



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

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COMMITTEE AGAINST TORTURE  
Thirty-ninth session  
Geneva, 5-23 November 2007

**List of issues to be taken up in connection with the consideration  
of the fourth periodic report of MONACO\***

**Article 1**

1. Further to the Committee's conclusions and recommendations (CAT/C/CR/32/1), please indicate whether the Principality of Monaco has taken measures to include in its domestic law a definition of torture that is consistent with article 1 of the Convention (para. 5 (a)).

**Article 2**

2. Please inform the Committee of the measures taken to include in domestic law a prohibition on the invocation of exceptional circumstances or orders received from a superior officer or public authority as a justification of torture (para. 5 (b)).

**Article 3**

3. Further to the concerns expressed by the Committee, please indicate whether measures have been taken to strengthen the guarantees provided in domestic law regulating the expulsion and return (refoulement) of foreigners, in conformity with article 3 of the Convention (para. 4 (c)). Please indicate whether these measures prohibit the extradition, return or expulsion of a person to a State where he or she would be in danger of being subjected to torture and whether an appeal to the Supreme Court automatically has suspensive effect (para. 5 (c)).

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\* The present list of issues was adopted by the Committee at its thirty-ninth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

4. Please indicate whether the Principality has taken or intends to take measures to facilitate access to the procedures for requesting refugee status, which are currently tied to French procedures.<sup>1</sup>

5. With regard to the practice of non-justification of administrative decisions relating to the expulsion of foreigners, please inform the Committee whether the draft law which would establish the right to justification of administrative decisions has been adopted and whether it has been applied in cases involving the return (refoulement) of foreigners.<sup>2</sup>

6. Please provide data, disaggregated by age, sex and ethnic group, for 2006 and 2007, on:

(a) The number of asylum requests registered;

(b) The number of asylum requests approved;

(c) The number of applicants whose requests were granted because they had been tortured or might be tortured if they were returned to their country of origin;

(d) The number of forcible deportations or expulsions (please indicate how many of them involved rejected asylum-seekers);

(e) The countries to which these persons were expelled.

#### **Article 4**

7. The Committee has expressed its concern at the narrow scope of articles 228 and 278 of the Monegasque Criminal Code, which relate only to murder committed by means of acts of torture or accompanied by acts of cruelty (para. 4 (d)). Does the Principality of Monaco intend to amend its laws in order to punish all acts of torture and attempted torture?

#### **Articles 5, 6, 7 and 8**

8. Please indicate whether the legislative framework of the State party establishes its jurisdiction over acts of torture when the alleged offender is present in any territory under its jurisdiction, in order to extradite him or her or to institute criminal proceedings, in accordance with the provisions of the Convention. Please indicate whether the Principality can bring proceedings against any individual for acts of torture committed abroad, including in cases where the act of torture is not punishable under the laws of the country where it was committed.

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<sup>1</sup> See the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.158), para. 38.

<sup>2</sup> See the comments by the Government of the Principality of Monaco on the concluding observations of the Human Rights Committee (CCPR/CO/72/MCO/Add.1), para. 9.

## Article 10

9. Please indicate the measures that have been taken to introduce human rights programmes for the police, and provide detailed information on training in this area for members of the judiciary and other civil servants. Please also specify whether the prohibition of torture is included in the training given to the staff of the Monegasque short-stay prison (*maison d'arrêt*).<sup>3</sup>

## Article 11

10. Please describe the procedures in force to ensure conformity with article 11 of the Convention, including the rules on the conduct of interrogations, and provide information on the rules, instructions, methods and practices or arrangements relating to police custody. Please also indicate how often these procedures are revised.

11. Please indicate the measures taken to incorporate the principle of the presumption of innocence into Monegasque legislation. Please also provide information on its application and its implications with regard to remand in custody.<sup>4</sup>

12. Please provide information on the legislative and administrative measures taken by the State party to ensure respect for the basic legal safeguards that protect persons detained by the police, including the right to have access to a lawyer at the outset of the first police interview, the right to a medical examination and the right to contact next of kin (para. 5 (d)). Please also provide information on any restriction that may be applied to these rights and the justification for such a restriction.

13. Further to the Committee's recommendations, please also provide fuller information on the system of legal aid for persons remanded in custody, especially minors, foreigners and persons with disabilities, and, in particular, the right to have access to a lawyer and to talk to a lawyer in private (para. 5 (d)).

14. Please indicate the measures adopted to regulate the use of registers in police premises in conformity with the relevant international agreements, particularly the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (para. 5 (e)).

15. Please provide detailed information on the measures that the Principality of Monaco has taken to monitor the conditions of detention of its prisoners in French penitentiaries (para. 5 (f)).

16. Please update the Committee on the review conducted to consider the possibility of transferring to countries other than France prisoners convicted by Monegasque courts who wish to serve their sentence in their State of origin.<sup>5</sup>

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<sup>3</sup> Concluding observations of the Human Rights Committee (CCPR/CO/72/MCO), para. 22.

<sup>4</sup> Ibid., para. 14.

17. Please provide statistics on the prison population in the Monaco short-stay prison and prisoners convicted by Monegasque courts and detained in penitentiaries in France, disaggregated by sex, nationality, offence and length of sentence.

### **Articles 12 and 13**

18. Please indicate whether specific mechanisms are in place to receive complaints against law enforcement officers for ill-treatment during arrests, interviews or remand. Please indicate the number of cases, disaggregated by offence, where legal or administrative penalties were imposed on law enforcement officers for ill-treatment of persons in detention.

19. Please provide information and statistics on the number of prosecutions and convictions, since the consideration of the State party's second periodic report (CAT/C/38/Add.2) in 2004, for offences involving ill-treatment, acts of torture, trafficking in human beings, domestic violence or violence between prisoners and any other offences under the Convention.

20. Further to the Committee's recommendations, please indicate whether the Principality of Monaco is notified of complaints about torture and other cruel, inhuman or degrading punishment or treatment inflicted on Monegasque prisoners in French penitentiaries (para. 5 (f)).

### **Article 14**

21. Please provide detailed information on the provisions of domestic law relating to the right of victims of torture and their family members to redress, including compensation and medical and psychological assistance. Please provide information, where appropriate, on the number of cases in which compensation has been awarded to victims, the nature of the redress, including rehabilitation measures, and any other relevant information.

### **Article 16**

22. Please provide information on the procedures in place to prevent the excessive use of force by the forces of law and order, including the use of shackling, even during a medical examination.

23. Please indicate the measures that the State party has adopted to prohibit the practice of corporal punishment in the family. Please also provide detailed information on action taken to inform the public, law enforcement officers and teachers about children's rights in this regard and to encourage the use of alternative forms of discipline consistent with the child's human dignity.<sup>6</sup>

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<sup>5</sup> Response of the Government of the Principality of Monaco to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT/Inf (2007) 21), p. 19.

<sup>6</sup> CRC/C/15/Add.158, para. 27.

24. Please provide information on the safeguards applied to prevent cruel, inhuman or degrading treatment in orphanages, psychiatric centres and other public institutions.

25. Please provide updated information on any new legislation or measures adopted to prevent and combat trafficking for the purposes of sexual exploitation, especially of women and children, and to assist victims, including by raising awareness among law enforcement officers who have contact with these persons.

**Other**

26. Please indicate the measures taken to ratify the Optional Protocol to the Convention. Please also indicate whether measures have been taken to establish or designate a national mechanism to conduct periodic visits to places of detention in order to prevent torture or cruel, inhuman or degrading treatment.

27. Please indicate whether the State party plans to establish an independent national human rights institution, in accordance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights.

28. Please indicate whether the State party plans to ratify the Rome Statute of the International Criminal Court.

29. Please indicate whether Monegasque legislation prohibits the production, export and use of material designed specifically for carrying out acts of torture or other cruel, inhuman or degrading treatment.

30. Please provide information on the legislative, administrative and other measures that the State party has taken to respond to terrorist threats, and describe how these measures may have affected human rights safeguards in law and practice. In this respect, the Committee recalls Security Council resolutions 1456 (2003), 1535 (2004), 1566 (2004) and 1624 (2005), in which the Council reiterates that States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law. Please describe the relevant training given to law enforcement officers, and indicate the number and type of convictions under the relevant legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of any such complaints.

31. Please provide information on:

- (a) Any legislative and institutional change since the consideration of the State party's second periodic report which has affected the implementation of the Convention in the State party, notably the reform of the Criminal Code and the Code of Criminal Procedure to bring them into line with European human rights standards, and any change which has or might have repercussions with regard to the implementation of the Convention;
- (b) Any relevant recent jurisprudence;

(c) Any new political, administrative or other measures to promote and protect human rights at the national level that have been taken since the second periodic report, including any national human rights plans or programmes, and the resources allocated to them, their means, objectives and results;

(d) Measures taken to implement the Convention and the Committee's recommendations since the consideration of the State party's second periodic report, and any difficulty which would prevent the State party from fully meeting its obligations under the present Convention.

32. Please provide information on the concrete steps taken to ensure that the Convention and the Committee's conclusions and recommendations are widely disseminated in the State party. What projects or programmes have been launched in cooperation with non-governmental organizations? Please indicate whether it is intended that non-governmental organizations should participate in drafting the periodic report.

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