



# Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination  
against Women**

**Fourth periodic report submitted by Monaco under article  
18 of the Convention, due in 2023\*,\*\***

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\* The present document is being issued without formal editing.  
\*\* The annexes to the present document may be accessed from the web page of the Committee.



## I. General

### Reply to the question raised in paragraph 1

1. The Monegasque Institute of Statistics and Economic Studies (IMSEE) prepares and publishes statistics in the areas of demographics, economics, employment, education and health, seeking to disaggregate the data by gender whenever possible. The annual compilation “Monaco in figures”, which provides a breakdown by gender in all these areas, is the most comprehensive example of this approach. All reports produced by IMSEE are available at [www.imsee.mc](http://www.imsee.mc).
2. Furthermore, as part of its work to establish indicators in response to international recommendations, IMSEE has, since 2019, been compiling the data on violence against women in Monaco that are gathered by the relevant focal points in conjunction with the Committee for the Promotion and Protection of Women’s Rights. In 2023, IMSEE decided, in agreement with the Committee for the Promotion and Protection of Women’s Rights, to expand its compilation of data to include violence against men and against minors. Thanks to a new tool now available, a form can be used to input cases of violence and the results of the data entered can be viewed in real time.
3. Monegasque women’s associations are involved in the work of the Committee for the Promotion and Protection of Women’s Rights. For example, they participate in meetings and take part in action organized by that Committee, including on the occasion of international days such as those held on 8 March or 25 November.
4. Following the establishment of the Committee for the Promotion and Protection of Women’s Rights, a mechanism for issuing calls for projects was launched to provide associations with financial support and give them greater visibility to uphold women’s rights and gender equality. Grants are awarded to associations on the basis of an application form outlining project details and cost.

## II. Women’s rights and gender equality in relation to the pandemic and recovery efforts

### Reply to the question raised in paragraph 2 (a)

5. In the context of the coronavirus disease (COVID-19) pandemic, a significant awareness-raising campaign was conducted during lockdown to highlight the importance of reporting any suspected violence to the police and to inform victims of marital, gender-based, sexual and domestic violence of the emergency and assistance services available. After the lockdown, Monaco decided to establish a strengthened protocol for the care of presumed victims of marital violence. This new protocol has enabled the Department of Social Welfare and Social Services to consolidate its victim response, in relation to housing, food and financial assistance, and medical and psychological support. In addition, a partnership has been established with the association Aide aux Victimes d’Infractions Pénales (Assistance for Victims of Criminal Offences) with a view to improving coordination of the services provided by the State and civil society for the care of victims.

### Reply to the question raised in paragraph 2 (b)

6. With regard to the recovery plan, and in general in Monaco, women and girls have equal access to employment and services and are encouraged to participate actively in political and public life, and in decision-making. The Monegasque institutions ensure that this is the case. For example, on 25 November 2020 the

National Council (the Monegasque legislative assembly) adopted resolution No. 32, aimed at increasing the representation of women on the boards of directors of public and private entities reporting to the State.

7. Furthermore, an awareness-raising campaign entitled “Everyone has their place in corporate governance” was conducted in 2022 by the Committee for the Promotion and Protection of Women’s Rights to encourage the active participation of women in key positions and strategic decision-making in the professional environment.

**Reply to the question raised in paragraph 2 (c)**

8. In terms of managing the health crisis, the various measures developed and implemented by the public authorities were not primarily intended to favour or support one population category over another but to ensure, as far as possible, health and healthy living conditions for the whole population.

9. It was, however, considered essential to ensure continuity of learning by various means, in two main phases:

- During lockdown: teaching was carried out remotely, with classes by videoconference, video capsules and educational resources, and the creation and distribution of tutorials to support teachers and students in using information technology applications, among other resources;
- Micro-day-care centres were set up for the children of those considered to be essential workers and for families where the legal guardians were unable to provide childcare. Homework and learning assistance was provided, and a schedule was established for a gradual return to school for students at priority levels (pre-elementary, first year of elementary school, last year of elementary school, first year of secondary school, last year of secondary school, and last two years before final examinations) as well as those with special educational needs.

10. Other measures were also introduced, such as special arrangements for grading in the third term, individual contacts to maintain the links between students and schools, overseen by the Department of National Education, Youth and Sports (which reports to the Ministry of the Interior), and steps, taken together with school principals, to ensure continuity of learning.

11. In-person activities were resumed, for all levels, in September 2020. All students were welcomed back, with the resumption of school meals and study, continuity of learning for students isolating at home, substitution of isolating staff members, free provision of masks and maintenance of extracurricular activities in compliance with sanitary measures.

12. In addition, the health and safety measures taken in schools covered the organization of school meal provision and participation in sports, a more intensive cleaning and disinfection schedule, a commitment to protection measures, the posting of clear signage and the reconfiguration of certain premises, for example to avoid bidirectional circulation flows, the provision of hand sanitizer and masks and increases in staff numbers.

13. During the economic recovery phase following the COVID-19 pandemic, all financial assistance for businesses, employees and self-employed workers was granted without discrimination between men and women.

### III. Reservations

#### Reply to the question raised in paragraph 3

14. When Monaco, on 18 March 2005, acceded to the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, it made the following reservations:

- The ratification of the Convention by the Principality of Monaco shall have no effect on the constitutional provisions governing the succession to the throne;
- The Principality of Monaco reserves the right not to apply the provisions of article 7 (b) of the Convention in respect of recruitment to the police force;
- The Principality of Monaco does not consider itself bound by the provisions of article 9 that are not compatible with its nationality laws;
- The Principality of Monaco does not consider itself bound by article 16, paragraph 1 (g), regarding the right to choose a family name;
- The Principality of Monaco does not consider itself bound by article 16, paragraph 1 (e), insofar as it can be interpreted as requiring the legalization of abortion and sterilization;
- The Principality of Monaco reserves the right to continue to apply its social security laws, which, in certain circumstances, provide for the payment of certain benefits to the head of the household who, under those laws, is presumed to be the husband;
- The Principality of Monaco declares, in accordance with the provisions of article 29, paragraph 2, that it does not consider itself bound by the provisions of paragraph 1 of the article.

15. On 19 October 2017, Monaco withdrew its reservation regarding the conditions for applying article 16, paragraph 1 (g), of the Convention on the Elimination of All Forms of Discrimination against Women regarding the right to choose a family name (see above, reservation 4), following the adoption of Act No. 1.440 of 5 December 2016 amending certain provisions of the Civil Code relating to names and introducing antenatal recognition of the child, which allows, *inter alia*, the mother's name to be passed on to her children.

16. With regard to reservation 5 on abortion, while the Principality does not anticipate widespread legalization, it has adopted, since the ratification of the Convention, Act No. 1.477 of 11 November 2019 decriminalizing abortion for pregnant women, which amended article 248 of the Criminal Code such that a woman who "has obtained, or attempted to obtain, an abortion or consented to use the methods recommended or administered for that purpose", as well as a health professional who has "recommended, promoted or practised the methods for obtaining the abortion", such as in a foreign country, shall no longer be subject to criminal penalties. The reservation is, however, unlikely to be withdrawn.

17. The other reservations were formulated in the light of specific characteristics of the Principality and cannot be withdrawn.

## IV. Legal framework

### Reply to the question raised in paragraph 4 (a)

18. Discrimination against all women is subject to a comprehensive and multisectoral legislative framework, prohibiting all possible manifestations of direct and indirect discrimination, in both the public and private spheres.

19. The Constitution of Monaco is the primary provision prohibiting such discrimination. First, it should be highlighted that the principle of equality is enshrined in article 17 of the Constitution, according to which “All Monegasque nationals are equal before the law. None shall enjoy preferential status.” This principle also applies to foreign nationals by virtue of article 32 of the Constitution, which provides that such individuals shall enjoy in Monaco “all public and private rights that are not formally reserved for nationals”.

20. The principle is recognized by the Supreme Court. Any law, regulation or administrative decision infringing this right may be subject to an appeal for annulment lodged with the Supreme Court (article 90 of the Constitution).

21. Second, since the accession of Monaco to the Convention, several laws have been adopted to promote women’s rights and combat discrimination against women:

- The Committee for the Promotion and Protection of Women’s Rights was established by Sovereign Ordinance No. 7.178 of 25 October 2018, its mission being to coordinate, implement, monitor and evaluate national policies and measures to promote equality between women and men and to prevent and combat all forms of violence and discrimination against women, as provided for in the international conventions ratified by Monaco;
- Act No. 1.523 on the promotion and protection of women’s rights through the amendment and repeal of obsolete and discriminatory provisions was adopted on 16 May 2022. The provisions of the Act derive from the international commitments of Monaco, and more specifically the work of the United Nations Human Rights Council and the universal periodic review follow-up process carried out under its auspices. Following the review of Monaco on 12 November 2018 and the adoption, at the fortieth session of the Human Rights Council in early 2019, of the report containing the outcome of that review, the Monegasque authorities were asked to “Continue implementing policies directed towards the achievement of full and effective gender equality, including by amending or repealing obsolete provisions in the legislation that are discriminatory against women”. This recommendation was subsequently reiterated in a letter dated 29 April 2019 addressed to the Government of Monaco by the United Nations High Commissioner for Human Rights, Ms. Michelle Bachelet-Jeria. Ever since the very first meeting of the Committee for the Promotion and Protection of Women’s Rights, in March 2019, legislative work has been under way to modernize all laws of Monaco, with the aim of addressing the promotion and protection of women’s rights by amending and repealing obsolete and discriminatory provisions. In that connection, the Government’s legal services have undertaken an exhaustive study of all the laws of Monaco. By means of Act No. 1.523, which has 52 articles, certain provisions of the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure and the Commercial Code, as well as various other legislative provisions, have been amended or repealed;
- By means of Act No. 1.527 of 7 July 2022 amending Act No. 975 of 12 July 1975 on the status of civil servants of the State, article 17 of Act No. 975 of 12 July 1975 on the status of civil servants of the State was amended to

strengthen the principle of non-discrimination, particularly with regard to gender. Article 17, as amended, states that:

- “For the purpose of application of the statute, no distinction shall be made between the two sexes, save for exceptional measures required by the nature of the functions in question;
- No distinction may be made between civil servants on the grounds of gender, political, philosophical or religious opinions or opinions regarding trade unions, sexual orientation, state of health, disability, physical appearance or ethnicity;
- Distinctions may, however, be made in order to meet genuine and determining occupational requirements and, in particular, to take account of the nature of the functions or the conditions under which they are performed”.

22. The constitutionality of this article was confirmed by the Supreme Court in its decision of 10 March 2023 in *Union des Syndicats de Monaco and Syndicat des Agents de l'État et de la Commune v. State of Monaco*.

23. It is worth noting that there is an equivalent provision in the 1986 law on the status of civil servants of the Municipality (article 17 of Act No. 1.096 of 7 August 1986 on the status of civil servants of the Municipality) and in the regulations governing contractual employees of the State (article 19 of Sovereign Ordinance No. 9.640 of 23 December 2022 on general statutory provisions applicable to contractual employees of the State).

24. The adoption of Sovereign Ordinance No. 7.155 of 10 October 2018 on the granting of dependency benefits to civil servants and employees of the State and the Municipality has enabled women in that category of workers, who live in Monaco, to opt for head of household status and thus to benefit from family allowances and other dependency benefits, as well as health insurance for their dependents (article 6 of Sovereign Ordinance No. 7.155).

#### **Reply to the question raised in paragraph 4 (b)**

25. In 2022, IMSEE published the first study on the gender pay gap in Monaco. This study, commissioned by the Committee for the Promotion and Protection of Women’s Rights, provides an overview of the situation in the public and private sectors in 2019, with account taken of the specific context of Monaco and the structure of its wage-earning population. A sound methodology was applied, with analysis based on “all else being equal”.

26. IMSEE principally relied on an analysis of compensation indices for civil servants and State employees, based on data from the Directorate of Human Resources and Training of the Civil Service and information provided by the Monegasque social welfare system (Caisses Sociales de Monaco) for private sector employees.

27. In addition, the results were compared with the situation in 2012 (the earliest year for which reliable consolidated data were available).

28. The study on the gender pay gap is expected to be updated in 2025.

#### **Reply to the question raised in paragraph 4 (c)**

29. The rules governing succession to the throne, which underpin the institutional system of Monaco, are enshrined in the country’s Constitution.

30. Article 10, paragraph 1, of the Constitution provides that “succession to the throne, to which death or abdication gives rise, shall be based on direct and legitimate descent from the reigning Prince, by order of primogeniture with male preference in the same degree of kinship”.

31. Any change to these rules would therefore necessarily entail a reform of the Constitution of Monaco, which is not currently envisaged.

## V. Women’s access to justice

### Reply to the question raised in paragraph 5 (a)

*Reply provided by the Office of the High Commissioner for the Protection of Rights, Freedoms and Mediation, an independent body that is not a court*

32. In the last five years, 17 complaints have been submitted to the Office of the High Commissioner on issues relating to discrimination on the grounds of sex. A total of 41 per cent of those complaints were submitted by women of Monegasque nationality; the others were filed by women of foreign nationality. Of the complaints submitted, 47 per cent were related to matters concerning social rights and the definition of “head of household” in the Principality, while 23 per cent were related to harassment. Beyond those two issues, from a procedural standpoint, 17 per cent of the referrals resulted in recommendations being implemented. In 17 per cent of cases, it was possible to suggest amicable solutions.

#### *Complaints challenging social rights: 47 per cent of the complaints filed*

33. In 2017, the Office called on the Government to begin a substantive reform to restore equal rights between men and women in access to welfare benefits. In May 2018, in answer to those recommendations, the Government agreed that the rules on social welfare should change in order better to reflect equality between women and men, and stated that a wide-ranging endeavour was under way for that purpose.

34. The question of the head of household, which was highlighted in the report submitted to the Committee in 2022, has been a recurring issue in the Principality. Act No. 595 of 15 July 1954, which established the family benefits scheme, entitles employees to family allowances in respect of dependent children for whom they act as head of household. That person is usually assumed by default to be the children’s father.

35. A female employee enrolled in the Welfare Services Compensation Fund (the social welfare system) who is a mother is therefore not deemed to be a head of household, and her children are not entitled to health insurance or family allowances on that basis. There is, however, an exception to the rule when the father of the children is not working. In that case, the mother becomes head of household “in a subsidiary capacity”.

36. In the public sector, the concept of head of household did not exist until recently. Administrative practice was then aligned with that of the private sector by recognizing that, only in the case of men, dependents could receive welfare allowances through the State Medical Benefits Office (the civil service social welfare system). Sovereign Ordinance No. 7.155 of 10 October 2018 does not revisit the broad principles according to which the father takes precedence with regard to eligibility for benefits. It does, however, provide for an exception: since January 2019, female civil servants and employees of the State and the Municipality who live in the Principality have been able to opt for head of household status in order to receive family allowances from the State Medical Benefits Office. It should be highlighted that, under the new

rules, children from a mother's earlier relationship no longer automatically come under the new husband's social security coverage. There has been no equivalent change in the rule regarding the transfer of head of household status in the regulations for employees, where the rule remains that once a separated or divorced woman marries or remarries, her new spouse becomes head of household (Sovereign Order No. 1.447 of 28 December 1956, article 5 *bis*, part A, second item, sub-item (b)). It follows that mothers in that situation are not entitled to benefits for their children under the Welfare Services Compensation Fund, even though they are enrolled in the Fund through their work.

37. A system similar to the one in force for civil servants and public employees now applies to self-employed workers. (The latter are covered by the Sickness, Accident and Maternity Insurance for the Self-Employed scheme, which is part of the Welfare Services Compensation Fund). In July 2019, a new law was adopted enabling self-employed workers, without regard to sex, to apply for newly established family benefits under their social welfare scheme, on a par with those paid to employees. In that specific context, beneficiaries sought to cast aside the discriminatory concept of "head of household" by ensuring that eligibility for benefits could for the first time be established according to a neutral standard, namely the place of residence of the household alongside the workplace of the two parents. In view of changing attitudes, the Office of the High Commissioner recommended that entitlement to benefits should be based on the place of residence of the child with the parent who is the usual caregiver. Working on that basis would help to ensure that all types of relationship are treated equally whenever one parent leaves. The social welfare system now intends to follow that recommendation.

38. In its annual report for 2020–2021, the Office of the High Commissioner asked the Government to account for the differing approaches to social rights in the public and private sectors.

39. It called on the administrative authorities to take into consideration the situation of blended families with regard to social welfare (where the stepfather is covered by the State Medical Benefits Office and the mother by the Welfare Services Compensation Fund), given that the current provisions would entail ineligibility on both counts.

40. Encouragingly, the message of the Office of the High Commissioner appears to have been heard; the regulations were promptly amended along those lines. In the case of households in which the stepfather is covered by the State Medical Benefits Office and the mother by the Welfare Services Compensation Fund, the social welfare system review board did not ultimately accept the amendment to Sovereign Ordinance No. 1.447 proposed by the Government. It opted instead to continue working towards a more comprehensive reform of the regulations in force with a view to completely eliminating the concept of head of household, rather than tinkering with the provisions and solving old problems by creating new ones.

#### *Complaints of harassment: 23 per cent of the complaints received*

41. A total of 23 per cent of the referrals made to the Office of the High Commissioner were for cases of harassment. Unfortunately, those complaints turned out to be ill-founded or to involve situations beyond the Office's purview, namely work relations within the civil service. Those situations fall under the purview of the General Inspectorate of the Civil Service, which has a unit that investigates referrals for harassment.

42. Although the Office's options for responding to complaints of harassment are often limited, it makes a definite contribution by providing legal opinions. We are thus helping to harmonize the law and ensure that it is upheld proactively. For

instance, when rendering an opinion in 2017 concerning the draft law on harassment and violence in the workplace,<sup>1</sup> the Office pointed out that the only definition of moral harassment given in the text, which had been adopted as it stood, would make it difficult to criminalize the undermining of dignity through degrading behaviour or comments with sexual connotations, which is the essence of sexual harassment. Moreover, the references to repeated acts and omissions did not adequately reflect the reality of sexual harassment, which is in practice more likely to involve inappropriate comments, behaviour and gestures of a sexual nature. At that point in time, lawmakers did not deem it appropriate to accommodate the Office's recommendations.

43. At a later stage, however, in the context of draft law No. 1.027 reforming the provisions relating to the criminalization of sexual assault, lawmakers did include a specific provision criminalizing sexual harassment. When called upon to give an opinion on that draft law, which has since become Act No. 1.517 of 23 December 2021 reforming the provisions relating to the criminalization of sexual assault, the Office welcomed the fact that the chosen definition would recognize the specific nature of the actions in relation to their sexual connotations, and that it would address the concept of a hostile environment, which is often a component of sexual harassment.

44. The draft law went well beyond sexual harassment alone; its broader purpose was to reform the punishment of sexual violence.

45. In its opinion, the Office welcomed the fact that the draft law placed consent at the heart of the definition of rape and sexual assault. Establishing the absence of consent would thus not require proof of coercion, violence, threat or surprise. That approach is consistent with the Committee's recommendations. The Office did, however, highlight that no consideration whatsoever had been given to the specific issue of sexual assault within the family. It emphasized that, in view of the scale of the problem, lawmakers should examine the question of the punishment of incest. The Office was therefore pleased that the law, as ultimately adopted, incorporated into the Criminal Code the punishment of the specific offences of incestuous rape and sexual assault.

#### *Procedural aspects: non-receivability and response to referrals*

46. Of the complaints recorded, 29 per cent were found not to be receivable and therefore did not result in an investigation. However, 17 per cent of the complaints of discrimination did result in the implementation of recommendations. In 17 per cent of cases, it was possible to suggest amicable solutions.

47. The fact that certain complaints were not receivable is apparently a result of the complainants' lack of information about the functions of the Office and what constitutes discrimination. In order to remedy that gap, discussions are under way to broaden the Office's purview and, in particular, to task it with promoting rights. As it has been doing for several years, the Office notes the absence of overarching legislation on discrimination in the Principality; there is no framework law on forms of discrimination. There is therefore room for improving discrimination laws. The procedural statistics given above highlight the need for a framework law on the issue, one that would encompass a greater number of situations.

#### **Reply to the question raised in paragraph 5 (b)**

48. See figures in the annex.

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<sup>1</sup> The text subsequently became Act No. 1.457 of 12 December 2017 on harassment and violence in the workplace.

**Reply to the issue raised in paragraph 5 (c)**

49. See figures in the annex.

## **VI. National machinery for the advancement of women**

**Reply to the questions raised in paragraphs 6 (a), (b), (c) and (d)**

50. The Committee for the Promotion and Protection of Women's Rights reports to the Minister of State and is chaired by the Government Councillor-Minister for Foreign Affairs and Cooperation. Its mission is to coordinate, implement and assess national policies for promoting equality between women and men and combating violence and discrimination against women.

51. It is able to collect and analyse data relevant to those issues. It is also able to develop relations and exchange information with its counterparts in other countries.

52. The Committee is cross-cutting and multidisciplinary in nature, and comprises representatives of the Department of Justice, competent administrative departments and services, and an Interministerial Delegate. It also works with the following institutional entities in Monaco: the National Council; the Office of the Mayor; the Office of the High Commissioner for the Protection of Rights, Freedoms and Mediation; and the Economic, Social and Environmental Council; as well as with women's rights associations. Its composition is determined by a Sovereign Ordinance. However, the Committee may allow any association working in the area of women's rights to participate in its work. Accordingly, four additional associations have joined the Committee since its creation.

53. The Committee has an annual budget of 80,000 euros to cover its operating expenses. The Interministerial Delegate is responsible for coordinating, preparing and steering its work on a daily basis. Since 2019, the Delegate's role has been described as "interministerial", in order to reinforce and reflect the cross-cutting nature of her work. In terms of human resources, she is assisted by one staff member and she also has access to administrative support in the performance of her functions.

54. The main achievements of the Committee are as follows:

- Legislative work leading to the adoption of several laws, including one reforming the criminalization of sexual assault and another amending and repealing obsolete and discriminatory provisions, and also to the extension of paternity leave and to a draft law on compensation for victims of sexual offences and domestic violence;
- Training sessions on the reception and care of victims of domestic violence for all professionals having to deal with cases of violence;
- An annual survey on violence against women and a study measuring the gender pay gap conducted by IMSEE;
- Communication campaigns to mark international days such as those held on 8 March and 25 November;
- Partnerships and collaboration with local cultural and sporting stakeholders.

55. As part of its activities to mark the international days held on 8 March and 25 November, the Committee for the Promotion and Protection of Women's Rights conducts an awareness-raising campaign to draw attention to the assistance and emergency services available to support and care for women who are victims of violence.

56. The Committee also conducts regular communication campaigns to raise awareness of the continued existence of gender stereotypes and the need to overcome them. A number of initiatives aimed at students in Monaco have also been established to promote gender diversity in professions and ensure that girls have access to all areas of study.

57. Furthermore, to promote health issues specific to women, a page on women's health was added to the website dfm.mc. The website features articles on endometriosis, breast cancer and osteoporosis, published in partnership with the Centre Hospitalier Princesse Grace, the only hospital in Monaco. Understanding of the specific issues relating to women's health helps to ensure that men and women are treated more equally.

## VII. Civil society and women's organizations

### Reply to the question raised in paragraph 7

58. Associations working on behalf of women in Monaco receive financial assistance to help them carry out their work. Following the establishment of the Committee for the Promotion and Protection of Women's Rights, a mechanism for issuing calls for projects was launched. Grants are awarded to associations on the basis of an application form outlining project details and costs.

59. In general, civil society organizations coordinate their own activities and events, either directly or through intermediaries, in compliance with laws and regulations and in an orderly fashion. Possible support in this regard includes:

- Facilitating requests for assistance or authorization to raise funds (for charity and fundraising events, a declaration must be submitted to provide information on the activities conducted, the persons involved and the funds raised);
- Providing financial support through public subsidies, when the entities in question, which are mainly associations, are accredited by the Government; and
- Facilitating various needs, such as for premises, promotional assistance or reservation/occupation of public roads, in connection with events organized by such entities.

60. More specifically, the Department of National Education, Youth and Sports carries out activities to raise awareness about discrimination and abuse, provide guidance and promote rights in partnership with leading associations in those areas (for example, Zonta Club, Action Innocence, SheCanHeCan, Au cœur des mots, World Association of Children's Friends (AMADE Monaco), Fight Aids and AVIP) and national institutional partners such as the Police Department, the Department of Cultural Affairs, the National Council, the Office of the Mayor, the Economic, Social and Environmental Council and the Monaco Red Cross.

## VIII. National human rights institution

### Reply to the question raised in paragraph 8 (a)

*Replies provided by the Office of the High Commissioner for the Protection of Rights, Freedoms and Mediation, an independent body that is not a court*

61. The Office of the High Commissioner is currently the independent institution that is responsible for combating discrimination, ensuring the protection of rights and mediating any disputes that may arise between the administrative authorities and the citizens of Monaco.

62. The Office of the High Commissioner works in a similar way to the mediator and Ombudsman institutions found throughout the world. As such, it is a public, non-coercive and non-partisan mechanism, offering free and accessible services that promote the rule of law in Monaco. Since it was established by Sovereign Ordinance No. 4.524 in 2013, the Office has complied with the principles on the protection and promotion of the ombudsman institution (the Venice Principles) and, in keeping with those Principles, in 2018 it organized a seminar on the values of the Ombudsman, jointly with its counterparts. One of the outcomes of that seminar was the drafting of a charter for effective administration, adopted in 2018.

63. While its status as an Ombudsman institution is well established, several points should be clarified with respect to the specific question of its compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

*In legal terms, the Office of the High Commissioner is the mediation institution that complies with the Venice Principles*

64. At the statutory level, the Office of the High Commissioner enjoys organizational independence that is integral to its institutional position.

65. As an entity, it does not depend on any authority. Furthermore, its independence is guaranteed by the provisions of Sovereign Ordinance No. 4.524, both in terms of the conditions for the appointment of the High Commissioner and the conditions under which the latter carries out his or her duties. The High Commissioner may not receive any instruction or directive from any authority. The High Commissioner enjoys functional immunity, and is not subject to any administrative evaluation over the course of his or her term of office (in that regard, see articles 11 and 12 of Sovereign Ordinance No. 4.524). Moreover, the Office of the High Commissioner enjoys effective functional autonomy, as it has its own premises and staff. Its infrastructure is separate from that of the administrative authorities, and its budget is freely administered.

66. As is the case with mediators and Ombudsmen, the Office of the High Commissioner has no power to impose its decisions. It makes recommendations to the administrative authorities, as provided for in article 23 of the Sovereign Ordinance. When considering a particular case, its recommendations can be both corrective and preventive.

67. Accordingly, through its recommendations it seeks to guarantee respect for the rights and freedoms of the complainant and to resolve or avoid the recurrence of the difficulties that have been reported (article 23, paragraph 1, of the Sovereign Ordinance). The High Commissioner may also propose any general measures to remedy possible dysfunctions or suggest any amendment of the legislative or regulatory provisions in force (article 23, paragraph 2, of the Sovereign Ordinance).

68. To ensure transparency, article 27 of the Sovereign Ordinance provides that the High Commissioner must inform complainants, in writing, of his or her decisions and recommendations. In the light of its powers and activities, which include handling complaints, drafting legislative opinions and participating in various regional Ombudsman networks, the Office of the High Commissioner joined the European regional chapter of the International Ombudsman Institute last year.

*In practice, the Office of the High Commissioner is considered by the authorities to be the reference institution for the defence of human rights*

69. While this recognition is an important step forward for the protection of human rights and, more specifically, for the role played by the Office of the High

Commissioner, the fact remains that in legal terms, Sovereign Ordinance No. 4.524, by which the Office was established, does not grant it certain powers, such as the promotion of rights and the ability to make referrals on its own initiative.

70. In that regard, the European Commission against Racism and Intolerance (ECRI) of the Council of Europe regularly refers to this shortcoming and highlights, in particular, the legislative progress that could be made by the Government to increase the Office's scope of action. At the round table jointly organized by the Office of the High Commissioner and ECRI in April 2023 to follow up on the recommendations made in 2021, the Vice-Chair of ECRI reviewed the powers of the Office and welcomed the ongoing studies aimed at amending its founding ordinance. Those studies were commissioned following the publication of the most recent report of ECRI on Monaco, in 2021, in which ECRI highlighted that it was important for the Office to strengthen its power to conduct inquiries, including on its own initiative, and to develop a legislative framework governing discrimination.

71. During his official visit to Monaco in 2017, Mr. Muižnieks, the Commissioner for Human Rights of the Council of Europe, had said it was regrettable that the mandate of the Office of the High Commissioner was so restrictive and had underscored the importance of allowing it to initiate investigations *ex officio*, which would enable it to expand its field of action and conduct more in-depth work to raise awareness of human rights among the population, as is done in other European States.

72. In a similar vein, the European Network of National Human Rights Institutions contacted the Office of the High Commissioner several times last year, to begin its accreditation process. At this stage, and in the light of the foregoing, discussions are under way between the Office of the High Commissioner and the authorities of Monaco, with a view to the Office aligning its founding ordinance with the requirements of the Paris Principles and thus being able to join the European Network.

73. The following powers would be added to those already conferred on the Office by law:

- Promotion of rights;
- Capacity to initiate investigations *ex officio*;
- Participation in follow-up on the implementation of human rights conventions to which Monaco is a signatory;
- Possibility of receiving complaints from minors.

#### **Reply to the question raised in paragraph 8 (b)**

74. The Office of the High Commissioner is supposed to function with an operational infrastructure that is completely separate from the administrative authorities; it is therefore not funded by donations. It has its own budget, which it freely administers (article 46 of Sovereign Ordinance No. 4.524). Thus, it can decide its human resource and material needs, within the limits of its budget. To date, the Office has always received the budget that it has requested, the amount of which has never been revised downward.

75. The Office of the High Commissioner is subject to budgetary oversight by the Expenditure Control Authority, which verifies the legality, but not the appropriateness, of its expenditure. It may be audited by the Board of Auditors. However, in practice, no such audit, as provided for under article 46 of Sovereign Ordinance 4.524, has ever taken place.

76. It should be noted that in cases where referrals are made by non-French-speaking persons requiring translation support, the Office covers any translation costs incurred, to ensure that the proceedings are properly understood.

77. The Office currently has a team of four full-time staff members, and plans to create a fifth long-term post, to help build its capacity. For the time being, this staff complement, which must be considered in relation to the size of the Principality (39,050 inhabitants), meets the needs of the Office of the High Commissioner.

#### **Reply to the question raised in paragraph 8 (c)**

78. In accordance with article 34 of Sovereign Ordinance No. 4.524, the Office of the High Commissioner may consult with associations, groups and other social or humanitarian non-profit organizations whose activities are relevant to protecting the rights and freedoms of citizens in their relations with the administrative authorities and to preventing unwarranted discrimination.

79. In practice, the Office of the High Commissioner has two types of partnership: partnerships with the Government and, in particular, with the Committee for the Promotion and Protection of Women's Rights, and partnerships with civil society, including with associations advocating for gender equality or promoting the role of women in Monegasque society.

80. As part of its work with civil society organizations, the Office of the High Commissioner has been participating, for the last two years, in a speed mentoring initiative for Women's Day, organized jointly by the association SheCanHeCan and the Association des Femmes Chefs d'Entreprise de Monaco (Association of Women Business Owners of Monaco) to provide guidance and direction for female students between 12 and 18 years of age in Monaco, and show them what might be inspiring professional careers. A staff member from the Office of the High Commissioner represents the Office at this event, where reference is made to women's rights and the importance of combating discrimination, as well as to the responsibilities associated with the post of High Commissioner.

## **IX. Temporary special measures**

#### **Reply to the question raised in paragraph 9**

*(Convention on the Elimination of all Forms of Discrimination Against Women, article 4 para. 1: "Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved. ")*

*(General recommendation No. 25: Measures taken ... to accelerate the equal participation of women in the political, economic, social, cultural, civil or any other field. The term "measures" encompasses a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems... temporary special measures may also be based on decrees, policy directives and/or administrative guidelines ... Such temporary special measures may include the civil service, the political sphere and the private education and employment sectors. ")*

81. [https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf).

82. No legislative or regulatory measures have been adopted in relation to temporary special measures as provided for in the Convention on the Elimination of All Forms of Discrimination Against Women and in general recommendation No. 25.

83. A non-exhaustive list of recent measures relating to all the above-mentioned areas is provided below:

- Adoption of Act No. 1.523 of 16 May 2022 on the promotion and protection of women's rights through the amendment and repeal of obsolete and discriminatory provisions;
- Appointment, on 25 October 2018, of a Committee for the Promotion and Protection of Women's Rights composed of institutional representatives, including a Delegate for the promotion and protection of women, as already mentioned in the replies of the Government prepared by the Ministry of Foreign Affairs and Cooperation, dated 21 November 2019, following the priority recommendations made by the Committee;
- Persistent and effective action by AVIP, an association that has been providing assistance to the victims of criminal offences since 2014, as previously mentioned, and that provides its experience, a listening ear, useful guidance and practical help to individuals;
- Specific training on combating violence for approximately 50 police officers and 40 teachers, including guidance counsellors, aimed in particular at increasing the latter's understanding of gender equality and measures to counter violence, access to different study options and school life without stereotypes;
- Women's rights awareness-raising campaigns organized by networks of associations, with the support of public authorities (for example the campaign conducted by Zonta Club, consisting of colourful displays on public benches);
- Extensive media coverage of the International Day for the Elimination of Violence against Women (25 November 2022);
- Launch by the Government of "App-Elles", a mobile application for women, in July 2022.

## X. Stereotypes

### Reply to the question raised in paragraph 10

84. The adoption of Act No. 1.523 of 16 May 2022 on the promotion and protection of women's rights through the amendment and repeal of obsolete and discriminatory provisions was a major proactive step forward in combating discriminatory stereotypes about the roles and responsibilities of women and men in the family and in society.

85. During the drafting of this Act, a significant number of laws containing stereotypical, obsolete or archaic provisions were identified, as well as several recurring grounds for obsolescence.

86. First, the law serves to update normative references, with a view to addressing the obsolescence of some legal frames of reference. In many instruments that are still in force, account had not been taken of successive amendments to Monegasque law and they therefore reflected the previous state of the law, for example in matters of inheritance.

87. Second, the law serves to update instruments from a lexical perspective, with a view to addressing the stereotyped obsolescence of some semantic frames of reference. In fact, several instruments included expressions or terms that, because of the terminology used, referred to societal concepts that are now outdated. This was the case of statements reflecting an androcentric approach (with men as the sole reference) in the professional environment (some terms suggesting that certain roles could only be performed by men), or a patriarchal view of the family, in which the husband or father is the only person with the authority to manage the family's interests or make decisions therein.

88. Third, the law serves to update instruments from a scientific perspective, with a view to addressing the technical obsolescence of some expressions. Such expressions, which were unfavourable to women, were directly linked to strictly obsolete provisions, since, like the latter, they were at variance with certain social developments, almost to the point where they failed to take account of some scientific advances, especially from a women's rights perspective. This, for example, was the case of the expression "legal period of widowhood", or, to a lesser extent, expressions used in the opening of inheritance proceedings and in the seisin of heirs to refer to the notion of presumption of survivorship determined by sex.

89. The Committee for the Promotion and Protection of Women's Rights runs an annual communication campaign on equality to deconstruct stereotypes and change attitudes. The campaign highlights the inclusive slogan "Everyone has their place..." and uses the hashtag "#égalitéJagis". Several themes relating to equality in everyday life or in the workplace have been addressed, such as gender-specific gifts, housework, gender diversity in the workplace and equality in sporting and leisure activities.

90. The campaign has also focused on equality in corporate governance, in order to show that most decision-making positions are still held by men. Each annual campaign is supported by statistical data, including from IMSEE, to make the subject more objective. It is also important to mention here that the IMSEE study on measuring the gender pay gap was published in July 2022.

91. As part of an initiative organized by the Department of National Education, Youth and Sports, middle school and high school students were able to take part in gatherings to discuss sexism and gender stereotypes.

92. Students were also able to visit an exhibition organized to mark the twenty-sixth European Heritage Days event, on the theme "Women and Heritage". The exhibition showcased 15 women who have distinguished themselves in Monaco or who have developed ties with the Principality in different areas.

93. Furthermore, under the Education Act of 12 July 2007, there is no discrimination on the grounds of sex or physical or psychological ability.

94. The education authorities in Monaco follow the official French curriculum in this area (life and Earth sciences, classes on health and reproductive life, moral and civic education); they are able to create greater synergies among stakeholders and to ensure early detection and almost personalized follow-up, owing to the small size of the Principality.

95. Respect for the principle of gender equality is an essential first step for combating stereotypes. This is a guiding principle of great importance to the public authorities and the population, since through it the development of a peaceful school climate is encouraged and facilitated, a protective environment with little gender-based violence is provided, and gender diversity and equality in terms of guidance are promoted.

96. Preventive and training measures to avoid discrimination and references to negative or sexist images are reinforced by awareness-raising campaigns, continuous training, and educational and teaching activities to promote equality.

97. Emphasis is therefore placed on monitoring of equal treatment, ongoing training of staff, the transmission of a culture of equality, tolerance and mutual respect and, in view of societal developments, greater efforts to combat gender-based and sexual violence and cyberviolence.

98. The recent adoption of Act No. 1.513 of 3 December on combating harassment and violence in schools reflects the need for an appropriate framework in this area (although the authorities had already taken practical steps in this regard, before this legal provision existed).

99. Accordingly, recently adopted legal provisions provide for anti-harassment measures such as the establishment of the right to a secure and peaceful school environment, the conduct of awareness-raising sessions, the training of all staff members involved in any way, the development of a specific prevention and eradication plan, the establishment of a harassment focal point in each school and the appointment of an official responsible for the issue within the Department of National Education, Youth and Sports.

100. In terms of workforce integration, the proportion of female managerial staff (column 1) and teaching staff (column 2) for the period 2022–2023 is shown below.

<i>Female managerial staff</i>	<i>Teaching staff</i>	<i>2022–2023</i>
Preschool	100%	90%
Primary	78	80
Middle school	0*	63
High school	57	53
Tertiary	71	44
<b>Total</b>	<b>65%</b>	<b>65% (or 20/31 and 475/727)</b>

\* Out of a total of 3 persons.

## **XI. Gender-based violence against women**

### **Reply to the question raised in paragraph 11**

101. See question 6 (d).

102. The Committee for the Promotion and Protection of Women's Rights, reporting to the Minister of State, was established by Sovereign Ordinance No. 7.178 of 25 October 2018. In accordance with article 2 of Sovereign Ordinance No. 7.178, its mission is to:

- "Coordinate, implement, monitor and evaluate national policies and measures to promote equality between women and men and to prevent and combat all forms of violence and discrimination against women, as provided for in the following conventions:
  - Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, concluded in Istanbul, on 11 May 2011;

- Council of Europe Convention on Action Against Trafficking in Human Beings, concluded in Warsaw, on 16 May 2005;
- Convention on the Elimination of All Forms of Discrimination against Women, adopted in New York, on 18 December 1979;
- As part of its mission, the Committee coordinates the collection and analysis of relevant data, and dissemination of the results obtained;
- It is also able to develop relations with its counterparts in other States parties and to communicate directly with them;
- It oversees follow-up to the recommendations made by the international bodies responsible for ensuring States parties' implementation of the conventions referred to in paragraph 1.”

103. The establishment of the Committee for the Promotion and Protection of Women's Rights gives effect to the recommendation made by the Committee on the Elimination of Discrimination against Women, in its concluding observations on the combined initial to third periodic reports of Monaco dated 22 November 2017, that the State party should establish a national machinery for the advancement of women (see para. 20).

104. With regard to the criminalization of rape, Act No. 1.517 of 23 December 2021 reforming the provisions relating to the criminalization of sexual assault amended the legal definition of rape and other sexual assaults, such that it is now based on the lack of freely given and unequivocal consent, with a view to bringing Monegasque law in line with general recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, of the Committee on the Elimination of Discrimination against Women, and also article 36 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), signed by Monaco on 20 September 2012 and ratified on 7 October 2014.

105. Accordingly, article 262 of the Criminal Code, as amended by Act No. 1.517, stipulates that:

- “Rape is defined as the act of compelling another person to commit or undergo, without his or her consent, any act of sexual penetration or act involving oral-genital contact, of any kind and using any means;
- Anyone who commits the crime of rape shall be liable to a prison term of 10 to 20 years.”

106. Among the fundamental contributions of Act No. 1.517 is that it places the notion of lack of consent at the very heart of the definition of sexual violence offences, with the incorporation of an irrefutable presumption of lack of consent when the rape or sexual assault is committed on a minor under the age of 13 years (new art. 261-1, last para., of the Criminal Code) or when these offences are of an incestuous nature and committed on a minor of any age (new art. 261-2, last para., of the Criminal Code).

107. Through the adoption of Act No. 1.517 of 23 December 2021 reforming the provisions relating to the criminalization of sexual assault, the definition of rape provided for under the Criminal Code has therefore been expanded and refocused on the lack of consent by the victim, in accordance with the recommendations of the Committee on the Elimination of Discrimination against Women and the Group of Experts on Action against Violence against Women and Domestic Violence. Rape therefore now means an act of non-consensual sexual penetration, of any kind and using any means. This definition makes it possible to cover a wider range of

situations, not only those characterized by the existence of threats, violence, coercion or surprise.

108. As a result of the investigative time lag, some reported incidents had not yet led to prosecution or conviction, at the time of data collection by IMSEE.

- In 2019, nine cases of sexual violence (including rape) against women were recorded by the Police Department. Three of those cases have resulted in legal proceedings in Monaco. No conviction has been handed down;
- In 2020, six cases of sexual violence (including rape) against women were recorded by the Police Department. Two of those cases have resulted in legal proceedings in Monaco. One conviction has been handed down;
- In 2021, four cases of sexual violence (including rape) against women were recorded by the Police Department. None of those cases has resulted in legal proceedings in Monaco;
- In 2022, eight cases of sexual violence (including rape) against women were recorded by the Police Department. None of those cases has resulted in legal proceedings in Monaco.

## **XII. Gender-based violence against women**

### **Reply to the question raised in paragraph 12**

109. The concept of “domestic violence” was introduced by Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence. It refers to “all forms of physical, psychological, sexual or financial violence or threats of violence committed by persons who are living or who have lived with the victim” (introductory article of the Act).

110. Based on a realistic approach to criminal law, Monegasque legislators wanted to address domestic violence in a comprehensive and factual manner, by targeting acts committed both between spouses and between individuals living together or having lived together in the past on a long-term basis.

111. Accordingly, Act No. 1.517 of 23 December 2021 reforming the provisions relating to the criminalization of sexual assault expanded the approach to domestic violence, whereby the act of living together (in the past or present) became an aggravating circumstance for rape, so that rapists who are spouses, partners, cohabitants or common-law partners are more severely punished than other rapists.

112. This notion may also be an element of a separate offence, as in the case of violence, for which article 238-1 of the Criminal Code stipulates that:

- “Violence not resulting in any illness or total incapacity to work shall be punishable by a prison term of six months to one year and by the fine established in article 26, figure 2, if it is committed:
  - 1 – against the perpetrator’s spouse, partner under a partnership contract or cohabitant under a cohabitation contract, or against any other person living with the perpetrator or having done so on a long-term basis.”

113. It may also be an aggravating circumstance in relation to other offences. For example, with respect to threats, article 234-1 of the Criminal Code stipulates that:

- “When the threats covered in articles 230 to 234 are made against the perpetrator’s spouse, partner under a partnership contract or cohabitant under a cohabitation contract or against any other person living with the perpetrator or

having done so on a long-term basis, they shall be punishable by double the penalty prescribed under those articles. The prison terms may not, however, exceed the maximum penalty provided for by the aforementioned articles;

- The same applies when the threats covered under articles 230 to 234 are made against a person whose vulnerability or state of dependence is apparent or known to the perpetrator.”

114. Moreover, it should be noted that an individual who strikes a partner with whom he or she does not or has not lived may still be prosecuted for assault and battery, for which the penalty is prescribed under articles 236 ff. of the Criminal Code. That individual is liable to a prison term of up to one to five years and to the fine established in article 26, figure 4, namely 18,000 to 90,000 euros.

115. In 2022, the Department of Social Welfare and Social Services, which reports to the Ministry of Health and Social Affairs, assisted seven female victims of psychological and/or physical and/or sexual violence.

116. As a result of the investigative time lag, some reported incidents had not yet led to prosecution or conviction, at the time of data collection by IMSEE.

- In 2019, 15 cases of domestic violence (committed by a partner or spouse) against women were recorded by the Police Department, nine of which were the subject of a complaint. Eight of those cases resulted in legal proceedings in Monaco and three convictions were handed down;
- In 2020, 18 cases of domestic violence (committed by a partner or spouse) against women were recorded by the Police Department, 11 of which were the subject of a complaint. Seven of those cases resulted in legal proceedings in Monaco and one conviction was handed down;
- In 2021, 10 cases of domestic violence (committed by a partner or spouse) against women were recorded by the Police Department, nine of which were the subject of a complaint.
- In 2022, 11 cases of domestic violence (committed by a partner or spouse) against women were recorded by the Police Department, 8 of which were the subject of a complaint.

### **XIII. Trafficking and exploitation of prostitution**

#### **Reply to the question raised in paragraph 13**

117. In the domestic law of Monaco, trafficking is criminalized under article 8 of Sovereign Ordinance No. 605 of 1 August 2006 implementing the United Nations Convention against Transnational Organized Crime, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea and Air, which provides that:

- “The recruitment, transport, transfer, housing or receiving of a person shall constitute the offence of trafficking in persons where it is carried out:
  - Using force or the threat of force, or any other form of coercion such as abduction, fraud, deception, abuse of authority or exploitation of a situation of vulnerability;
  - Through the offer or acceptance of payments or advantages for obtaining the consent of a person with authority over another for the purposes of exploitation, such as prostitution or any other form of sexual exploitation,

slavery or practices similar to slavery, forced labour or service, servitude, or organ removal.

- The offence of trafficking in persons is committed even if the victim has given his or her consent.
- Any victim aged under 18 is considered to be a child, and the mere act of recruiting, transporting, transferring, housing or receiving that person constitutes an offence against him or her, even in the absence of one of the means set out in the first paragraph.”

118. Under article 9 of the same Sovereign Ordinance, the offence of trafficking in persons or any attempt to do so shall be punishable by a prison term of “5 to 10 years and the fine established in article 26, figure 4, of the Criminal Code [i.e., 18,000 to 90,000 euros], the maximum amount of which may be increased tenfold.”

119. Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence, the aim of which is to “prevent and punish acts of violence that necessitate or justify specific forms of punishment or reparation, or penalties that are tougher or that are otherwise adjusted because of the particular vulnerability of the victims or the situations in which the acts of violence are perpetrated” (introductory article), has also strengthened the legal framework against domestic slavery. By means of Act No. 1.382, a new first paragraph was added to article 249-2 of the Criminal Code, under which “the act of obtaining services from a person whose vulnerability or state of dependence is apparent or known to the perpetrator for no pay, or pay that clearly does not reflect the amount of work performed, shall be punishable by five years’ imprisonment and double the fine established in article 26, figure 4.”

120. A sovereign ordinance aimed at strengthening the Principality’s legal framework for combating trafficking in human beings was published in the Official Gazette on 7 July 2023. Accordingly, the offence of trafficking is no longer restricted to transnational situations involving an organized criminal group, and the ordinance sets out a number of aggravating circumstances in relation to the offence of trafficking (endangerment of the victim’s life; minor victim; offence committed by a public official in the performance of his or her duties; and offence committed as part of a criminal organization). Lastly, it provides for regular training for professionals who deal with victims of trafficking and ensures better compensation for victims.

## **XIV. Participation in political and public life**

### **Reply to the question raised in paragraph 14**

121. On this issue, we recall resolution No. 32, aimed at increasing the representation of women on the boards of directors of public and private entities reporting to the State, and the awareness-raising campaign entitled “Everyone has a role in corporate governance”, conducted in 2022 by the Committee for the Promotion and Protection of Women’s Rights. In addition, on 29 November 2022, the Director of Employment spoke at the Association des Femmes Chefs d’Entreprises de Monaco to address, at its request, various topics relating to applicable labour law.

## **XV. Nationality**

### **Reply to the question raised in paragraph 15**

122. It should first be recalled that the series of reforms to nationality law brought about by Act No. 1.155 of 18 December 1992, Act No. 1.276 of 22 December 2003,

Act No. 1.296 of 28 April 2005 and, most recently, Act No. 1.387 of 19 December 2011 have closed the gap that existed between men and women as regards their ability to transmit Monegasque nationality through both filiation and marriage.

123. Since 29 June 2019, article 1 of Act No. 1.155 of 18 December 1992 on nationality has provided as follows:

- “A Monegasque national shall be:
  - 1. – Any person born of a Monegasque father, unless the latter acquired his nationality by declaration, pursuant to the provisions of article 3;
  - 2. – Any person born of a mother who is Monegasque by birth and still held that nationality on the day she gave birth;
  - 3. – Any person born of a Monegasque mother and one of whose descendants in the same branch was born Monegasque;
  - 4. – Any person born of a Monegasque mother who acquired Monegasque nationality by naturalization or restoration or in accordance with article 6, paragraph 2, or article 7, paragraph 4, of this Act;
  - 5. – Any person born of a mother who acquired Monegasque nationality by declaration following simple adoption;
  - 6. – Any person born in Monaco of unknown parents.
- The nationality of a child adopted under the full adoption procedure is determined according to the provisions of the preceding paragraph.”

124. Monegasque fathers can therefore transmit their nationality to their children, provided that they have not acquired it by declaration pursuant to the provisions of article 3, which specifically covers the acquisition of nationality through marriage under certain conditions and after a 20-year period.

125. As regards Monegasque mothers, the Act does indeed lay out a certain number of conditions. Nevertheless, taking them as a whole, it can be seen that Monegasque women transmit their Monegasque nationality to their children – and to their foreign husband – under conditions that are no more restrictive than those for Monegasque men to transmit their nationality to their descendants or their foreign wife.

126. In fact, the distinction now made in article 1 of the 1992 Act between paternal and maternal filiation in the acquisition of Monegasque nationality is essentially a formality, and the list of conditions specific to the mother contained therein arises as a result of successive legislative developments.

## **XVI. Education**

### **Reply to the questions raised in paragraph 16 (a), (b) and (c)**

127. As Monaco is an open, democratic society governed by the rule of law, everyone – within their means and abilities – remains free to choose their course of study, and no one is excluded in particular. Among the initiatives launched to foster and clarify these free choices:

- Since 2022, a careers guidance forum has been organized, together with a competition aimed at deconstructing gender stereotypes, and a “career development pathway” working group;

- In the same vein, attention has been drawn to the already active role of the Academic Counselling and Education Resource Centre, with the provision of even more information on its areas of expertise.

128. Sex education is included as part of the broader health and hygiene education required by law (article 39 of Act No. 1.334 of 12 July 2007, the Education Act), being provided for in educational programmes supporting the principle of non-discrimination, based on the age and required level. This topic is addressed starting in middle school through a programme designed to educate students in “sexual and reproductive health.”

129. The issue as a whole forms part of the even broader subject area of “education for democratic citizenship” and human rights, adapted to all stages of education and also applicable to all teachers and other staff working in education.

130. Differences in career direction are mostly based on intrinsic characteristics, since girls tend to perform better in school than boys, but do not make the same choices or follow the same pathways (they are strongly encouraged to choose general and technological studies, but show a clear preference for literature-related subjects, and are less inclined to opt for scientific subjects).

131. The proportion of women in each field of study is as follows:

<i>Fields of study</i>	
General and occupational programmes	46%
Education	83%
Humanities/arts	70%
Social sciences, journalism, information	74%
Business, administration, law	54%
Natural sciences, mathematics, statistics	31%
Information and communications technology	7%
Engineering, manufacturing, construction	26%
Agriculture, forestry, veterinary science	71%
Health, welfare	47%
Services	35%
<b>Total</b>	<b>51%</b>

132. Inclusive education is also provided, as evidenced by the importance lent to education for all and equal opportunities for youth, regardless of their gender, potential, particular characteristics or situation.

133. In January 2023, one of the Principality’s six schools, in particular, used the International Day of Education as an opportunity to raise awareness at all grade levels – using age-appropriate language codes and terms – of the issues faced by students with disabilities, and to enable students to contribute, through their behaviour and in order to better understand disability, to the development of an inclusive school.

## **XVII. Employment**

### **Reply to the question raised in paragraph 17**

134. First and foremost, it should be recalled that the Constitution of Monaco and the laws and regulations in force in the Principality of Monaco are not discriminatory on

the grounds of race, colour, sex, language or religion. All workers legally employed in Monaco benefit from the same working conditions, whatever their race, sex, religion or nationality, in compliance with the conventions by which the Principality is bound.

135. With regard to equal pay, article 2-1 of Act No. 739 of 16 March 1963 (the Pay Act), as amended, stipulates that “all employees, irrespective of sex, shall receive equal remuneration for the same work or work of equal value”.

136. For the public sector, Act No. 1.527 of 7 July 2022 amending Act No. 975 of 12 July 1975 on the status of civil servants of the State amended article 17 of Act No. 975 of 12 July 1975 on the status of civil servants of the State to introduce the principle of non-discrimination between civil servants. Draft Act No. 980 on the regulation of night work was submitted to the National Council on 22 October 2018. It currently remains under consideration.

137. In addition to the statistics on women in employment published annually by IMSEE, a study on measuring the gender pay gap was conducted with respect to 2019 wages and published for the first time in July 2022. It shows that a situation of virtually equal pay exists in the public sector and that the situation is balanced in the private sector (with a 5.9 per cent gap in favour of men, which would place the Principality among the 10 most equitable countries in the ranking of the Organisation for Economic Co-operation and Development (OECD)).

138. The Ministry of Health and Social Affairs plans to raise awareness of this issue among employers and social partners in an upcoming progress report on the influence of the Charter for the equality of women and men at work, signed on 7 November 2019.

139. Based on the work done, the following conclusions can be drawn for the 2013–2022 period:

- Women account for 27–28 per cent of business leaders on the boards of directors and decision-making bodies of the economic agents registered in the Trade and Industry Registry (with the exception of those with the legal status of “foreign company”);
- The proportion of women among self-employed workers is similar (27–28 per cent);
- In the private sector, women have accounted for around 40 per cent of employees throughout the decade, while in the public sector the proportion of women has risen (from 41 per cent in 2013 to 44 per cent in 2022).

140. With regard to the pay gaps measured in 2019:

- The compensation index for women in the civil service in 2019 was on average 0.7 per cent higher than that for men;
- In the private sector, the median pay gap was 5.9 per cent in favour of men in 2019 (compared with 10.1 per cent in 2012). The average pay gap between men and women, on a monthly basis, was 28.5 per cent in favour of men (27.9 per cent in 2012). Taking into account the highest-paid position in the year for each individual, men earned on average 26.7 per cent more than women in 2019.

141. Part of this gap can be explained by the structure of the employee population (different average characteristics of men and women), while part is unexplained. Nearly half of the 26.7 per cent difference (12.6 per cent) can be attributed to the effect of the population’s composition, while 14.1 per cent remains unexplained by the available data used in the breakdown. Moreover, in terms of hourly pay (weighted

by the number of hours worked), men earn on average 20.9 per cent more than women for each hour worked (the gap was 22.2 per cent in 2012).

## **XVIII. Sexual harassment in the workplace**

### **Reply to the question raised in paragraph 18 (a)**

142. It should be recalled that Act No. 1.457 of 12 December 2017 on harassment and violence in the workplace originally contained a single definition of harassment in the workplace, encompassing moral harassment and sexual harassment.

143. Following the adoption of Act No. 1.517 of 23 December 2021 reforming the provisions relating to the criminalization of sexual assault, a distinction was made between moral harassment and sexual harassment, the latter now being defined as “the act of subjecting an individual, repeatedly, knowingly and using any means, in the context of a working relationship, to comments or behaviour with sexual or sexist connotations that either undermine that individual’s dignity owing to their degrading or humiliating nature, or create a situation that is intimidating, hostile or offensive to the said individual.”.

144. This definition takes into account the specific nature of harassment in the workplace, while the general definition of sexual harassment appears in the Criminal Code.

145. Through Act No. 1.517 of 23 December 2021, Monaco has considerably strengthened the range of measures available for the repression of sexual harassment and sexual blackmail by including a definition of sexual harassment and sexual blackmail in Act No. 1.457 and including them as specific criminal offences in the Criminal Code.

146. Thus, article 2 of Act No. 1.457 on harassment and violence in the workplace now states that:

- “No one may engage in moral or sexual harassment, sexual blackmail or violence in the workplace.
- Moral harassment in the workplace is defined as the act of subjecting an individual, knowingly and using any means, in the context of a working relationship, to repeated actions or omissions whose purpose or effect is a deterioration in the individual’s working conditions in a way that violates the dignity or results in an impairment of the physical or mental health of the said individual.
- Sexual harassment in the workplace is the act of subjecting an individual, repeatedly, knowingly and using any means, in the context of a working relationship, to comments or behaviour with sexual or sexist connotations that either undermine that individual’s dignity owing to their degrading or humiliating nature, or create a situation that is intimidating, hostile or offensive to the said individual.
- Sexual blackmail in the workplace is defined as the act, even if not repeated, of placing an individual under any form of serious pressure in the context of a working relationship or a recruitment procedure in order to obtain from that individual an act of a sexual nature, whether the act is sought for the benefit of the perpetrator or a third party.
- Workplace violence is defined as the act of threatening or assaulting, whether physically or psychologically, an individual in the context of a working relationship”.

147. While Act No. 1.457 now includes a definition of sexual harassment in the workplace – the legislator having deliberately opted, for the sake of consistency, to maintain a special understanding of sexual harassment in the workplace, recognizing the specific nature of such conduct in the professional sphere – the decision was also made to include the criminalization and punishment of such conduct in the Criminal Code to ensure that the range of possible penalties applicable thereto was clearly understood.

148. For this reason, a new article 260-1 was added to the Criminal Code, stating that:

- “Sexual harassment in the workplace is the act of subjecting an individual, repeatedly, knowingly and using any means, to comments or behaviour with sexual or sexist connotations that either undermine that individual’s dignity owing to their degrading or humiliating nature, or create a situation that is intimidating, hostile or offensive to the said individual. The offence is also constituted:
  - When the same victim is subjected to such comments or behaviour by several individuals, in a concerted manner or at the instigation of one of them, even though each of those individuals has not acted repeatedly;
  - When the same victim is subjected to such comments or behaviours, successively, by several individuals who, even if they are not acting in a concerted manner, know that such comments or behaviour constitute repeated conduct.
- Sexual harassment shall be punishable by two to five years’ imprisonment and the fine stipulated in article 26, figure 3, or by one of these two penalties only”.

149. A new article 260-2 has also been added to specifically criminalize sexual blackmail, which is distinguished from sexual harassment by the objective pursued by the perpetrator, namely, to obtain an act of a sexual nature. Article 260-2 of the Criminal Code provides that:

- “Sexual blackmail is the act, even if not repeated, of placing a natural person under any form of serious pressure with the real or apparent aim of obtaining an act of a sexual nature, whether the act is sought for the benefit of the perpetrator or a third party.
- Sexual blackmail shall be punishable by two to five years’ imprisonment and the fine stipulated in article 26, figure 3, or by one of these two penalties only”.

150. Lastly, a new article 260-3 has introduced several possible aggravating circumstances for the offences of sexual harassment and sexual blackmail. The penalty is thus increased to three to five years’ imprisonment and the fine stipulated in article 26, figure 4, [i.e., 18,000 to 90,000 euros] or one of these two penalties only, when the acts are committed, *inter alia*, “by an individual who abuses the authority conferred by his or her functions or in the context of a working relationship”.

151. The consequences of the amendment of Act No. 1.457 by Act No. 1.517 were recalled in Circular No. 2022-1 of 22 February 2022 on combating harassment and violence in the workplace, in which it is specified that the law now requires employers to put in place appropriate procedures to prevent, identify and end acts of moral harassment, sexual harassment, sexual blackmail and violence in the workplace.

152. To this end, the employer may appoint a focal point within the company to receive reports of any of the four types of punishable conduct listed above, and to pass them on to the employer. The employer is responsible for informing both the person who made the report and the focal point, in writing, of the action taken in

response to the report. The appointment of a focal point is mandatory for all employers that are legal entities under public law, all companies that operate a State-granted monopoly, and all persons that habitually employ more than 10 employees. The focal point is appointed for a period of one year, renewable, and if the company has employee representatives, they must be duly notified.

153. The employee who makes the report is protected by law, and the focal point has the same protection as that enjoyed by employee representatives, for the duration of the assignment and six months after its completion.

154. The perpetrator is liable to disciplinary action, in addition to possible criminal prosecution (see above).

155. The Labour Court is competent to hear any dispute arising from non-compliance with this Act, with the exception of disputes involving civil servants, employees of the State or the Municipality, and employees of public institutions governed by the rules of public law.

156. Furthermore, in Circular No. 2023-003 of 13 June 2023, “on reporting procedures with regard to the fight against harassment and violence in the workplace”, it is recalled that the State, as an employer covered by Act No. 1.457 of 12 December 2017 (as amended by Act No. 1.517 of 23 December 2021), has a leading role to play in preventing the occurrence of any act liable to be classified as moral harassment, sexual harassment, sexual blackmail or violence in the workplace, and in ensuring the protection of civil servants and contractual agents faced with such a situation.

#### **Reply to the question raised in paragraph 18 (b)**

157. As a result of the investigative time lag, some reported incidents had not yet led to prosecution or conviction, at the time of data collection.

- One case of sexual harassment of a woman (not occurring in the workplace) was recorded by the Police Department in 2019, giving rise to a complaint;
- Three cases of sexual harassment of women (including two in the workplace) were recorded by the Police Department in 2022, all of which gave rise to a complaint.

158. A total of nine cases of harassment, irrespective of the type of harassment or the gender of the alleged victim, were pending before the Labour Court in the 2021/2022 judicial year.

## **XIX. Women migrant domestic workers**

#### **Reply to the questions raised in paragraph 19 (a), (b) and (c)**

159. As soon as they arrive in Monaco, women migrant domestic workers are informed of their rights, in a language they understand. The Department of Social Welfare and Social Services offers social and health support and French language courses, if needed.

160. The person concerned may also be referred to any other governmental or non-governmental body involved in protecting and assisting migrants in the Principality, or to legal professionals who can provide legal advice and assistance. In addition, as with all employees in the Principality, women migrant domestic workers can consult the Labour Inspectorate to find out about their rights. Such consultation can take the form of a conversation or a written exchange. It is greatly facilitated by the size of the Principality. In addition, the Government website lists social laws by

theme, so that anyone with an Internet connection can find out about applicable social legislation.

## **XX. Health**

### **Reply to the question raised in paragraph 20**

161. In accordance with article 248, part II, of the Criminal Code, termination of pregnancy may only be legally performed in the Principality of Monaco in a limited number of cases (for therapeutic reasons or following rape). Three abortions were recorded in 2018, 10 in 2019, 15 in 2020, 10 in 2021 and 12 in 2022.

162. In the Principality, emergency contraceptives (those containing levonorgestrel-Norlevo® and generics, and those containing ulipristal-EllaOne®) are available in pharmacies. However, unlike in France, where the morning-after pill can be obtained free of charge from a pharmacy, in Monaco patients have to pay in advance, but can be reimbursed afterwards upon presentation of a doctor's prescription.

## **XXI. Economic and social benefits**

### **Reply to the question raised in paragraph 21**

163. A change in the concept of "head of household" as defined in Monegasque law is under consideration, with a view to bringing it more in line with the principle of gender equality.

164. A first step was taken with the adoption of Sovereign Ordinance No. 7.155 of 10 October 2018 on the granting of dependency benefits to civil servants and employees of the State and the Municipality, which has enabled women in that category of workers, who live in Monaco, to opt for head of household status and thus to benefit from family allowances and other dependency benefits, as well as health insurance for their dependants (article 6 of Sovereign Ordinance No. 7.155).

165. Sovereign Ordinance No. 7.155 also takes into account changes in family structure, and stipulates that in the event of remarriage, the mother of a child from a previous union shall retain the status of head of household, whereas previously it was her new husband who was designated as such.

## **XXII. Disadvantaged groups of women**

### **Reply to the question raised in paragraph 22**

166. Monaco has signed international treaties related to the prohibition of discrimination, including the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and the International Covenant on Civil and Political Rights of 16 December 1966, which prohibits any kind of discrimination and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

167. At the legislative level, under article 25 of Act No. 1.299 of 15 July 2005 on freedom of public expression, it is an offence to insult a person or group of people on the grounds of "their origin or their actual or assumed membership or non-membership of a particular ethnic group, nation, race or religion, or on the grounds of their actual or assumed sexual orientation". This offence is punishable by six days'

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to six months' imprisonment and the fine stipulated in article 26, figure 3, of the Criminal Code, or by one of these two penalties only.

## **XXIII. Marriage and family relations**

### **Reply to the question raised in paragraph 23**

168. By means of Act No. 1.523 of 16 May 2022 on the promotion and protection of women's rights through the amendment and repeal of obsolete and discriminatory provisions, the provisions in Monegasque law that imposed a waiting period of 310 days before remarriage, namely articles 126 to 129 of the Civil Code, have been repealed.

169. Article 132 of the Civil Code has also been amended to take account of this repeal. Whereas the article used to stipulate that "the right to oppose the celebration of marriage lies with the person already married to one of the two future spouses, as well as to any relative of the first husband with regard to a widow who violates the prohibition set out in article 126", it now stipulates that "the right to oppose the celebration of marriage lies with the person already married to one of the two future spouses".

## **XXIV. Data collection and monitoring**

### **Reply to the question raised in paragraph 24**

170. As mentioned above, IMSEE strives to produce gender-disaggregated statistics in all its publications. Comparisons are sometimes made with the regions neighbouring the Principality (in particular the French Department of Alpes-Maritimes or the Provence-Alpes-Côte d'Azur region). In addition, IMSEE uses internationally harmonized references and nomenclatures whenever possible, such as the glossary of types of violence defined in the Istanbul Convention for the study of violence against women in Monaco.

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