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**MONACO**

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*Note.* This document is supplemented by an annex containing a series of quantified indicators relating to the principal demographic, economic and social characteristics set out in the form of tables and figures. The annex may be consulted in the offices of the High Commissioner for Human Rights.

## I. LAND AND PEOPLE

1. The Principality of Monaco, an independent and sovereign State, covers an area of 1.95 square kilometres, of which almost 0.40 square kilometres have been reclaimed from the sea over the past 30 years. The Principality is composed of a single city, Monaco, whose boundaries coincide with those of the State. The population is therefore 100 per cent urban. The territory of the Principality is largely surrounded by that of France, with one side open to the Mediterranean. Since the signing of the Franco-Monegasque convention of 16 February 1984, the territorial waters under the sovereignty of the Principality cover an area of 71 square kilometres, beyond which the maritime area (the continental shelf, over which Monaco has sovereign rights) extends along a corridor which is 3.160 kilometres wide and 88 kilometres long.
2. French is the official language, but Italian and English are also widely understood and spoken. The Monegasque vernacular, used by older inhabitants, is also taught to the younger generation at school; it may be studied as a baccalaureate option.
3. The apostolic Roman Catholic religion is the religion of the State, but article 23 of the Constitution guarantees freedom of worship. Hence Protestant, Anglican, Greek Orthodox and Jewish places of worship exist in the Principality.
4. Despite being a third country in relation to the European Union, the Principality was authorized to grant legal status on its territory to the euro on 1 January 1999, that is, at the same time as the other countries in the euro zone (decision of the Council of Ministers of the European Union dated 31 December 1998). Moreover, coins denominated in euros bearing a Monegasque design on one side are to be struck and will be legal tender in all the euro zone States.
5. At the last general population census, held in July 2000, the population of the Principality stood at 32,030 (15,544 males and 16,476 females), a 7 per cent increase over 1990. The population residing in Monaco has grown by over 31 per cent since 1968, and has doubled since the beginning of the century. The new neighbourhood of Fontvieille, on land reclaimed from the sea, has absorbed the bulk of this population increase, whereas the longer-settled neighbourhoods (Monaco-Ville and the Condamine neighbourhood) are experiencing very slight declines in the numbers of their inhabitants.
6. The population of the Principality is made up of some 120 nationalities. There are 6,089 Monegasques (19 per cent),<sup>1</sup> 10,229 French (32 per cent), 6,410 Italians (20 per cent) and 1,703 British (5.3 per cent). The Swiss, German, Belgian, Portuguese and North American (United States of America and Canada) communities are also well represented.
7. The number of persons of Monegasque nationality residing in Monaco has risen by almost 75 per cent over the past 30 years, from 3,489 in 1968 to 6,089 in 2000. The reasons for this large increase include the fact that, since 1992, any mother born with Monegasque nationality (or any naturalized Monegasque woman with a relative in the ascending line in the same branch who was born with Monegasque nationality) is able to pass the nationality on to her children (Nationality Act No. 1155 of 18 December 1992), the ability of any foreign woman

marrying a Monegasque to acquire Monegasque nationality by declaration, and the power of the Sovereign Prince to grant Monegasque nationality by naturalization. During this same period, the French community suffered a marked fall in numbers, from 13,424 in 1968 to 10,229 in 2000. More and more Italians live in the Principality: their numbers have risen by 68 per cent since 1968.

8. A breakdown of the population of Monaco by age group produces a spade-shaped pyramid (see annex). Life expectancy at birth stands at 78.4 (74.7 for men and 83.6 for women). In 2000, there were 7,181 persons aged over 65, constituting 22.4 per cent of the total population. This relatively high proportion has been stable for 30 years, as historically the Principality of Monaco has attracted well-off retired people. The proportion of young people aged between 0 and 14 is also stable, at 13.2 per cent. The fertility rate has remained unchanged for 10 years at 1.7 children per woman of child-bearing age. Young people aged 15-24 account for only 8 per cent of the population, and those aged 25-64 more than 56 per cent.

9. The main health indicators show that the Principality has achieved particularly satisfactory levels in this area:

(a) Life expectancy at birth close to the highest world levels (78.4);

(b) A gross mortality rate of 17 per thousand, with nearly 30 per cent of deaths due to cancer (28.3 per cent in 1999), over 40 per cent due to diseases of the circulatory system (44.2 per cent in 1999) and under 10 per cent due to diseases of the respiratory system (6.3 per cent in 1999);

(c) A mortality rate for children aged under 5 of 7 per thousand for girls and 9 per thousand for boys - levels similar to those in the industrialized countries.

10. As Monaco keeps no national accounts, economic activity is currently evaluated on the basis of the annual volume of business in the Principality. In 2000, this figure stood at 60.3 billion francs (9.2 billion euros). Wholesale and retail trade (37.5 per cent of the total volume of business in 2000), the banking and financial sector (20.8 per cent), the industrial sector (7.7 per cent) and the property, construction and public works sector (7.2 per cent) are the main areas of activity in the Principality. There are no statistics of per capita income for the reasons given above, but it should be pointed out that, in accordance with the provisions of Ministerial Order No. 63-131 of 21 May 1963, as amended by Order No. 84-101 of 6 February 1984, minimum levels of wages, bonuses and allowances of all kinds may not fall below those prevailing in the same occupations, businesses and industries in the neighbouring economic region for identical working conditions. Accordingly, the hourly rate of the minimum wage (SMIC) is revised on 1 July each year on a basis identical to that used in France - 42.02 francs (6.41 euros) per hour, or 7,101.38 francs (1,082.53 euros) per month, in 2000. Minimum pay must be increased by means of a special allowance of 5 per cent of the pay level. In practice, this 5 per cent addition is applied to all wages paid in the Principality.

11. The economically active population under the ILO definition (i.e. the employed economically active population plus the unemployed) is estimated to be 38,595 as at 31 December 2000. Since 1998, as a result of the resumption of sustained growth, the

working population has expanded considerably (6,000 additional wage earners, or 18.4 per cent more than on 31 December 1997). The unemployment rate, which has traditionally been low, stood at 3.6 per cent in 2000. The public sector employs 8.8 per cent of the working population, while the private sector accounts for the remaining nine tenths, with 35,168. Of the latter, 6,887 are resident in Monaco and 28,281 cross the border to work, mainly from adjoining communes in the French department of Alpes-Maritimes and in Italy (12 kilometres away). Men constitute 57.5 per cent of wage earners in the private sector and women 42.5 per cent. The tertiary sector (services) absorbs 82.5 per cent of manpower, while the secondary sector (industry) accounts for 17.4 per cent. The primary sector is almost non-existent, since the territory of Monaco is entirely urbanized apart from 39 hectares of parks and open spaces.

## **II. GENERAL POLITICAL STRUCTURE**

### **A. Survey of the political history of the Principality**

12. From the most ancient periods of prehistory and earliest antiquity, the Rock of Monaco and the natural harbour served as a refuge for the early populations, and later for navigators coming from the East. In the sixth century B.C., a Ligurian tribe lived in the region and is said to have given its name to Monaco. Following a period when Phoenicians were present, the Romans settled in the region between the second century B.C. and the fifth century A.D. They used the harbour at Monaco, which took the name of Portus Herculis Monoeci. Between the beginning of the sixth century and the end of the tenth century, the region suffered many invasions, and it was only in 975 that the Count of Provence succeeded in driving off the Saracens and opening up a new era.

13. In 1162, the Emperor Frederick I (Barbarossa) acknowledged the authority of Genoa over the Ligurian coast, as far as Monaco. The Genoese placed a settlement on the Rock and built a castle (1215), which became the border post on the Republic's western side. In 1270, a civil war in Genoa was fought between the Guelphs, who supported the Pope, and the Ghibellines, who supported the Holy Roman Emperor. Following the victory of the Ghibellines, many Guelph families, including the Grimaldis, went into exile.

14. Reacting to the exile imposed on them, some of the Guelphs took the castle of Monaco by surprise on 8 January 1297, under the leadership of François Grimaldi, known as "Malizia". This date marks the start of the Grimaldis' sovereignty over Monaco. In 1346 and 1355, the Grimaldis took over the seigniories and fiefs of Menton and Roquebrune. These seigniories, together with that of Monaco, were to constitute the territory of the Principality until 1861. The will of Jean I, who died in 1454, contained fundamental provisions which for five centuries formed the basis of the rules of succession in the house of Monaco. He laid down that the succession should take place within the direct legitimate line, in order of birth, priority being given to male descendants within the same degree of relationship. Women would be called upon only by default, and on condition that their descendants took the name and arms of the Grimaldis.

15. During the fifteenth century, the seigniorie was recognized by the Duke of Savoy, and in 1512 by the King of France, Louis XII, who recognized that Lucien, Lord of Monaco from 1481 to 1523, held the seigniorie of Monaco only "thanks to God and his sword". At that

time, any links of vassalage with Genoa disappeared. Alliances led the lords of Monaco to adopt a close relationship with France, to combat Naples, and to fall under the protection of Spain from 1524 to 1641, until, by the Treaty of Péronne (1641), King Louis XIII of France returned the Principality once and for all to the French sphere of influence, while reaffirming the freedom and sovereignty of the Prince of Monaco. The Treaty of Péronne allocated the fiefs of Valentinois, Carladès, Les Baux and Saint-Rémy to Prince Honoré II and his son. In December 1678, Louis I promulgated the legal rules governing the Principality, or *Code Louis*. During the French revolution, the Principality was joined to the Republic from 1793, under the name “Fort Hercule”, to 1814, when the Treaty of Paris restored the rights and prerogatives of the Grimaldis, and placed them under the protection of the King of Sardinia.

16. In 1848, Menton and Roquebrune declared themselves to be “free towns” and were placed under Sardinian protection. Sovereign rights over the two towns were to be ceded officially to France by Charles III in the treaty of 2 February 1861 signed with Napoleon III (when Monaco lost over nine tenths of its territory and six sevenths of its population), which once again guaranteed Monaco’s independence. Under secret articles in the treaty, the Prince committed himself and his heirs not to transfer any of his sovereign rights except to France, and to accept a protectorate only from France. Another clause in the treaty provided for a customs union between the two States, which was established in 1865. On 5 January 1911, Prince Albert I laid down a constitutional structure for Monaco for the first time, governing the organization of the authorities and the operation of its institutions.

17. On 17 July 1918 the “Treaty establishing the relations between France and the Principality of Monaco” was signed. Under this treaty, France ensures the defence of the independence, sovereignty and integrity of the territory of the Principality. In return, this sovereignty may be expressed only in full conformity with France’s political, military, naval and economic interests. Similarly, measures concerning the Principality’s international relations are always subject to prior agreement between the Government of the Principality and the Government of France. This treaty is currently being renegotiated.

18. On 9 May 1949, Prince Rainier III ascended to the throne. His reign has been among those which have most transformed the Principality. He intensified and diversified actions taken during the preceding three reigns, in the political, diplomatic, international, economic and social fields as well as in education and sport, health, science, culture and communication, and added an industrial dimension. On 17 September 1962, he promulgated a new Constitution, which enshrined the separation of powers and the rule of law. In 1993, he secured Monaco’s entry into the United Nations as a Member State.

## **B. The institutional framework**

19. The Principality of Monaco is a hereditary, constitutional monarchy. The primacy of the law in all institutions is recognized, and the separation of the major functions of the State is strengthened and refined. The current Constitution enshrines the sovereignty and independence of the Principality “within the framework of the general principles of international law and special conventions with France”.

20. The Constitution also states that “the Principality is a State under the rule of law committed to the respect of liberties and fundamental rights”. The latter are enumerated in section C.1 of chapter III and correspond to numerous rights set out in the principal international human rights instruments, in particular the 1948 Universal Declaration of Human Rights (see para. 78 below).

21. The Constitution may not be suspended. Any revision, in full or in part, requires the joint agreement of the Prince and the National Council, an elected assembly.

## **1. The executive**

### **(a) The head of State**

22. The Sovereign Prince is the head of the State of Monaco. Executive power derives from his high authority. Legislative authority is exercised jointly by the Prince and the National Council. Judicial authority is delegated by the Prince to the courts.

23. Succession to the Prince, which occurs following death or abdication, takes place within the direct legitimate line, in order of birth, priority being given to the male descendants within the same degree of relationship.

24. The Prince represents the Principality in its relations with foreign Powers. This takes the form of the expansion of Monaco’s diplomatic representation abroad - in 10 European States and international organizations (the United Nations and the European Union) - and consular representation (100 consular missions in 47 countries in Europe, Asia, Africa and North, Central and South America), as well as through foreign consular representation in Monaco (71 countries). The Prince may conclude bilateral agreements with foreign Powers in the field of cooperation, mutual assistance, extradition, individual sectors, and so on.

25. After consulting the Crown Council, the Prince signs and ratifies international treaties and conventions. He has also authorized Monaco to join a number of international organizations (see annexed list), and has encouraged international organizations of a scientific nature to establish offices in the Principality, such as the International Commission for the Scientific Exploration of the Mediterranean Sea, the International Hydrographic Organization and the International Atomic Energy Agency’s Marine Environment Laboratory, etc.

26. The Prince exercises the right to pardon and amnesty, as well as the right of naturalization, and confers honours and distinctions.

### **(b) The Government**

27. Government functions are performed, under the high authority of the Prince, by a Minister of State and three Government Councillors appointed by the Prince, who are answerable to him. The Minister of State and the Government Councillors make up the Government Council, which meets as a rule once a week. The Council is chaired by the Minister of State, who has a casting vote.

**(i) The Minister of State**

28. The Minister of State represents the Prince. He is in charge of the executive and the security forces. He issues the orders necessary for the implementation of laws and Sovereign Ordinances.

29. He also performs the functions of Director of Foreign Relations, under the immediate authority of the Prince, including in particular relations with foreign Governments and international organizations, the conduct of diplomatic negotiations, relations with Monaco's diplomatic and consular posts and foreign consular offices in the Principality. He coordinates the activities of the permanent missions of the Principality of Monaco at the United Nations in New York and the Office of the United Nations at Geneva. Through the machinery for international cooperation for environment and development, he also takes action in this area, principally in Mediterranean countries.

30. He is directly responsible for certain administrative services: supervision of expenditure, general secretariat services for the office of the Minister of State, disputes and legislative studies, the civil service, external relations and relations with the press.

**(ii) The Government Councillors**

31. The Government Councillors head the three ministerial departments, whose duties are as follows.

32. Department of the Interior: Public safety, nationality, religion, associations, education, youth and sport, cultural affairs, health and social affairs, and government supervision of the Commune and public institutions.

33. Department of Finance and the Economy: Budget, taxation, administration of State property, prices and economic surveys, commerce and industry, companies, industrial property, tourism, statistics and economic studies.

34. Department of Public Works and Social Affairs: Public works, maritime affairs, labour and social security, environment, town planning and construction, traffic, civil aviation, telecommunications, outsourced public services.

35. Each Government Councillor is assisted by a Director-General and a Secretariat and administrative services reporting to a Director or a Head of Service.

36. Civil servants are appointed by Sovereign Ordinance. Their fundamental obligations, rights and guarantees and their responsibilities are laid down in Civil Servants (Regulations) Act (No. 975) of 12 July 1975.

## 2. The legislature

### (a) The National Council

37. The National Council has 18 members, elected for a term of five years by direct universal suffrage by the list system. All persons of either sex aged no less than 21 who have possessed Monegasque nationality for at least five years are eligible to vote. Monegasque voters of either sex aged no less than 25 who have not been deprived of the right to stand for election on one of the grounds provided for in the National and Communal Elections Act (No. 839) of 23 February 1968 may stand for election.

38. The Prince may dissolve the assembly, after hearing the views of the Crown Council (see paras. 45 and 46 below). In such cases, new elections are held within a period of three months.

39. The National Council exercises legislative authority with the Prince. Each year, during the November session, it votes on the budget of the State. No direct taxation may be introduced except by decision of the Council or with its consent. The budget is voted and enacted in the form of a law. Monitoring of its implementation and of the financial management of the State, the Commune and the public institutions is ensured by a Higher Audit Commission.

40. The officers of the National Council, who are re-elected each year, are the Chair and the Vice-Chair, appointed by the assembly from among its members. The Minister of State and the Government Councillors attend the meetings of the assembly.

### (b) Acts and Sovereign Ordinances

41. Acts: Only the Prince may propose laws. However, the National Council has the right to submit proposed laws which, if accepted by the Government, are forwarded by the Government to the Prince for approval, in the form of bills. These bills are then submitted by the Minister of State to the National Council for discussion and vote. A process of cooperation then begins, within the committees of the assembly which proceed to study the bill, between the members of the National Council and the representatives of the Government. When the law has been voted, it has to be endorsed by the Prince, who may either enact it or refrain from doing so. It is enforceable against third parties from the day after its publication in the *Journal de Monaco* (the official gazette).

42. Sovereign Ordinances: After discussion in the Government Council, Sovereign Ordinances are submitted to the Prince, and become enforceable when he signs them. They may be enforced against third parties in the same way as laws, in other words, from the day after their publication in the *Journal de Monaco*.

43. Sovereign Ordinances are often instruments designed to specify the manner in which laws are to be implemented. They may also relate to matters falling under the exclusive competence of the Prince, as holder of executive authority, and in that case are not submitted for prior discussion by the Government Council. This relates to matters falling under the office of the Director of Judicial Services; the appointment of members of the Sovereign House and the

diplomatic and consular corps, the Minister of State and the Government Councillors, and members of the judiciary; the issue of *exequatur* orders to foreign consular representatives in Monaco; the dissolution of the National Council; and honorary distinctions.

44. Lastly, the Sovereign Ordinances make international treaties to which the Principality is a party enforceable in Monaco, or specify the terms for their implementation. The Prince has the power to initiate and conduct diplomatic negotiations, and, after consulting the Crown Council, ratifies international conventions signed by his plenipotentiaries. Only treaties having an impact on constitutional arrangements must be ratified by means of a law.

### **3. Consultative bodies**

#### **(a) The Crown Council**

45. The Crown Council is composed of seven members of Monegasque nationality, appointed by the Prince for a term of three years. The Chair and three members are directly nominated by the Prince, while the three others are appointed at the suggestion of the National Council, but may not be members of it. Meetings of the Council are called by the Prince at least twice a year.

46. The function of the Crown Council is to advise on issues placed before it by the Prince which relate to the higher interests of the State. It must be consulted concerning international treaties, the dissolution of the National Council, requests for naturalization or restitution of Monegasque nationality, pardons and amnesties. It may make suggestions to the Prince on matters which it has itself studied.

#### **(b) The State Council**

47. The State Council is chaired ex officio by the Director of Judicial Services and is composed of 12 members appointed by the Prince. Its task is to offer advice on draft legislation and sovereign ordinances, or any other draft instruments. The proposed State budget is submitted to it in cases where the National Council has not voted the necessary funds before 31 December and the Government has decided to carry over the funds corresponding to the services agreed during the previous financial period.

#### **(c) The Economic and Social Council**

48. The Economic and Social Council is composed of 30 members, appointed by Sovereign Ordinance for a term of three years: 10 proposed by the Government on the grounds of their competence, 10 selected from a list of 20 names drawn up by the associations of employees, and 10 selected from a list of 20 names drawn up by the associations of employers.

49. The members of the Council, who may be Monegasque or foreign nationals, must be at least 21 years of age and have lived in Monaco for at least five years. The Chair must be a Monegasque national. The Council is a consultative body and has the task of providing advice on social, financial, tourism-related, industrial and commercial issues of relevance to the economic life of the Principality.

#### **4. The Commune**

50. The territory of the Principality forms a single commune. It is administered by a Communal Council composed of 15 members elected for a term of four years by universal direct suffrage by the list system. Persons of at least 21 years of age who have possessed Monegasque nationality for five years may vote and stand for election. The Communal Council appoints a mayor and deputy mayors from among its members, to form the Municipality. It may be dissolved by the Minister of State by means of an order setting out the grounds for the decision, after consulting the State Council.

51. The areas of competence of the Commune include civil registration, public health, markets, festivities, sports and the administration of communal property. The Communal Council must be consulted on proposed town planning projects, the construction of certain buildings and the establishment or elimination of open spaces. It votes the budget of the Commune; in cases of excess expenditure, the sums required are entered in the State budget.

#### **C. The judicial framework**

52. Under the Constitution of 17 December 1962, judicial power vests in the Prince, who delegates its full exercise to the courts and tribunals and appoints judicial officers. The administrative, legislative and judicial branches are separate and the independence of judges is guaranteed (Constitution, art. 88).

53. The judicial system is a homogeneous and complete unit; it operates under the authority of the Director of Judicial Services, who ensures that justice is administered properly. The judicial system gives effect to the broad principles which are enshrined as fundamental rights and freedoms in the Constitution. The Constitution guarantees individual liberty and security. No one may be prosecuted except as provided for by law, before legally designated judges and in the manner prescribed. Other than in flagrante delicto, no one may be arrested except on the order of a judge stating reasons which must be presented at the time of arrest or within 24 hours at the latest. Detention must be preceded by questioning. No penalty may be established except as prescribed by law. Criminal laws - which may not be applied retroactively - must ensure respect for the human person and human dignity. No one may be subjected to cruel, inhuman or degrading treatment. The death penalty was abolished by the Constitution of 17 December 1962.<sup>2</sup>

##### **1. The Supreme Court**

54. The Supreme Court is composed of five regular members and two alternates appointed by the Prince on the basis of nominations by the National Council, the Crown Council, the State Council, the Court of Appeal and the Court of First Instance. The Supreme Court monitors respect for the rights and freedoms enshrined in the Constitution.

55. In constitutional matters, the Supreme Court delivers decisions of last resort on petitions for annulment, petitions to review validity and actions for damages arising from violations of these rights and freedoms.

56. In administrative matters, the Supreme Court delivers decisions of last resort in:

(a) Proceedings for annulment of ultra vires decisions taken by various administrative authorities or Sovereign Ordinances to enforce laws, and the award of related damages;

(b) Appeals by way of cassation against decisions of last resort taken by administrative courts;

(c) Appeals for interpretation and petitions to review the validity of decisions of various administrative authorities or Sovereign Ordinances to enforce laws.

## **2. Civil and criminal courts**

### **(a) Justice of the Peace**

57. The Justice of the Peace tries cases alone; he is the first rung of the judicial hierarchy. In civil cases, he deals with the least important disputes, where the amount at issue is relatively modest. In criminal cases, in his capacity as a judge exercising summary jurisdiction, he deals with the least serious (petty) offences, which attract relatively light penalties.

### **(b) Court of First Instance**

58. This court sits as a bench comprising a president and two other judges. In civil, commercial and administrative cases, the Court of First Instance applies ordinary law, thereby exercising the most general competence. In criminal cases, it deals with misdemeanours and hands down the appropriate penalties. The President also presides over the urgent applications court.

### **(c) Court of Appeal**

59. In accordance with the principle of two-tiered jurisdiction, a fundamental guarantee for persons on trial, the Court of Appeal is the ordinary law court of second instance. It hears appeals against judgements handed down by the Court of First Instance in civil, commercial, administrative and criminal cases. The Court comprises a President, a Vice-President and other judges.

### **(d) The Criminal Court**

60. The function of the Criminal Court is to try the most serious offences (crimes). It comprises three judges and three additional judges selected by rotation from a list of Monegasques drawn up every three years by ministerial decree.

### **(e) The Court of Judicial Review**

61. This Court is competent to examine any judicial decision of last resort; its purpose is not to rule once again on the facts, but to state the law after examining whether decisions referred to it have correctly applied the law. If so, it rejects the appeal. If not, the decision is set aside.

In civil proceedings the Court then substitutes its own judgement. Criminal cases are remitted to the court which handed down the original judgement, with the stipulation that the case be retried by new judges if necessary.

### **3. Specialized courts**

#### **(a) The Labour Court**

62. This is a joint court composed of an equal number of employers and employees. Its function is to settle individual labour disputes. It comprises a conciliation board whose role is to resolve in an amicable fashion disputes between employers and employees arising out of the enforcement of labour contracts, and a trial board presided over by a justice of the peace which is competent to rule on disputes in which conciliation has proved fruitless.

#### **(b) The Higher Court of Arbitration**

63. Since 1948, Monaco has had a procedure for ensuring the settlement through conciliation and arbitration of collective labour disputes that cannot be resolved amicably or by enforcing collective agreements. The procedure involves three successive stages:

- (i) An application addressed to the Minister of State is first of all submitted to a Conciliation Commission; this comprises two employers and two employees under the chairmanship of the President of the Labour Court;
- (ii) If the parties are unable to settle the matter, they are invited to appoint a mediator; if they do not, the Minister of State designates one *ex officio* from a list drawn up annually after consultation between employers' organizations and trade unions;
- (iii) Arbitral awards may be referred to the Higher Court of Arbitration, which performs a role comparable to that of the Court of Judicial Review.

The Court comprises the President of the Court of Appeal, two judicial officers and two senior civil servants. When deciding on the merits following cassation of the arbitral award, it also includes two employers' representatives and two employees' representatives.

#### **(c) The Housing Rent Arbitration Commission**

64. This body rules on landlord-tenant disputes with regard to rent levels and building occupancy expenses of apartments in the so-called rent-controlled sector (this affects apartments built before 1947 with statutorily prescribed rents; these must theoretically be let to persons in priority categories defined in accordance with various criteria). The Commission comprises the President of the Court of First Instance, a landlord, a tenant and an expert.

**(d) The Commercial Rent Arbitration Commission**

65. The Commission has jurisdiction over landlord-tenant disputes with regard to the terms for renewal and review of commercial leases, and intervenes when conciliation efforts have failed. It comprises the President of the Court of First Instance assisted by two persons from commerce or industry.

**4. The Public Prosecutor's Office**

66. The Public Prosecutor's Office is a body of judicial officers whose function is generally to watch over public order (ordre public), to investigate and prosecute crimes, and to enforce laws and judicial decisions on behalf of the Prince. The Public Prosecutor's Office is represented before all the courts in the Principality by the Crown Counsel's Office, the chief of which - the Principal Public Prosecutor - is assisted by deputies. He is subordinate to the Director of Judicial Services, but his representatives enjoy complete freedom of expression in court.

**III. GENERAL LEGAL FRAMEWORK WITHIN WHICH  
HUMAN RIGHTS ARE PROTECTED**

67. The whole of Monaco's legal system is designed to ensure respect for human rights. Under article 19 of the Constitution, no one may be prosecuted except as provided for by law and no one may be arbitrarily detained: arrests may be carried out only by order of a judge stating reasons (or within 24 hours following the order).

68. The laws, and especially the Criminal Code, the Civil Code, the Code of Criminal Procedure and the Code of Civil Procedure, set forth the conditions for the realization and protection of these rights and the courts apply these conditions.

**A. Judicial and administrative authorities having  
jurisdiction affecting human rights**

69. Pursuant to article 90 of the Constitution, the Supreme Court delivers decisions of last resort on petitions for annulment, petitions to review validity and actions for damages arising from violations of the rights and freedoms enshrined in Title III of the Constitution (see paras. 55 and 56 above). Thus, private individuals and legal entities may petition for the annulment of public acts which are at variance with the freedoms recognized under the Constitution or other legal norms and seek compensation for injury caused by the actions of the authorities. This requirement concerning the constitutionality and legality of acts is very far-reaching because it authorizes the Supreme Court to nullify a posteriori statutes which are held to be inconsistent with the general principles of law incorporated into the Constitution and to quash administrative acts, whatever their rank. In practice, the Supreme Court had already on several occasions struck down certain laws and Sovereign Ordinances either wholly or in part.

70. The courts (Court of First Instance, Court of Appeal and Court of Review) enforce the law with strict respect for human rights, in conformity with the protective norms set forth in the codes.

71. The function of the Commission for the Monitoring of Personal Information (CCIN) established by Act No. 1.165 of 23 December 1993, which has been operative since 2000, is to receive applications to undertake computerized processing of personal information by individuals and legal entities in private law; its opinion must also be sought when such processing is undertaken by individuals and legal entities in public law. Further to the registration (or updating) of processing applications, CCIN may request economic entities or interested third parties to submit any documentation or information that it considers relevant. CCIN investigators may monitor computerized processing operations and flag any irregularities that come to light; they may summon and interrogate interested parties. CCIN investigates cases and complaints which are referred to it and forwards its proposals to the Minister of State: when individuals and legal entities in private law are found to have committed irregularities, the Minister of State serves notice on the person or entity concerned to remedy the irregularity or undo its effects.

72. In the event of non-compliance with this order, the President of the Court of First Instance, seized of the matter by the Minister of State in interim relief proceedings, orders the taking of all appropriate measures (including, if need be, a penalty payment) to discontinue the irregularities, without prejudging possible criminal penalties. When irregularities are brought to light in the course of data processing by services answerable to a legal entity in public law, the Minister of State, likewise seized of the matter by the President of CCIN, takes whatever measures may be necessary to discontinue the irregularities or undo their effects.

**B. Remedies available to an individual who claims that any of his or her rights have been violated; systems of compensation and rehabilitation for victims**

73. Any law or regulation or administrative decision that violates the rights and fundamental freedoms of the individual may be appealed to the Supreme Court, which has the power to annul such a decision (Constitution, art. 90). The annulment has absolute authority as *res judicata* and is binding on everyone, including the Administration, which is required to execute the judgements handed down (Supreme Court, 20 February 1969, Aureglia heirs et al., volume corresponding to the date).

74. Any person who ascertains that a breach of the law has occurred during the processing of personal information concerning him or her may refer the matter to CCIN, which will order the appropriate checks and, if necessary, refer the case to the Minister of State with a view to rectifying the situation in accordance with the procedure cited above (para. 71).

75. If an administrative decision in dispute has caused injury, the victim may seek to hold the State responsible and obtain compensation for special and abnormal injury (Supreme Court, 1 February 1994, Monaco Landowners' Association, volume corresponding to the date). The Criminal Code provides specific penalties for violations committed by officials in the exercise of their duties (Criminal Code, arts. 106-136).

76. If the violation of rights and freedoms has been committed by a private individual, the victim may appeal to the criminal courts when an offence has been committed, or to the civil courts in cases involving loss or injury. In all cases, if the violation is confirmed, the court seized of the case will award compensation for the injuries sustained by the victim.

### **C. Protection of the rights referred to in the various international human rights instruments**

77. The Principality of Monaco is a party to the majority of human rights instruments, for example the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child. The Constitution of 17 December 1962 states that the Principality is a State under the rule of law committed to the respect of liberties and fundamental rights. These are listed in detail in Title III of the Constitution and correspond to most of the rights provided for in the various international human rights instruments.

#### **1. Rights guaranteed under the Constitution**

78. Title III of the Constitution enumerates fundamental rights and freedoms (Constitution, arts. 17-32), which comprise rights of the individual and public freedoms:

- Equality before the law (art. 17);
- Individual liberty and security (arts. 19 and 20);
- The legality of penalties and the non-retroactivity of criminal laws (art. 20, para. 1);
- Right to respect for human personality and dignity (art. 20, para. 2);
- Abolition of the death penalty (art. 20, para. 3);
- Sanctity of the home (art. 21);
- Right to respect for private and family life and confidentiality of correspondence (art. 22);
- Freedom of worship (art. 23);
- Freedom of opinion (art. 23);
- Right to own property (art. 24);

- Freedom of labour (art. 25);
- Right to receive public assistance in connection with poverty, unemployment, illness, disability, old age and maternity (art. 26);
- Right to free primary and secondary education (art. 27);
- Right to trade-union action (art. 28);
- Recognition of the right to strike (art. 28, para. 2);
- Right of assembly (art. 29);
- Right of association (art. 30);
- Right to petition the authorities (art. 31).

79. Under article 93 of the Constitution, the Constitution may not be suspended, thereby guaranteeing the permanence of the rights set forth therein.

## **2. Rights guaranteed under the law and judicial precedent**

80. Lawmakers have also taken action in the form of laws and regulations to ensure the protection of fundamental rights. For example, trade-union action is protected and any obstacle to the free exercise of this right is a criminal offence according to law (Act No. 417 of 7 June 1945 protecting the right to form trade unions, as amended by Act No. 1.005 of 4 July 1978 and Act No. 957 of 18 July 1974). Freedom of association is guaranteed (Act No. 1.072 of 27 June 1984), as is the right to strike (Act No. 1.025 of 1 July 1980). In addition, Act No. 1.165 of 23 December 1993 regulates the processing of personal information (see para. 71 above), stipulating that such operations must not violate the fundamental rights and freedoms set forth in Title III of the Constitution. With the exception of duly authorized judicial, administrative, health or medical authorities, no one may collect, record or make use of personal information of a medical nature concerning offences, convictions or protective measures, or any information that reveals political, racial, religious, philosophical or trade-union opinions or affiliation, other than with the express written consent of the person concerned. He or she may withdraw such consent at any time and request the compiler or user of the information to destroy or erase any information that concerns him or her.

81. The practice of the courts has clarified the various rights set forth in the Constitution, for example the principle of equality (Supreme Court, 31 January 1975, Weill, volume corresponding to the date), freedom of expression (Supreme Court, 13 August 1931, Chiabaut, volume corresponding to the date), the right to own property (Supreme Court, 3 June 1970, S.C.I. Patricia, volume corresponding to the date), and the right to trade-union action (Supreme Court, 14 June 1983, Princess Grace Hospital Staff Union, volume corresponding to the date).

**D. Incorporation of the human rights instruments into domestic law and the procedure for invoking these instruments before the courts**

82. Human rights instruments, like all international treaties, must be signed and ratified by the Prince (Constitution, art. 14). They are then given force of law by a Sovereign Ordinance. If the international instrument which has been ratified and given force of law requires a change in Monegasque domestic law, the Prince may issue appropriate ordinances for the execution of the said instrument or have recourse to a statute, pursuant to article 68 of the Constitution. However, under article 14 of the Constitution, a law is needed if a treaty has an impact on constitutional arrangements.

83. The provisions of an international instrument can be invoked before the administrative authorities or courts of the Principality only after having been made enforceable in Monaco (laws and Sovereign Ordinances are enforceable against third parties only from the day after their publication in the *Journal de Monaco*).

84. Thus, by an order of 30 August 2001, the Court of Appeal confirmed the principle of the direct applicability in Monegasque law of the International Covenant on Civil and Political Rights of 16 December 1966.

**E. Institutions or national machinery with responsibility for overseeing the implementation of human rights**

85. Apart from the judicial and administrative authorities which are entitled to act in the human rights sphere as described in section A above, each of which is responsible for monitoring the areas under its jurisdiction, there are no independent institutions or machinery specifically responsible for overseeing the implementation of human rights in Monaco. The lack of such structures is attributable to the smallness of the country and the fact that the wide-ranging power of judicial review exercised by the Supreme Court enables individuals to defend their fundamental rights directly in the case of a violation.

86. Legal aid is nevertheless crucially important in effectively guaranteeing respect for human rights. The system defrays the legal costs of any persons - Monegasques or foreigners - who cannot commit themselves to pay litigation costs without tapping into funds required to support themselves or their families. Legal aid covers litigation costs, and also exempts the aided party from payment of fees, emoluments and remuneration of ministerial officers and human rights lawyers; where appropriate, the aided party is not required to put up security against the payment of costs and damages resulting from the trial. Finally, legal aid also covers service of the judgement and the bringing of action on a judgement obtained thereby.

87. Legal aid is available in civil and administrative proceedings (Code of Criminal Procedure, arts. 38-56); criminal proceedings (Code of Criminal Procedure, arts. 167 and 399); and in certain proceedings before the specialized courts such as the Labour Court (Act No. 446 of 16 March 1946 establishing the Labour Court, art. 52; Act No. 790 of 18 August 1965 on industrial injuries, art. 32).

#### IV. INFORMATION AND PUBLICITY

88. First of all, it should be stressed that in Monaco it is the Constitution itself (and not a preamble or simple “declaration”) which sets forth fundamental rights and freedoms and thereby ensures that they enjoy maximum possible awareness. Moreover, international human rights instruments, once ratified in conformity with articles 14 and 68 of the Constitution, are automatically published in the *Journal de Monaco*. They are also widely discussed in other local publications.

89. The Government plans to transmit all the reports it has submitted under various international human rights instruments to the Principality’s press centre and to disseminate them through Monaco’s official web site ([www.gouv.mc](http://www.gouv.mc)) to the public at large, non-governmental organizations and associations in Monaco concerned with the questions addressed.

90. As part of the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights, in 1998, the Government organized a number of events to raise the awareness of as many people as possible (both schoolchildren throughout the Principality and the public at large) of issues related to respect for and the promotion of human rights.

(a) Thus, the Department of National Education, Youth and Sport decided to include in the curriculum for the academic year 1998/99 courses to raise pupils’ awareness of the background to the Universal Declaration, and the principles contained in it. The “Manual for Human Rights Education”, published by the United Nations Educational, Scientific and Cultural Organization (UNESCO), was widely distributed in schools throughout the Principality;

(b) As part of activities organized by the Fondation Prince Pierre de Monaco, writer Tahar Ben Jelloun gave a lecture on human rights in December 1998;

(c) Human rights and the 1948 Universal Declaration were the theme of the address marking the end of the court vacation in October 1998;

(d) The last issue of 1998 of the free information booklet issued by the Department of Tourism and Conferences of Monaco, entitled “L’Essentiel”, contained an article on the history and scope of the Universal Declaration on Human Rights and on events organized by Monaco to celebrate its fiftieth anniversary;

(e) The telephone company Monaco Telecom issued 50,000 copies of a special 50-unit telephone card in commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights;

(f) A poster by the artist Folon was reissued by the Department of Cultural Affairs of Monaco to accompany the public announcement of the fiftieth anniversary of the Declaration; it was distributed throughout the Principality;

(g) A postal logo referring to the fiftieth anniversary of the Declaration was issued by the Stamp Office of Monaco and affixed to all mail leaving the Principality in December 1998.

Notes

<sup>1</sup> On 4 January 2001, 7,176 Monegasques were officially registered with the civil registry at the Monaco Mayor's office - 4,123 females and 3,053 males. The expatriate population therefore accounts for 18 per cent of the total population.

<sup>2</sup> Since 28 March 2000 Monaco has also been party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

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