the obligation to make reparations counts as an aggravating circumstance with respect to the penalty to be imposed; this may lead, *inter alia*, to the revocation of the suspension of a sentence or of probation (art. 10). This

provision also applies to perpetrators of female genital mutilation, honour crimes or rape of a spouse or a domestic worker (art. 12). The bill furthermore covers domestic slavery and harassment.

195. Victims of the acts of violence covered in the first article will be entitled to be kept fully informed and to receive personal counselling, taking account of their personal circumstances. Officers and officials of the criminal investigation service are to inform victims orally and by any other appropriate means of: their right to reparations for the harm suffered; their rights to sue for damages if criminal proceedings are initiated by the State prosecution service, to bring charges against the perpetrator before the corresponding court and to lodge a complaint with the investigating judge; and their right to receive assistance from the appropriate Government agency or from a Government-approved victims' aid association.

196. The victim is also to be provided with ministry-approved documentation for that purpose. All public and private hospitals and medical practices in Monaco are to provide free and anonymous access to that documentation as well. Persons with disabilities who become victims of such acts of violence will have full access to all relevant information in a form that is suited to their disability.

197. Training within the corresponding field is to be provided to persons whose occupations bring them into contact with victims of violence, including judges, health professionals, and officers and officials of the criminal investigation service, to help them improve the way in which they deal with such victims. The relevant training procedures are to be established by ministerial order.

198. The various services of the Directorate of Health and Social Welfare are responsible for caring for child victims of violence, monitoring them and implementing measures to help reintegrate and rehabilitate them. As soon as the State prosecution service receives a report that a minor's safety or health is at risk, a request for educational measures, including all necessary protection measures, is sent to the guardianship judge.

199. In urgent cases, the Principal State Prosecutor can order that a child or young person whose safety, health, education or moral well-being is at risk be placed in the local shelter. Such urgent measures must be officially approved as soon as possible by the guardianship judge. The children are cared for in an appropriate facility, the Foyer Saint-Dévote, where the necessary social workers, specialized teachers, psychologists and doctors can help them.

200. Given the small size of both Monaco's territory and its resident population of 37,000, it is not reasonable to develop specific programmes in this area.

201. However, information events for children, parents and concerned professionals are held. For example, the Innocence en Danger (Innocence in Danger) Association, established in 2002 with the aim of raising awareness, preventing and taking action against paedophilia involving children on the Internet has made presentations in several schools, in partnership with the Association des Parents d'Elèves de Monaco (Monaco Parents' Association).

Training and prevention to help children in difficult situations

202. Several public and private bodies that care for children at risk now have trained staff who are able to identify and report a child at risk or with problems:

- *In the maternity ward*: identification of new mothers with problems and/or their babies. If supervision by the hospital staff and later by the midwife at home cannot alleviate the situation, a report is drawn up on the family.

- *In day care*: the multidisciplinary team is able to identify children who may be at risk or who show signs of a developmental delay.
- *At school*: every school has a social worker, a psychologist and a nurse to whom students who have questions can talk on a one-to-one basis. Any act of violence committed against a child within a school is immediately reported to the Government Councillor for Internal Affairs (Minister) who then informs the courts. In urgent cases, the Directorate of National Education notifies the Principal State Prosecutor's Office directly. In any event, the penalties imposed are those provided for in the Criminal Code.

203. On 22 October 2008, Monaco signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted in Lanzarote, Spain, on 25 October 2007. The Convention emphasizes the prevention of sexual crimes and offences and the importance of suitable training for staff who come into contact with children: teachers, judges, police officers, volunteers in associations, and others. The training provided will also help them detect any injuries caused to children by corporal punishment. Such criminal acts can only be prevented by teaching children about their basic rights and, in particular, their safety and security, both within and outside the family.

204. Monaco is a party to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications (Geneva, 12 September 1923). This came into force on 11 May 1925 and was given the force of law by the Sovereign Order of 11 September 1924.

Organ removals

205. In addition to the provisions of the Criminal Code that criminalize the abduction and kidnapping of children (arts. 280 et seq.), organ removal is governed by Act 1.073 of 27 June 1984, on the removal of organs for therapeutic purposes.

206. The Act sets out the conditions governing organ removal, which specifically include the consent of a civil person of full capacity. The age of civil majority is set at 18 years in Monegasque law.

207. Under article 2, paragraph 3, of the Act, if the person whose organ is to be removed is a minor, the permission of both his or her parents or the surviving parent is required. Organ removal may only be carried out by an establishment approved by ministerial decree.

208. Any person not complying with the standards in force shall be liable for criminal sanctions ranging from 6 months' to 3 years' imprisonment and a fine provided for in category 3 of article 26 of the Criminal Code.

209. Furthermore, article 249-1 of the Civil Code, as amended by Act No. 1.344 of 26 December 2007, now provides that:

Obtaining one of a person's organs for payment, in any form, is punishable by 7 years' imprisonment and a fine provided for in category 4 of article 26.

An intermediary who helps to obtain an organ for payment, or who provides an organ from the body of another person for payment, is liable to the same penalties.

The offence provided for in the preceding paragraphs, when committed against a child, is punishable by 10 to 20 years' imprisonment and a fine provided for in category 4 of article 26.

The same penalties are applicable if the organ obtained comes from a foreign country.

Attempting or preparing to commit the offences set forth in this article are subject to the same penalties as the offences themselves.

210. Efforts to clamp down on organ removal and the trade in organs focus on the payment made to the victim in exchange for the organ. Article 249-1, paragraph 1, makes such payments and trade in human body parts punishable offences. Thus, "Obtaining one of a person's organs for payment, in any form, is punishable by 7 years' imprisonment and the fine provided for in category 4 of article 26."

211. Monaco's anti-trafficking legislation provides penalties for every member of organ trafficking networks, whatever their degree of involvement. The second paragraph of article 249-1 thus penalizes the following conduct: acting as an intermediary to help obtain an organ for payment, or providing an organ from the body of another person for payment.

212. The Government amended Monaco's legislation on the issue with the measures adopted following ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Corporal punishment

213. Although there is no specific ban on corporal punishment in domestic legislation, criminal law does make abuse an offence.

214. Article 243 of the Criminal Code, amended by Act No. 1.344 of 26 December 2007 makes it an offence to beat or deprive of food or care a child under the age of 16. Article 244 criminalizes the offence when committed by the father or mother, or any other person having authority over the child.

215. Article 236 provides punishment for assault and battery which results in infirmity or mutilation.

216. These provisions, and the fact that a child may bring a case before the guardianship judge, mean that children's rights are respected and children are guaranteed protection in their family environment.

217. Pursuant to article 421-1, anyone guilty of minor acts of violence is liable to a fine as well as a custodial sentence of between 1 and 5 days.

Refugee children

218. To date, no unaccompanied child asylum seeker, refugee or migrant from a country affected by armed conflict has asked the Monaco authorities for permission to stay in the territory of the Principality. As such, Monaco has not had to take measures to facilitate the physical and psychological recovery and social reintegration of such children.

219. The Franco-Monegasque Neighbourhood Agreement signed in Paris on 19 August 1963 allows Monaco's authorities to make the right of entry into or temporary or permanent residence in Monaco conditional on the "possession of a valid passport, or any equivalent travel or identity document, carrying the stamps, visas and permits for entry and temporary or permanent residence in France, and in particular in the department of Alpes-Maritimes".

220. In the case of a serious offence, the penalty may not exceed half of the penalty that would have applied to an 18-year-old adult.

221. Moreover, Act No. 740 of 25 March 1963 on juvenile offenders and its implementing Sovereign Ordinance No. 3.031 lay down the specific rules applicable to minors who have committed offences.

222. Article 5-1 of Act No. 890 of 1 July 1970 on drugs lays down specific rules for cases where the perpetrator is a minor.

V. Juvenile crime

Juvenile criminal law

223. Monegasque criminal procedure grants minors — irrespective of whether they are victims or perpetrators of an offence — subjective rights that are adapted to their distinctive identity as children.

224. The right of a victim to seek redress for the prejudice caused by an offence of any type (minor offence, major offence or serious crime) derives from a basic provision of the Code of Criminal Procedure stating that: “A claim for compensation for the harm caused directly by an act constituting an offence may be lodged by all persons who have suffered personally as a result of it.”

225. In criminal matters, when the perpetrator of an offence is a minor, investigations and preliminary hearings focus on a sociological and psychological examination of the young offender. There are certain penalties specifically for minors, such as receiving a reprimand, being released to their parents, non-custodial supervision or placement in a specialized institution. When a prison sentence is handed down, which happens rarely, minors are held separately from adult prisoners in specially designated cells.

226. No one can be held in detention, even while awaiting trial, without having previously been brought before a judge for questioning (Constitution, art. 19). If the person concerned is a minor, a lawyer must be present (article 8, Act No. 740 of 25 March 1963 on juvenile offenders). The parents, who are civilly responsible for their children, are always heard by the investigating judge.

227. According to article 46 of the Criminal Code, children under the age of 13 are not criminally responsible for their actions.

228. Criminal cases involving juvenile defendants are systematically heard in camera.

229. As is the case for adults, foreign children are entitled to have an interpreter present at all stages of the criminal proceedings.

230. Article 10 of Act No. 740 on juvenile offenders provides that: “All measures ordered in respect of a minor, under either article 7 or article 9, paragraphs 2 and 3, may, irrespective of the court which ordered the measures, be reviewed at any time by the criminal court to which the Principal State Prosecutor has referred the matter and which decides the case in the manner and conditions set forth in article 8.”

231. Such decisions are subject to appeal and to application for a retrial.

232. Act No. 1.343 of 26 December 2007, amending certain provisions of the Code of Criminal Procedure, which is referred to as the Justice and Liberty Act, amended the rules governing police custody (Code of Criminal Procedure, arts. 60-1 et seq.).

233. Monegasque criminal procedure provides for the mitigating circumstance of minority, prescribes special provisions for minors and stipulates that minors cannot be sentenced to a penalty that is more than half of that which would be imposed on an adult for the same offence.

Notification of parents and third parties

234. Even though article 60-7 of the Code of Criminal Procedure does not require the senior law enforcement officer to notify the family when a minor has been arrested, in practice, the officer does so, even if this is not specifically requested by the minor, with the exception of particular cases in which such notification risks undermining the continuation of the investigation.

235. Persons remanded in police custody may request that their relatives or their employer be notified immediately by telephone of the measures taken against them.

236. Article 46 of the Criminal Code provides that: "If a court finds that a minor between the ages of 13 and 18 is guilty of violating a criminal law, the penalty, in the case of a serious crime, cannot exceed 20 years of imprisonment."

Detention and alternative measures

237. In the Principality of Monaco, the situation of juvenile offenders is governed by Act No. 740 of 25 March 1963 on juvenile offenders and its implementing Ordinance No. 3.031 of 12 August 1963.

238. Article 1 of the above-mentioned Act establishes its general framework and states that: "When individuals below the age of 18 are charged with an offence or are charged jointly with older persons, those rules of criminal procedure and criminal law that are contrary to the provisions of this Act shall not apply."

239. Alternatives to prosecution are provided for minors and are aimed at ensuring that deprivation of liberty is used only as a last resort (Act No. 740 of 25 March 1963, art. 9).

240. Act No. 740 of 25 March 1963 on juvenile offenders offers the State prosecution service the possibility of taking all necessary measures to rehabilitate the offender, terminating the proceedings or reprimanding the minor, except in cases of serious crime.

241. Furthermore, Ordinance No. 3.031 authorizes the placement of minors in a non-custodial supervision programme. The rehabilitation of minors who have been placed in such programmes is carried out under the direction of the guardianship judge by permanent or volunteer supervisors. The latter are named in the decision ordering the non-custodial supervision of the minor.

242. In practice, however, a number of instances have been noted (three since 2003) in which minors were placed on probation, not under non-custodial supervision. These relate to cases in which the persons concerned were minors when they committed the offence but had reached the age of majority when they were found guilty.

243. In these cases, the control measures consisted of the following:

- Compulsory medical care
- Monitoring performed by the sentence enforcement judge and the probation officers designated by the judge
- Requirement to hold a job or be enrolled in education or vocational training

244. Only measures relating to education may be imposed on children under the age of 13.

245. Article 8 of Act No. 740 of 25 March 1963 on juvenile offenders states that, where a decision is made to place a minor on trial, proceedings are to be conducted in camera, and

the minor is to be assisted at all times by counsel appointed, if necessary, by the president of the court.

246. In other cases, it is possible for the minor to be incarcerated, but this nevertheless remains the exception.

247. If circumstances so warrant, the guardianship judge, who tries all criminal proceedings in which the defendant is below the age of 18, may order pretrial detention (article 194 of the Code of Criminal Procedure, introduced pursuant to Act No. 1.343, the Justice and Liberty Act, of 26 December 2007). Such detention is to be served at the Monaco prison centre in a sector housing only minors and with a different regime than that of adults. Fewer than 10 minors a year have been incarcerated at the prison centre, and their average stay was less than 28 days. Every effort is made to protect minors, who never come into contact with adult detainees, and who are granted twice as much exercise time as adults. Educational programmes are taught by the best teachers in the Principality, according to the children's educational level.

248. As is the case with adult prisoners, juvenile prisoners are allowed to take part in sports and games. They may practise sports twice a day and are granted one additional weekly session with a sports instructor.

249. As to cultural activities and educational support, juvenile inmates under the age of 16 must attend classes given by a teacher approved by the Directorate of Judicial Services. In addition, they are supplied, either during family visits or by the social worker in cooperation with the prison authorities, with schoolwork and assignments issued by the Monegasque or French school where they were enrolled prior to imprisonment. Homework completed in prison is then returned to the appropriate teachers so that the minor's schooling is not interrupted. Juvenile inmates who are 16 or older may opt either to pursue the above arrangements or to follow correspondence courses (AUXILIA) with the help of the social worker.

250. The prison centre gives juvenile inmates priority access to CD players and to CDs purchased by the social worker.

251. Regarding public health, only juvenile inmates who are 16 years old or older are allowed to smoke or to purchase tobacco from the prison store, subject to presentation of handwritten permission from their parents and within the limits set forth in Act No. 1.346 of 9 May 2008 on protection against tobacco addiction.

252. Article 7 of Act No. 740 also authorizes the guardianship judge, on application from the Principal State Prosecutor, to issue a dismissal order, provided that the interests of the minor so require and that the injured party decides not to bring criminal indemnification proceedings. Such an order may be accompanied, if appropriate, by one of the measures described in article 9, paragraph 2.

253. If the minor is found guilty, the court hearing the case may take one of the following decisions:

- Request that the president of the court issue the minor a simple reprimand
- Return the minor to his or her parents or prior guardian, or else to a person named in the decision, either without conditions, or subject to non-custodial supervision until the minor reaches the age of 21, or for a lesser period
- Order that the minor be placed, for the same duration, in a Monegasque or French facility authorized to accommodate juvenile offenders

- If the minor is at least 13 years old, impose the penalty prescribed by the criminal provision punishing the offence, taking into account both the need for punishment and the potential for the moral improvement and rehabilitation of the offender

254. In criminal matters, pursuant to the system of rules that derogates from ordinary criminal law established by Act No. 740 of 25 March 1963 on juvenile offenders, the guardianship judge replaces the investigating judge in cases involving juvenile offenders, and in his or her place, takes all the measures which he or she deems to be appropriate (inquiries, placement of the minor in a supervised monitoring centre, waiver of any criminal indemnification proceedings, dismissal order, non-custodial supervision).

255. If the guardianship judge refers the juvenile offender to the correctional court, the latter will take its decision on the basis of a report prepared by that judge.

256. Articles 340 and 349 of the Code of Criminal Procedure set forth special rules concerning juvenile offenders, namely measures that provide for an alternative to a custodial penalty imposed by the criminal court.

VI. Social benefits

257. The State of Monaco helps to provide assistance in the form of allowances that are granted to parents with one or more dependent children, at various stages in their children's lives. These include:

Family benefits

258. Beginning with the first child, Monegasque social schemes grant insured persons a generous family benefit, which varies depending on the age of the child (276.70 euros for each child above the age of 10). The family benefit is paid in respect of children up to the age of 21, if they are continuing their studies.

Maternity benefits

259. As far as social security benefits are concerned, Monegasque employees and foreign employees who are legally authorized to work in the Principality receive the maternity benefits provided for under Ordinance-Law No. 397 of 27 September 1944 establishing a welfare services compensation fund in the Principality of Monaco (art. 1). The conditions under which these benefits are granted are specified in Ordinance No. 92 of 7 November 1949, amending and codifying the implementing regulations of Ordinance-Law No. 397 of 27 September 1944 (art. 9) and Sovereign Ordinance No. 4.739 of 22 June 1971, establishing benefit provisions for employees in the event of sickness, accident, maternity, disability or death, pursuant to Ordinance-Law No. 397 of 27 September 1944.

260. Entitlement to benefits. In order to receive the benefits provided for in the event of maternity, eligible employees must present valid proof of registration prior to the estimated date of the start of the pregnancy and of a minimum number of hours worked between the start of the pregnancy and its medical certification. If these regulatory conditions are met, the employee or the employee's dependants are entitled to the benefits (Sovereign Ordinance No. 4.739, arts. 51–55).

261. Non-cash benefits in the event of maternity are provided as follows:

- Reimbursement of fees for:
 - Initial certification of pregnancy

- Prenatal and postnatal compulsory examinations
 - Prenatal classes, whose number is set by ministerial decree
 - Newborn check-up visits, provided for in article 58
 - Medical procedures or surgical operations related to childbirth
- Reimbursement of expenses for orthopaedic appliances necessitated by the pregnancy
 - Reimbursement of fees for a stay in hospital or clinic in connection with the delivery

262. The amounts reimbursed are calculated on the basis of standard agreed fees and prices negotiated between the Welfare Services Compensation Fund and practitioners or recommended medical fees. Provision of the aforementioned benefits depends on compliance with the regulatory requirements concerning compulsory examinations (Sovereign Ordinance No. 4.739, as amended, art. 60).

263. Cash benefits are provided in the form of a daily rest allowance for mothers who stop working completely during the prenatal and postnatal periods for a period of at least eight weeks in total. The daily rest allowance is provided for a period starting eight weeks before and ending eight weeks after the expected date of delivery. When the woman is already the mother of at least two children who were born alive, or if she, or she and her partner are effectively and normally responsible for the upbringing and maintenance of at least two children, the period for which the postnatal allowance is payable is increased to 18 weeks. In the event of multiple births that bring the number of children in the family to three or more, the daily rest allowance is provided for 20 weeks. The daily rest allowance may also be granted, by medical prescription, for an additional period of up to two weeks in the event of a medical condition caused by pregnancy. The total amount of the daily rest allowance (covering the prenatal and postnatal periods) is equivalent to 90 per cent of the daily basic wage (Ordinance No. 92, art. 24; Sovereign Ordinance No. 4.739, arts. 63–66).

264. When sickness occurs during maternity, the benefits arising from each of these contingencies are granted in accordance with their respectively prescribed conditions of entitlement (Sovereign Ordinance No. 4.739, arts. 67–70).

265. Prenatal allowances: entitlement begins on the day when the fund is notified of the pregnancy. The allowances are payable only if the mother observes the hygienic practices and preventive measures prescribed for her and undergoes the compulsory medical examinations and check-ups before and after the birth. As at 1 October 2005, the amount of this benefit is 120.60 euros a month, paid to the mother (Ordinance No. 92, arts. 2 and 3).

266. The breastfeeding allowance (Ordinance No. 92, art. 10): a female employee, or the wife of an employee who breastfeeds her child is entitled to an allowance which is paid after each check-up visit for the newborn child specified in Sovereign Ordinance No. 4.739 of 22 June 1971.

267. A “female head of household” allowance is paid monthly, subject to a means test, to mothers who are bringing up their child alone (single mothers, widows or divorcees) and who are obliged to work in order to support their child (or children), provided that the child or children are of Monegasque nationality.

268. A “mother at home” allowance is paid monthly, subject to a means test, to mothers who are not gainfully employed and who devote themselves to bringing up one or more children under the age of 12, or 16 in the case of children suffering from a disability preventing them from receiving a normal education.

269. Apart from all these benefits, there are associations which play an important role, such as S.O.S. futures mères (SOS Mothers-to-Be), set up “to promote the specific value of

every human life, which must be respected from the moment of conception”. The purpose of this association is to help couples in financial difficulties or single mothers when a child is born. The assistance provided consists of personal support and contributions towards the purchase of the items needed for a newborn child.

Benefits linked to family standard of living

270. For persons of Monegasque nationality:

- The birth allowance is paid following the birth of all children born alive who are of Monegasque nationality (Act No. 799 of 18 February 1966 on the organization of assistance to Monegasque family, as amended)
- The “mother at home” allowance is paid to mothers who are not gainfully employed and who devote themselves to bringing up their child of Monegasque nationality who is under the age of 12, or 16 in the case of children suffering from a disability preventing them from receiving a normal education
- The “female head of household” allowance is paid to single mothers, widows or divorcees who are obliged to work in order to bring up their child, until the child reaches the age of 18, or 21 in the case of children who have not yet completed their schooling or who have committed to an apprenticeship contract
- The family loan is intended to enable spouses either to obtain housing through purchase or rental or to furnish or equip an apartment (Act No. 799 of 18 February 1966, cited previously)
- National housing aid, in the form of allowances and loans, is intended to serve as a rental subsidy

271. The fact that the notion of paternal authority in the Civil Code has been replaced by that of parental authority contained in Act No. 1.278 of 29 December 2003 will enable mothers, and no longer only fathers, to qualify for certain allowances.

Assistance to vulnerable families

272. Government agencies provide assistance to families domiciled in the Principality whose living conditions pose a risk to the health, safety or morals of the child. Its chief objective is to allow children to remain with their family. Any concerned individual may report such a situation.

273. The judge overseeing the child’s welfare within the family may order various child-rearing support measures, to be provided by a socio-developmental team, or the placement of the child in alternative care when keeping the child with the family is no longer an adequate response to the situation (Monegasque Civil Code, arts. 317–322). The child may be placed in the children’s home, a foster family or a specialized institution, depending on the child’s particular situation. In addition, the parents may be entitled to medical, psychological or social support in order to help them cope with the difficulties with which they are confronted.

274. The main objective is always respect for the child’s interests and preserving their ties to siblings and the family.

275. The Medical and Psychological Centre for outpatient diagnostics and treatment offers services to children who go to school in Monaco and children domiciled there who are not yet of school age, with the aim of:

- Giving priority attention to the needs of children who have been kept in their family and social environment
- Enabling anyone involved in public health policy or parents to present a child for a mental health assessment
- Conducting a diagnostic assessment in order to identify and carry out the necessary measures

276. Monegasque civil society also contributes to ensuring the well-being of young people and adolescents through a variety of actions (educational support, outings, counselling, assistance, mentoring, etc.).

Assistance in particular situations

277. A family mediation service is available for parents who are separated or involved in a contentious divorce. Through confidential consultations, the family mediator facilitates the parent's communication and manages their conflict in the area of the family, understood in terms of its diversity and evolving nature. Family mediation is aimed at restoring communication and preserving ties between individuals, especially between family members.

278. A parent/child drop-in centre offers the possibility of exercising visiting rights in the presence of a third party (measures ordered by the guardianship judge). The aim of the centre is to provide accompaniment for meetings between parents and children, for a specified period of time, in cases where a conflict situation prevents a child from seeing one of their parents or when one of the parents poses a potential threat to the child.

279. Any person residing in Monaco who cares for a minor with disabilities may receive a special education allowance if the degree of permanent disability of the minor is at least 50 per cent, and possibly an additional allowance. The Evaluation and Special Education Commission, which was established by Sovereign Ordinance, determines the degree of disability of the child and whether the child's state or degree of disability warrants a special education allowance and a possible supplement. The Commission may prescribe particular educational and treatment measures that are in the interest of the child (Sovereign Ordinance No. 15.091 of 31 October 2001 on social welfare for persons with disabilities).

280. Necessary supportive measures are provided by the relevant institutions (medical, psychological and social support for the child and the family).

Maternity protection and employment

281. Act No. 870 of 17 July 1969 on conditions of work of female employees in the event of pregnancy and maternity, as amended by Act No. 1.001 of 21 December 1977, Act No. 1.051 of 28 July 1982 and Act No. 1.245 of 21 December 2001, protects all pregnant women against dismissal from the moment their pregnancy is medically certified, as well as for the duration of all the suspensions of their employment contract to which they are entitled, regardless of whether they avail themselves of this right, and for four weeks following the expiry of these periods (art. 1).

282. However, in the event of serious misconduct, discontinuation or scaling down of an enterprise's operations, or expiry of the contract of employment, employment may be terminated after consideration by the Lay-offs and Dismissals Board, subject to the conditions provided for by law (art. 1).

283. Under article 2-1, an employer may not cite pregnancy in the event of:

- Refusal to employ a woman
- Termination of an employment contract during the probationary period
- Transfer from one post to another

284. On the other hand, when a pregnant woman's medically certified state of health so requires, she may be temporarily reassigned to other work that she is able to perform, with no change in pay, provided that she has one year's seniority in the enterprise reckoned from the estimated date of the start of the pregnancy (art. 2-2).

285. An employer may not knowingly put a woman to work in any kind of job in the six weeks following the date of confinement. A similar ban applies to the two weeks preceding the expected date of delivery, unless it is medically established that the work to which the woman is assigned will not adversely affect her health (art. 4).

286. A woman has the right to stop work for a period starting eight weeks before the expected date of confinement and finishing eight weeks afterwards (art. 5).

287. Maternity leave may be extended or deferred depending on the number of children (at least two) whom the mother or the couple is responsible for rearing and supporting, in the event of multiple or premature births, a pathology that is medically certified as resulting from pregnancy or childbirth, or hospitalization of the child beyond the sixth week following confinement (art. 5-1).

288. A female employee preserves her seniority rights in the enterprise for the duration of statutory maternity leave. At the end of the period of leave, she must reoccupy her previous post or a similar one with at least an equivalent level of remuneration (art. 6).

289. In addition, upon expiry of statutory maternity leave, a mother may, with a view to bringing up her child, decide not to return to work. In such cases she is not required to give notice and no indemnity is payable for premature breach of contract (art. 7). The mother may ask to be re-employed within one year of terminating her employment. She is then granted priority and, if re-employed, retains all the rights she had acquired at the time of her departure (art. 7).

290. In the event that a mother elects to breastfeed her child, an employer must grant her 30 minutes every 4 working hours for this purpose for one year after the child's birth (art. 8).

291. Additionally, Ordinance-Law No. 684 of 19 February 1960 permits working mothers or trainees to receive, for each dependent child, one working day of supplementary leave, up to a maximum of five days (art. 4 bis). Lastly, amendment No. 10 to the National Collective Labour Agreement (para. (c)) states that "employers shall permit pregnant women to leave work, without a reduction in salary, five minutes before the end of fixed working hours". Amendment No. 17 gives working mothers, irrespective of their place of residence, "the necessary time at the start of the school year, not exceeding four hours and remunerated as hours of work, to accompany their children enrolled up to year 1 of primary school or the equivalent. This measure also applies to single fathers".

292. Act No. 994 of 5 January 1977 on the suspension or termination of an employment contract in the event of illness of a dependent child permits a working parent to stop work for as long as a physician judges it essential for the parent to nurse the sick child (art. 1). The working parent enjoys priority in re-employment (art. 3). Disregard of these provisions is punishable under criminal law.

293. Finally, Act No. 1.271 of 3 July 2003 on adoption leave for employees provides for adoption leave of between 8 and 10 weeks depending on the number of children adopted. Parents are permitted to take adoption leave in staggered form or simultaneously, as a block

of time or in several instalments (art. 2). Cessation of work during statutory adoption leave suspends the contract of employment for the period in question and cannot be used as grounds for terminating the contract (art. 4).

VII. Impact of international law

294. The legal standards relating in whole or in part to the rights and protection of children that are embodied in the instruments listed below have been or will be incorporated into the Monegasque legal order.

- The International Agreement for the Suppression of the White Slave Traffic of 18 May 1904. The Agreement was given the force of law by the Sovereign Ordinance of 17 November 1922.
- The International Convention for the Suppression of the White Slave Traffic of 4 May 1910. The Convention was given the force of law by the Sovereign Ordinance of 18 November 1922.
- The International Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921. The Convention was given the force of law by the Sovereign Ordinance of 29 February 1932.
- The Protocol amending the Slavery Convention, signed at Geneva on 25 September 1926. The Protocol was given the force of law by Sovereign Ordinance No. 1.065 of 14 December 1954.
- The Convention on the Recovery Abroad of Maintenance, adopted in New York on 20 June 1956. The Convention was given the force of law by Sovereign Ordinance No. 2.716 of 23 December 1961.
- The Convention on the Civil Aspects of International Child Abduction, adopted in the Hague on 25 October 1980. The Convention was given the force of law by Sovereign Ordinance No. 10.767 of 7 January 1993.
- The Convention on the Rights of the Child, adopted in New York on 20 November 1989. The Convention was given the force of law by Sovereign Ordinance No. 11.003 of 1 September 1993.
- The Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, adopted in the Hague on 29 May 1993. The Convention was given the force of law by Sovereign Ordinance No. 14.166 of 5 October 1999.
- The amendment to article 43, paragraph 2, of the Convention on the Rights of the Child, adopted in New York on 12 December 1995.
- The Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, adopted in the Hague on 19 October 1996. The Convention was given the force of law by Sovereign Ordinance No. 16.277 of 2 April 2004.
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted in New York on 25 May 2000. The Optional Protocol was given the force of law by Sovereign Ordinance No. 15.204 of 23 January 2002.
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted in New York on 25 May

2000. The Optional Protocol was given the force of law by means of Sovereign Ordinance No. 1.920 of 24 October 2008.

- The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted at Lanzarote on 25 October 2007. This convention was signed in October 2008 by the representative of the Principality of Monaco.

VIII. International action

295. As a Member State of the United Nations Organization and as a State party to the United Nations Convention on the Rights of the Child, the political and judicial authorities of the Principality of Monaco are steadfast and determined in their efforts to give effect to the provisions of the Convention, including those pertaining to the incorporation of recognized and accepted standards of international law into its domestic law.

296. The promotion of the rights of the child is also carried out at both the national and international levels through technical and financial action by non-governmental organizations (NGOs) domiciled in the Principality, in partnership with foreign governments, especially those actions aimed at improving access to education, providing medical care or alleviating the suffering of children.

297. In its capacity as a member State of the Council of Europe, Monaco participates in the three-year programmes of the Council of Europe entitled “Building a Europe for and with children”.

IX. Conclusion

298. Monaco attaches much importance to the values of respect for the dignity, development and protection of the child. To this end, it has become a party to several international conventions that enshrine modern and universally recognized legal principles. It has also amended its domestic law to ensure that national laws are consistent with international standards.

299. In this connection, the present document, which takes stock of a decade of development in terms of legal standards and administrative practices, attests to the continuing commitment of the Princely Government.
