



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

**REPLIES BY THE GOVERNMENT OF MONACO TO THE LIST OF
ISSUES (CCPR/C/MCO/Q/2) TO BE TAKEN UP IN CONNECTION
WITH THE CONSIDERATION OF THE SECOND PERIODIC
REPORT OF MONACO (CCPR/C/MCO/2)***

[24 September 2008]

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

Supplementary information requested by the Committee of Experts

Question No. 1

The Government of Monaco is not considering reducing the number of interpretative declarations with regard to articles 13, 14, 19 and 25 (c) entered at the time the Principality ratified the International Covenant on Civil and Political Rights, on the grounds that they are still relevant in view of Monaco's situation.

Question No. 2: (see annexed decisions)

The provisions of the International Covenant on Civil and Political Rights have indeed been invoked by parties appearing before the Monegasque judicial authorities, regardless of the standing of the court considering the case, and before the Supreme Court in administrative or constitutional matters.

The annexed decisions show how those provisions have been interpreted and applied by the particular court.

Question No. 3

The State party does not envisage establishing an independent national institution for the protection of human rights.

Such protection is already ensured through judicial appeals against alleged violations of one or more provisions of the Covenant. Following Monaco's ratification of the International Covenant on Civil and Political Rights, its provisions were incorporated in the Principality's legal system. Moreover, judicial remedies are available to all physical and moral persons domiciled on Monegasque territory.

Question No. 4

The Principality's administrative services are currently considering the Optional Protocol to the Covenant with a view to determining its scope and to what extent it is compatible with Monaco's legal system.

Question No. 5

The human rights and fundamental freedoms unit is not competent to follow up the Committee's recommendations because it was instituted under the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It is therefore designed to deal with reported violations of that Convention's provisions.

It is competent to receive individual communications only with respect to that Convention.

Question No. 6

The fight against terrorism is covered in Book III, Title III, of the Criminal Code dealing with crimes and offences against the State. This Title consists of articles 391-1 to 391-12, which provide a specific legal framework that contains the definition of terrorist offences, taking into account all aspects of terrorism, including its financing.

This legislation was passed in order to fulfil the Principality's international obligations under the following treaties and conventions:

| Title | Publication |
|---|--|
| European Convention on the Suppression of Terrorism (Strasbourg, 27 January 1977) | Sovereign Order 1.416 of 23 November 2007 |
| International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1977) | Sovereign Order 15.088 of 30 October 2001 |
| International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999) | Sovereign Order 15.319 of 8 April 2002 |
| Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 14 September 1963) | Sovereign Order 7.963 of 24 April 1984 |
| Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 16 December 1970) | Sovereign Order 7.962 of 24 April 1984 |
| Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971) | Sovereign Order 7.964 of 24 April 1984 |
| Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 23 September 1971) | Sovereign Order 11.177 of 10 February 1994 |
| Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 14 December 1973) | Sovereign Order 15.638 of 24 January 2003 |
| International Convention against the Taking of Hostages (New York, 17 December 1979) | Sovereign Order 15.157 of 20 December 2001 |
| Convention on the Physical Protection of Nuclear Material (Vienna, 3 March 1980) | Sovereign Order 12.093 of 28 November 1996 |
| Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988) | Sovereign Order 15.322 of 8 April 2002 |
| Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1 March 1991) | Sovereign Order 13.645 of 5 October 1998 |
| Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988) | Sovereign Order 13.323 of 8 April 2002 |

The provisions inherent in these international texts have either been incorporated in positive law or supplemented by the legislative or related provisions listed below:

| Title | Publication |
|--|------------------|
| Act No. 1.318 on terrorism | 29 June 2006 |
| Sovereign Order 633 amending Sovereign Order 15.321 of 8 April 2002 on procedures for freezing funds in order to combat terrorism | 10 August 2006 |
| Sovereign Order 15.320 on the suppression of the financing of terrorism | 8 April 2002 |
| Sovereign Order 16.615 amending Sovereign Order 11.160 of 24 January 1994 setting the conditions for application of Act No. 1.162 of 7 July 1993 as amended by Act No. 1.253 of 12 July 2002 relating to the participation of financial undertakings in countering money laundering, as amended by Sovereign Order 15.453 of 8 August 2002 | 11 January 2005 |
| Sovereign Order 15.319 implementing the International Convention for the Suppression of the Financing of Terrorism adopted at New York on 9 December 1999 | 8 April 2002 |
| Sovereign Order 15.453 amending Sovereign Order 11.160 of 24 January 1994 setting the conditions for application of Act No. 1.162 of 7 July 1993 as amended relating to the participation of financial undertakings in countering money laundering and the financing of terrorism | 8 August 2002 |
| Sovereign Order 16.552 creating a liaison committee for countering money laundering and the financing of terrorism | 20 December 2004 |
| Sovereign Order 15.321 on procedures for freezing funds in order to combat terrorism | 8 April 2002 |
| Sovereign Order 632 amending Sovereign Order 11.160 of 24 January 1994 setting the conditions for application of Act No. 1.162 of 7 July 1993 as amended by Act No. 1.253 of 12 July 2002 relating to the participation of financial institutions in countering money laundering, as amended by Sovereign Order 16.615 of 11 January 2005 | 10 August 2006 |
| Sovereign Order 15.454 amending Sovereign Order 11.246 of 12 April 1994 constituting a <i>Service d'Information et de Contrôle sur les Circuits Financiers</i> (Financial Circuits Information and Control Department - SICCFIN) | 8 August 2002 |
| Sovereign Order 15.655 implementing various international treaties relating to the fight against terrorism | 7 February 2003 |
| Sovereign Order 631 implementing article 10 (a) of Act No. 1.162 of 7 July 1993 relating to the participation of financial undertakings in countering money laundering and the financing of terrorism | 10 August 2006 |
| Act No. 1.253 amending Act No. 1.162 of 7 July 1993 relating to the participation of financial undertakings in countering money laundering | 12 July 2002 |

In accordance with the above-listed provisions, Monegasque law on terrorism covers ordinary offences which are deemed to constitute terrorist acts if they are “committed intentionally in connection with an individual or collective enterprise directed against the Principality of Monaco or any other State or against an international organization and are intended, through intimidation or terror, either to threaten, damage or destroy their political, economic or social structures or to seriously disturb public order” (art. 391-1).

Such acts include:

- Attacks on the internal security of the State
- Felonies liable to disturb the State
- Felonies and misdemeanours against public order
- Felonies and misdemeanours against persons and property relating to: intentional homicide (arts. 220 to 223 and 226 to 228); threats (arts. 230 to 232); intentional assault (arts. 236 to 238 and 240 to 249); sexual offences (arts. 261 to 263, 265 and 266); and illegal arrest and confinement (arts. 275 to 278)
- Felonies and misdemeanours against property concerning: theft (arts. 309 to 319 and 325); extortion and blackmail (art. 323); and handling stolen goods (arts. 339 and 340)
- Fire, destruction, degradation and damage (arts. 369 to 377, 380 to 382, 385, 386 and 389)

If they constitute terrorist acts, such offences incur the aggravated penalties referred to in article 391-2, as follows:

- (1) Where the offence is punishable by imprisonment of 10 to 20 years, the penalty shall be imprisonment for life;
- (2) Where the offence is punishable by imprisonment of 5 to 10 years, the penalty shall be imprisonment for 10 to 20 years;
- (3) Where the offence is punishable by imprisonment of less than five years, the maximum sentence of imprisonment shall be doubled and any fine may be multiplied by five.

The following may also be mentioned:

- The offences set forth in Act No. 913 of 18 June 1971 on arms and ammunition and the offences set forth in international conventions enforceable in the Principality of Monaco relating to rules on explosives, materiel, weapons and munitions of war.
- Subjecting a person to torture or barbarous acts.

- Providing the perpetrator or accomplice of a terrorist act as defined in articles 391-1 to 391-8 with accommodation, a place of refuge, subsidy, means of existence or any other means of escaping detection or arrest. However, lineal parents and their spouses and siblings and their spouses of the perpetrator or accomplice of a terrorist act are not liable to prosecution.

Monegasque law also combats “ecological” terrorism. According to article 391-4 of the Criminal Code, “the fact of knowingly introducing or releasing into the atmosphere, the soil, the subsoil or the water, including territorial waters, any substance or product that may endanger human or animal health or the safety of the natural environment shall constitute a terrorist act”.

Criminal procedure in matters of terrorism does not constitute an exception to the general law, so that persons arrested, prosecuted, convicted and imprisoned enjoy the same procedural rights and guarantees as general law offenders.

It is nevertheless worth mentioning the provisions of the “Justice and Liberty” Act No. 1.343 of 26 December 2007 amending certain provisions of the Code of Criminal Procedure. The new article 60-4 of the Code of Criminal Procedure provides that no person may be held in police custody for more than 24 hours, subject to a further extension of 24 hours if authorized by a judge in charge of liberties, and includes many guarantees that protect human rights:

- Persons held in custody must be informed of their rights (and supplied with a copy of any relevant texts and translations where necessary)
- They must be informed of the facts that have given rise to the investigations concerning them and the type of offence with which they are charged
- They are entitled to call a relative
- They are entitled to be examined by a doctor
- They are entitled to consult a lawyer
- They are entitled to the assistance of an interpreter or, in the case of persons suffering from a disability that prevents them from communicating, to the assistance of a qualified person able to master the language or other means of communicating with the person in custody

According to article 60-4 (6), custody may be extended by a further 48 hours in cases where “the investigations concern either the laundering of a gain derived from an offence as referred to and penalized in articles 218 to 218-3 and 219 of the Criminal Code, or an infringement of the law on narcotics, or offences against the safety of the State, as referred to and penalized in articles 50 to 71 of the Criminal Code, or any offence to which this section applies according to the law”.

Nevertheless, in order to extend custody, the State prosecutor or investigating judge must obtain the consent of the judge in charge of liberties, who is a judge appointed by the president of the court of first instance. The decision must be notified to the person held in custody prior to expiry of the first 24-hour period. Except as regards the possibility of extending the period of custody, all provisions and guarantees apply in the same way as in cases of terrorism.

Lastly, regarding the freezing of funds belonging to terrorist organizations or persons, it is worth noting Sovereign Order 1.674 of 10 June 2008 amending Sovereign Order 15.321 of 8 April 2002 on procedures for freezing funds in order to combat terrorism, as amended by Sovereign Order 633 of 10 August 2006.

According to that law, authorization “to release or use frozen funds or economic resources” may be granted provided that the funds or economic resources concerned are:

- Needed for basic expenses, including payments for foodstuffs, rents or mortgages, medicines and medical treatment, taxes, insurance premiums and public utility charges
- Intended exclusively for the payment of reasonable professional fees or the reimbursement of expenses incurred for legal services
- Intended exclusively for the payment of fees or service charges for the current management of the frozen funds or economic resources” (see article 5)

Lastly, it may be recalled that article 66 of the Criminal Code - in conjunction with articles 56, 57, 61 and 65 of that code - penalizes recruitment operations if these constitute a threat to the life or person of the Sovereign Prince, the lives of members of his family, or to the internal security of the State, or may cause unrest in the State through civil war.

Question No. 7

For private sector employment, the relevant information is given in the tables of annexes 1 to 6.

Monegasque women are reasonably well represented in elected assemblies and in the Government:

In the Communal Council: women occupy 4 out of 10 seats.

In the National Council (Parliament): women occupy 6 out of 24 seats, equivalent to 20 per cent of the total, which is in line with the world average.

In Government: there are only very few members holding ministerial rank (five), which explains why there are no women currently holding any of those positions. This depends on circumstances, however, and there are no discriminatory rules in that respect. At the same time, women do occupy many positions as heads of departments (equivalent to ministers in larger countries) in the following services:

- Diplomatic and Consular Relations Department
- Budget and Treasury Department
- International Affairs Department
- Economic Expansion Department
- Administrative Information Centre
- Supervisory Commission for Personal Data
- Education, Youth and Sport Department
- Administration of Estates
- Financial Systems Information and Supervision Department
- Health and Social Affairs Department
- State Medical Services Department

It is also worth noting that women preside over the courts dealing with civil, commercial and criminal matters, namely the District Court, the Court of First Instance and the Court of Appeal.

Question No. 8

It may be pointed out in the first place that domestic violence does not give rise to separate offences. The provisions of the Criminal Code concerning homicide, intentional assault and battery and violence do not distinguish according to the status of the victim (gender or marital connection with the perpetrator).

To date the Principality of Monaco has not adopted any specific legislation on domestic violence against women. However, domestic violence is already punishable under the provisions concerning intentional assault and battery (articles 236-249 of the Criminal Code), where the choice of sentence will take account of the domestic nature of the violence.

Nevertheless, draft legislation on combating domestic violence was adopted by the National Council in public session on 28 April 2008 and is currently being considered by the Government with a view to being tabled as a bill.

As far as statistics are concerned, for the legal year 2007/2008 (running from 1 October to 31 August 2008) 83 proceedings were initiated for intentional assault and battery, only 4 of which concerned cases of domestic violence. One case led to a reminder of the law and was then shelved. Another case was referred to the Court of Summary Jurisdiction, and a third case led to a direct summons to appear before the Criminal Court. Lastly one complaint was lodged on 13 August 2008 and is currently being investigated by the competent court.

Question No. 9

Act No. 1.278 of 29 December 2003 amending certain provisions of the Civil Code establishes equality between spouses in the home and allows both together to agree on the choice of their place of residence.

According to article 187 of the Civil Code, 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 risks for the family, the guardianship judge may, even of his own accord should it be in the best interest of the child, decide 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. Whichever spouse refuses may have such an act annulled. The annulment action may be initiated in the same year that the spouse has knowledge of the act, but never more than one year after the cancellation of the couple's matrimonial property contract.

Question No. 10

It may be recalled that since the passing of Act No. 1.276 of 22 December 2003 amending Act No. 1.155 of 18 December 1992 on nationality, there are no more restrictions preventing women who have acquired Monegasque nationality by naturalization from transmitting their nationality to their children.

Question No. 11

At present abortion is forbidden under article 248 of the Criminal Code. Moreover, under article 323 of the Civil Code a conviction for abortion constitutes grounds for the withdrawal of parental authority. These provisions are not applied in practice, however, as they are considered obsolete.

A draft law is currently being prepared by the Prince's Government, with three objectives:

- To set up a centre to be known as the Prenatal Coordination and Family Support Centre in order to provide pregnant women and their families with the information and support they need to deal with the many physical, psychological and social difficulties which they may have to face throughout the pregnancy and at the time of childbirth
- To amend article 248 of the Criminal Code so as to decriminalize abortion for medical reasons if practised under certain strictly established circumstances, such as: in cases where the pregnancy places the life or physical health of the pregnant woman at risk; where prenatal examinations and other medical data indicate a strong likelihood of serious, irremediable disorders or an incurable life-threatening condition for the foetus;

where 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 start of the pregnancy

- To amend article 323 of the Civil Code to ensure that a convicted father or mother may no longer be deprived of parental authority on the grounds that their conviction was due to an illegal abortion

Question No. 12

A new Title IV bis on Police Custody, introducing new articles 60-1 to 60-12, has been added at the end of article 60 of the Code of Criminal Procedure by the Justice and Liberty Act No. 1.343 of 26 December 2007 amending the Code of Criminal Procedure.

According to article 60-4, a person may not be held in police custody for more than 24 hours, which is extendable for a further 24 hours; in other words a person may not be held in police custody for more than 48 hours altogether. Either the State prosecutor or the investigating judge must apply to the judge in charge of liberties (*juge des libertés*) for authorization to extend the period of custody.

It is further specified that the decision of the *juge des libertés* must be notified to the person concerned prior to expiry of the initial 24-hour period.

Articles 60-5 to 60-11 stipulate the rights allowed to persons held in custody, such as being informed of their rights and the act and type of offence for which they are being remanded, informing relatives of their detention, undergoing a medical examination and being assisted by a lawyer or an interpreter (see replies to question 6 above).

Question No. 13

There are no plans at present to set up a detention centre specifically for juveniles within the Principality in the light of the limited size of its territory and statistics that indicate that very few minors are ever detained, and then only on average for very short periods.

Minors are detained only exceptionally and should the case arise they are held in reserved quarters and enjoy special conditions of imprisonment.

With regard to cultural activities and educational support, minors in detention under 16 years of age must attend classes given by a teacher approved by the Directorate of Judicial Services. In addition they are supplied, either on the occasion of family visits or by the social worker in conjunction with the prison authorities, with homework assignments and school courses issued by the Monegasque or French school with which they are registered during their imprisonment.

Homework completed in detention is then returned to the teachers concerned, so that the minors' schooling is not interrupted. Minors in detention over the age of 16 may opt either to continue their schooling with the above arrangements or to follow correspondence courses (AUXILIA) with the help of the social worker.

Minors held in detention are given priority access to CD players and educational CDs purchased by the social worker.

According to the prison records, in the last 16 years (from 1 January 1990 to 30 December 2006), 16 minors under the age of 16 were held at the Monaco prison centre:

- One aged 13
- Two aged 14
- Thirteen aged 15

Their period of imprisonment varied between 2 days and a maximum of 40:

- 2 to 7 days' detention: 4 minors
- 8 to 20 days' detention: 9 minors
- 20 to 40 days' detention: 3 minors

Question No. 14

The penalty of banishment has not been applied for decades and should be withdrawn when the current reform of the Criminal Code has been completed.

Question No. 15

As far as the presumption of innocence is concerned, the draft law amending the Code of Criminal Procedure has not been adopted in its entirety. Thus the provisions concerning the presumption of innocence included in the preambular article of the draft have not yet been formalized. The general legal principle involved is, however, routinely applied in Monaco.

A new article 60-9, according to which any person held in police custody may consult a lawyer, has now been added to the Justice and Liberty Act No. 1.343 of 26 December 2007 amending the Code of Criminal Procedure.

If the person is unable to appoint a lawyer or if the chosen lawyer cannot be contacted, a lawyer may be designated by the President of the Court in accordance with a roll-call decided by the President of the Bar Association.

According to the law, the conditions of the interview with the lawyer must be confidential but must not exceed one hour.

In the event that the period of police custody is extended, as soon as the new period starts the person may request an interview with a lawyer, in the conditions and according to the arrangements outlined above.

Question No. 16

The Government has begun preparing a draft law on public security, which will have the effect of considerably extending the right of peaceful assembly to all persons under Monegasque jurisdiction.

Prior notice must be given of any meeting held in public places in order to ensure that the necessary security conditions are met and that it is materially possible to hold the meeting.

This approach would not require any formal amendment of article 29 of the Constitution, as a law is considered sufficient in order to introduce these changes.

Question No. 17

The draft law amending the legislation on freedom of association and establishing the principle of the freedom to set up such legal entities by declaration has not yet been adopted by the National Council but should be before long.

According to the new draft law, associations may be created in the Principality of Monaco merely by sending a declaration to the Ministry of State, with a copy of the articles of the association concerned.

The Administration would only need to check that the draft articles comply with the law and that the planned legal entity does not pursue any purpose which is contrary to the public order or is of a sectarian nature.

Question No. 18

All differences between the rights of legitimate children and those of children born out of wedlock were abolished by Act No. 1.278 of 29 December 2003, as follows:

- With regard to non-proprietary rights, article 227 of the Code now stipulates that children born out of wedlock shall enjoy the same rights and obligations as legitimate children as far as their non-proprietary relations with their father and mother are concerned
- With regard to succession rights, articles 614 to 627 of the Civil Code have introduced the principle of equality by abolishing and replacing the former provisions of articles 628 to 648 of the Civil Code, thus putting an end to any difference of treatment between legitimate children and natural children or children born out of wedlock or of an incestuous relationship

Question No. 19

In addition to what was said in the second and third periodic reports of Monaco, the Principality has also become party to the following treaties:

- International Convention for the Suppression of the White Slave Traffic, Paris, 4 May 1910
- Slavery Convention, Geneva, 25 September 1926
- Protocol amending the Slavery Convention, New York, 7 December 1953
- United Nations Convention against Transnational Organized Crime, New York, 15 November 2000
- Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, New York, 15 November 2000

In addition, article 21 of Act No. 1.299 on freedom of public expression of 15 July 2005 gives a definition of defamation. In article 24 it adds aggravating circumstances in the case of racist or xenophobic remarks and in article 25 penalizes specific insults:

- Article 21 - definition of defamation: “Defamation is any allegation or imputation of a fact which adversely affects the honour or consideration of the person, or group of interrelated persons in the meaning of article 24, or the body to which the fact is attributed”
- Article 24 - aggravating circumstances in the case of racist or xenophobic remarks: “defamation by the same means directed against a person or group of persons on account of their real or presumed membership or non-membership of a particular ethnic group, people, race or religion, or on account of their real or presumed sexual preference, shall be punishable by imprisonment of between one month and one year and the fine stipulated in article 26 (3) of the Criminal Code, or only one of these two penalties”
- Article 25 - insults: “Insults by the same means directed against a person or group of persons on account of their origin or real or presumed membership or non-membership of a particular ethnic group, people, race or religion, or on account of their real or presumed sexual preference, shall be punishable by imprisonment of between six days and six months and the fine stipulated in article 26 (3) of the Criminal Code, or only one of these two penalties

The Government of Monaco is currently considering ways and means of extending the scope of Monegasque legislation by introducing further types of discrimination in the Criminal Code, adding a general definition of racial discrimination and recognizing the perpetration of racist or xenophobic offences as aggravating circumstances.

Monegasque criminal law, in addition to recognizing forms of discrimination, will take into consideration, for the purpose of determining penalties, any racist motive for offences as an aggravating circumstance. This means that provisions will be added to the Criminal Code introducing a new aggravating circumstance and penalizing offences more severely in such cases.

Question No. 20

The draft law on sport, which has priority status, is still under consideration by the Administration. The new law is specifically intended to repress racist attitudes and expressions under the following draft provisions:

- Article 80: “It is equally forbidden to introduce, wear or display in sports grounds, during a sporting event, any badges, signs or symbols representing a racist, xenophobic or sectarian ideology
- Any person contravening these rules shall be punishable by three months to one year’s imprisonment and to the fine stipulated in article 26 (4) of the Criminal Code, or only one of these penalties
- Any attempts to commit the offences mentioned in paragraph 1 of this article shall be liable to the same penalties”

Draft law No. 818 “on computer-related offences”, tabled before the National Council on 10 October 2006, is currently being considered by the High Assembly. It should add a new article 234-1 to the Criminal Code, according to which: “If directed against a person or group of persons on account of their origin or real or presumed membership or non-membership of a particular ethnic group, people, race or religion, the threats referred to in article 230 shall be punishable by imprisonment of between two and five years and by the fine stipulated in article 26 (4), those referred to in articles 231 and 232 by imprisonment of between one and five years and by the fine stipulated in article 26 (4), those referred to in article 233 by imprisonment of between six months and three years and by the fine stipulated in article 26 (3), and those referred to in article 234 by imprisonment of between six months and three years and by the fine stipulated in article 26 (3)”.

Some provisions of this draft law, however, have been “extracted” from the draft and already included in the existing criminal law. Thus a new article 294-7 has been added to Act No. 1.344 of 26 December 2007, on stiffer penalties for crimes and offences against children, worded as follows: “The act of manufacturing, producing, transporting or disseminating by any means whatsoever and by whatever medium a message of a violent or pornographic nature or one that is likely to cause grave injury to human dignity, or of marketing such a message, shall be punishable by imprisonment of between six months and two years and by the fine stipulated in article 26 (3) if the message is directed at minors. Attempted offences of the same kind shall incur the same penalties.”

Furthermore, in positive law, article 12 of Act No. 1.165 of 23 December 1993 provides that: “The collection, recording and use of information disclosing opinions or political, racial, religious, philosophical or trade union affiliations shall be prohibited, unless the person concerned has given his or her written or express consent. That person may, at any time, withdraw that consent and require the author or user of the file to destroy or delete all data concerning him or her.”

Question No. 21 (see annex 7)

All judges practising in Monaco, whether of Monegasque or French nationality, are given the same initial and further training, as delivered by the National School of Magistracy (a French school for the training of judges).

This training naturally covers the subject of human rights, with an introduction to international human rights instruments (including the 1966 Covenants) and issues related to their application.

In addition, the Judicial Services Department regularly holds talks or seminars, some of which are intended to create awareness of these issues among judicial staff and to broaden their field of knowledge, especially with regard to the European Convention on Human Rights, its application and the case law of the European Court of Human Rights and Fundamental Freedoms (see attached list).

In the course of the training given to police officials on the protection of civil and political rights, they are introduced to these fundamental principles, which are unanimously recognized and defended in any State observing the rule of law, in courses delivered at the Recruitment and Training Centre of the Administration and Training Division. This instruction is given throughout initial training, i.e. for a period of one year, for all students, whether police officers, lieutenant-inspectors or police social workers.

These staff also regularly attend courses on criminal law, which include consideration of such themes as the principle of lawfulness, whereby the law determines the limits of freedom and lists and fixes penalties, in the light of the requirements of public order. The contents of these law courses clearly reflect the fact that the Criminal Code protects personal integrity against serious violations, such as murder, assassination, rape, or intentional assault and battery.

Emphasizing this criminal law aspect of police work, new recruits, whose progress is subject to a process of continuous monitoring in order to open the way to promotion from the status of student to that of intern, are constantly being reminded of the fundamental human rights they are responsible for enforcing, which consist in protecting the physical integrity of persons at all times, since no derogation is allowed even in exceptional circumstances, until these values are built up into the fundamental principles intrinsically recognized in the Monegasque Constitution (Title III "Fundamental rights and liberties", articles 17 to 32).

Trainees are told about the characteristics of Monegasque law compared to the French legal system. Monaco's Constitution in fact makes direct reference to the importance of individual rights and liberties, which in the case of France are referred to only in the preamble to the Constitution, which shows how deeply the Principality is attached to these universal values (Constitution, Title III, articles 17 to 32).

Where the detention of persons on police premises is concerned, new recruits are taught the need for the strictest application of the rules contained in the Code of Criminal Procedure and the Constitution, as well as respect for the principle of the presumption of innocence, which enjoys constitutional status.

The students are also taught that the Prosecutor's Office must be informed immediately of the occurrence of any crime or offence detected in the act, which might lead to a remand in custody; this possibility is now explicitly referred to in the Monegasque Code of Criminal Procedure, which specifies precisely all the rights enjoyed by persons placed in police custody.

In the course of their training, recruits are also reminded of the content of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which forbids any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

These and other lessons regarding respect for fundamental human rights which the students are taught lead on to the general theme of police ethics, for which the protection of physical integrity is a resurgent topic.

In accordance with a constant policy of optimizing staff training, whether initial or ongoing, a code of police ethics has now been drafted and should soon be submitted to the authorities.

This document will provide a written reference, explicitly setting out the obligations and duties of all police officials, especially with regard to the protection of fundamental liberties, within the framework of a strict application of the provisions of the United Nations Convention of 10 December 1984, of which the Principality of Monaco is a signatory.

Question No. 22

In view of the small size of the Principality and currently available administrative and judicial remedies, such organizations could not be expected to play a useful part.

Question No. 23

Information on the provisions of the Covenant is disseminated in the course of the training given to judges and police officials, according to their particular duties and attributions.
