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Monaco

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the United Nations High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1995)	CRPD	OP-CAT
	ICESCR (1997)	(signature only, 2009)	ICRMW
	ICCPR (1997)		
	ICCPR-OP 2 (2000)		
	CEDAW (2005)		
	CAT (1991)		
	CRC (1993)		
	OP-CRC-AC (2001)		
	OP-CRC-SC (2008)		
	CPED (signature only, 2007)		
<i>Reservations, declarations and/or understandings</i>	ICERD (reservations, arts. 2, paras. 1 and 4, 1995)	CRPD (interpretative declaration and other declarations, arts. 23 and 25, 2009)	
	ICESCR (declarations, arts. 2, para. 2; 6; 8, para. 1, (a), (b) and (c); 8, para. 2; 9; 11; and 13; 1997)		
	ICCPR (declarations, arts. 2, paras. 1 and 2; 3; 13; 14, para. 5; 19; 21; 22; 25; and 26; reservation, art. 25; 1997)		
	CEDAW (general declarations/reservations, arts. 7(b); 9; 16, para. 1(g) and (e); and 29, para. 1; 2005)		
	CAT (reservation, art. 30(1), 1991)		
	CRC (declaration, art. 7 / reservation, art. 40, para. 2)		

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
	(b) and (v), 1993)		
<i>Complaint procedures, inquiry and urgent action</i> ³	ICERD, art. 14 (2001)		OP-ICESCR
	CAT		ICCPR, art. 41
	arts. 20, 21 and 22 (1991)		ICCPR-OP 1
	CPED		OP-CEDAW
	(signature only, 2007)		OP-CRC-IC
			ICRMW
			OP-CRPD

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide	ILO Convention No. 169 (2010) ⁷	Rome Statute of the International Criminal Court
	Palermo Protocol ⁴		Conventions on the status of refugees ⁸
	Convention on the status of stateless persons ⁵		ILO fundamental conventions ⁹
	Geneva Conventions of 12 August 1949 and Additional Protocols I, II and III ⁶		UNESCO Convention against Discrimination in Education
			ILO Convention No. 189 ¹⁰
			Conventions relating to the Status of Stateless Persons and on the Reduction of Statelessness ¹¹

1. In 2010, the Committee on the Elimination of Racial Discrimination (CERD) encouraged Monaco to consider acceding to ICRMW.¹² In 2011, the Committee against Torture (CAT) invited Monaco to consider ratifying ICRMW, OP-CAT, CRPD and CPED¹³ as well as the Rome Statute of the International Criminal Court.¹⁴

2. CERD recommended that Monaco withdraw its reservations to articles 2, paragraph 1, and 4¹⁵ and ratify the amendment to article 8, paragraph 6, of the Convention.¹⁶

3. CERD recommended that Monaco accede to the European Social Charter.¹⁷

B. Constitutional and legislative framework

4. CAT took note of the entry into force of the following acts: Act No. 1,343 (2007), which guarantees the rights of persons held in police custody or pretrial detention; Act No. 1,344 (2007) on increased penalties for crimes against children; Act No. 1,312 (2006) on

the obligation to justify administrative decisions, including refolement decisions; and Sovereign Ordinance No. 605 (2006) giving effect to the United Nations Convention against Transnational Organized Crime and its two additional protocols.¹⁸

C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions¹⁹

5. While noting the work by the Human Rights Unit and the Mediator as well as the bill under consideration to strengthen its mandate, CAT regretted the reluctance of Monaco to establish a national human rights institution.²⁰ Monaco was invited by CERD, and encouraged by CAT, to establish an independent national human rights institution in conformity with the Paris Principles; allocate necessary resources to fulfil its role, including the investigation of allegations of torture; and endow it with a mandate in the field of racial discrimination.²¹

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies²²

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD		2008	March 2010	Seventh, eighth and ninth reports overdue since 2012
CESCR	May 2006	2011	--	Second and third reports pending consideration
HR Committee	October 2008	--	--	Third report due in October 2013
CEDAW	--	--	--	Initial report overdue since 2006
CAT	May 2004	2010	May 2011	Sixth report due in 2015
CRC	June 2001 on CRC /June 2007 on OP-CRC-AC	2010	--	Second and third reports pending consideration in October 2013. Initial OP-CRC-SC report overdue since 2008

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2011	Reservations to the Convention; legislation prohibiting racial discrimination; and penalty of banishment. ²³	2011. ²⁴ Dialogue ongoing. ²⁵
HR Committee	2009	Domestic violence bill. ²⁶	2010. ²⁷
CEDAW	--	--	--
CAT	2012	Non-refoulement; monitoring detention conditions; and domestic violence. ²⁸	2012. ²⁹ Information under review. ³⁰

B. Cooperation with special procedures³¹

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes

C. Cooperation with the Office of the High Commissioner for Human Rights

6. During the period of the second UPR, Monaco has made annual financial contributions to OHCHR, including to the Voluntary Fund for the Victims of Torture in 2009.

III. Implementation of international human rights obligations

A. Equality and non-discrimination

7. While noting that several bills containing provisions aimed at preventing and combating racial discrimination were still under examination or consideration, CERD recommended that Monaco expedite the consideration and adoption of these bills, including bill No. 818 concerning offences involving information systems, which provides for an aggravating circumstance in the offence of making threats via a telecommunications network when such threats are motivated by race or religion, and the sports bill aimed at combating expressions of intolerance at sporting events.³²

8. While welcoming Act No. 1,229 (2005) on freedom of public expression, criminalizing the provocation and incitement of racial hatred and violence,³³ CERD was concerned that national legislation still contained no provisions giving full effect to article 4 of ICERD.³⁴ It recommended that Monaco adopt the bill intended to supplement the Criminal Code by including a specific offence based on article 1 of the Convention, as well as an aggravating circumstance related to the racist, anti-Semitic or xenophobic nature of offences.³⁵ CERD further recommended that Monaco review all its legislation with a view to aligning it with article 4 of the Convention.³⁶ In 2011, in its follow-up report, Monaco stated that it was working on an amendment to the Criminal Code to this end.³⁷

9. Despite the non-application of the penalty of banishment, CERD remained concerned that this penalty was still provided for in the Criminal Code and was applicable to non-nationals. It recommended that Monaco abolish this penalty within the framework of the Criminal Code reform.³⁸ In 2011, in its follow-up report, Monaco stated that the bill to amend the Criminal Code regarding banishment would be submitted to the National Council in 2011.³⁹

B. Right to life, liberty and security of the person

10. CAT remained concerned that the Criminal Code did not include a definition of torture that fully accords with article 1 of the Convention, or provisions expressly prohibiting the invocation of exceptional circumstances or an order from a superior officer or public authority as a justification of torture. It was also concerned at the lack of any specific provision making torture an offence. CAT urged Monaco to incorporate in its criminal law a definition of torture consistent with article 1 of CAT; adopt specific provisions prohibiting the invocation of exceptional circumstances or an order from a superior officer as a justification for torture; and take measures to prevent torture, including by strengthening safeguards for any officer who refuses to carry out an illegal order given by a superior officer.⁴⁰

11. With regard to the concern raised by CAT about the delay in the process of adopting Bill No. 869 on violence against women, children and persons with disabilities,⁴¹ in 2012, Monaco stated in its follow-up report that a bill had been adopted by Parliament, becoming Act No. 1.382 (20 July 2011) on the prevention and punishment of specific forms of violence.⁴²

12. CAT urged Monaco to ensure that corporal punishment for children is explicitly prohibited in all areas of life and that domestic violence is punished. It recommended that training or awareness-raising campaigns be organized, aimed at specifically informing victims of domestic violence about their rights.⁴³

13. While noting the negotiations on an agreement that will set out the details of a “right to visit” for prisoners convicted by the Monegasque courts and serving their sentence in a French penal institution, CAT was concerned at the lack of monitoring in the case of prisoners held in France and regretted that the practice of obtaining the express consent of a person convicted in Monaco to his/her transfer to France was not formally enshrined in law. CAT urged Monaco to establish a body reporting directly to the Monegasque authorities to facilitate monitoring of the treatment of such prisoners and the conditions in which they are held. CAT encouraged Monaco to incorporate in the agreement a clause requiring the express consent of convicted prisoners to their transfer.⁴⁴ In its follow-up report in 2012, Monaco stated that the Monegasque authorities were expected to appoint a judge to make periodic visits to French prisons to meet with the prisoners sentenced by Monegasque courts.⁴⁵

14. CAT took note that various training programmes were provided for judges and police officers. Nevertheless, it regretted that the training provided was not entirely as specified in the Convention. CAT encouraged Monaco to continue to organize training sessions on human rights and recommended that the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) be incorporated in training programmes for medical personnel and other professionals, and that Monaco assess the effectiveness and impact of these programmes.⁴⁶

C. Administration of justice

15. Despite the fact that there were no allegations of torture during the reporting period, CAT was concerned at the absence of specific provisions on redress and compensation for victims of torture or ill-treatment. It recommended that Monaco include in its bill on specific forms of violence explicit provisions on compensation for victims of torture or ill treatment and their dependants, in accordance with article 14 of the Convention.⁴⁷

16. CERD noted that the Department of Public Security intended to include a special section in its “register of offences” for complainants to state whether the offence against them was racist in nature. However, it was concerned at the lack of information on complaints, investigations and judgements related to acts of racial discrimination.⁴⁸

D. Freedom of religion or belief, expression and association

17. While noting that freedom of religion is protected under article 23 of the Constitution, CERD recommended that Monaco consider the official recognition of all religions, including Islam, in order to meet the needs of all persons with different ethnic origins, or of non-nationals in Monaco, and encourage and promote understanding, tolerance and friendship among different religious groups.⁴⁹

18. While noting that during the period from 2008 to 2012, journalists in Monaco generally work in a safe environment,⁵⁰ The United Nations Educational, Scientific and Cultural Organization (UNESCO) was concerned that defamation remained criminalized under the Monegasque Criminal Code, punishable with six months of imprisonment and a fine of 18,000 to 90,000 euros if the offence is committed in public.⁵¹ It encouraged Monaco to decriminalize defamation and make it part of the Civil Code, in accordance with international standards.⁵² UNESCO also recommended that Monaco establish a freedom of information law that is in accordance with international standards,⁵³ and develop the media self-regulatory mechanism.⁵⁴

19. CERD encouraged Monaco to promote the establishment of non-governmental human rights organizations.⁵⁵

E. Right to work and to just and favourable conditions of work

20. CERD noted that distinctions related to nationality and residence are applied in the field of employment, and was concerned by the absence of legislation to protect foreign workers from racial discrimination, particularly during recruitment and with regard to working conditions. CERD recommended that Monaco strengthen the protection of foreign workers by adopting legislation to protect them from racial discrimination, particularly during recruitment; ensure implementation of existing mechanisms, such as labour inspections, with regard to the working conditions of foreign workers; and inform foreign workers about their rights and, in particular, about complaint mechanisms, and facilitate access to those mechanisms. CERD also requested that Monaco provide statistical data on the number of inspections carried out, complaints lodged, judgements handed down and compensation measures, if any.⁵⁶

F. Right to education

21. UNESCO encouraged Monaco to take legislative measures to reinforce the right to education of children who are not Monegasque citizens.⁵⁷

G. Cultural rights

22. UNESCO recommended that Monaco make better use of the operational tools of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, especially the International Fund for Cultural Diversity (IFDC).⁵⁸

H. Migrants, refugees and asylum seekers

23. CAT regretted that an appeal to the Supreme Court against a refoulement or expulsion order had suspensive effect only if combined with a motion to stay execution, and also regretted the lack of follow-up by Monaco on asylum applications. CAT noted the practical difficulties facing asylum seekers in Monaco who wish to appeal against a rejection of their application, and expressed concern at the lack of follow-up in cases of expulsion concerning, inter alia, non-European nationals who could subsequently be expelled to a State where they might be in danger of being subjected to torture or ill-treatment. CAT urged Monaco to establish a mechanism for following up on cases of asylum seekers dealt with by the French Office for the Protection of Refugees and Stateless Persons; and ensure that appeals against refoulement or expulsion orders automatically have suspensive effect.⁵⁹

I. Human rights and counter-terrorism

24. CAT reiterated the concerns expressed by the Human Rights Committee about the broad, ill-defined definition of terrorist acts contained in the Criminal Code, including the lack of clarity in the definition of “environmental” terrorism. It urged Monaco to adopt a more precise definition of terrorist acts while ensuring that all measures to combat terrorism comply with its obligations under international law.⁶⁰

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on Monaco from the previous cycle (A/HRC/WG.6/5/MCO/2).

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict

OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance

- ³ Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: CPED, art. 30.
- ⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol
- ⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html
- ⁷ International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.
- ⁸ 1951 Convention relating to the Status of Refugees and its 1967 Protocol.
- ⁹ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ¹⁰ International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers.
- ¹¹ 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ¹² CERD/C/MCO/CO/6, para. 15.
- ¹³ CAT/C/MCO/CO/4-5, para. 16.
- ¹⁴ *Ibid.*, para. 16.
- ¹⁵ CERD/C/MCO/CO/6, para. 7; letter dated 2 September 2011 from the Committee on the Elimination of Racial Discrimination to the Permanent Mission of Monaco in Geneva, p. 1, available at: http://www2.ohchr.org/english/bodies/cerd/docs/followup/MonacoLetter_02092011.pdf
- ¹⁶ CERD/C/MCO/CO/6, para. 18.
- ¹⁷ *Ibid.* para. 12(d)(e).
- ¹⁸ CAT/C/MCO/CO/4-5, para. 5.
- ¹⁹ According to article 5 of the rules of procedure for the International Coordination Committee (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-

Committee are: A: Voting Member (fully in compliance with each of the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination), C: No Status (not in compliance with the Paris Principles).

²⁰ CAT/C/MCO/CO/4-5, para. 15.

²¹ CERD/C/MCO/CO/6, para. 9 and CAT/C/MCO/CO/4-5, para. 15.

²² The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination,
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities.

²³ CERD/C/MCO/CO/6, para. 20.

²⁴ CERD/C/MCO/CO/6/Add.1.

²⁵ Letter dated 2 September 2011 from the Committee on the Elimination of Racial Discrimination to the Permanent Mission of Monaco in Geneva (see note 16).

²⁶ Concluding observations of the Human Rights Committee (CCPR/C/MCO/CO/2), para. 15.

²⁷ CCPR/C/MCO/CO/2/Add.1. See also letter dated 8 October 2010 from HR Committee to the Permanent Mission of Monaco in Geneva, available at:

http://www2.ohchr.org/english/bodies/hrc/docs/Letter_Monaco_081010.pdf

²⁸ CAT/C/MCO/CO/4-5, para. 19.

²⁹ CAT/C/MCO/CO/4-5/Add.1.

³⁰ Committee against Torture - follow-up procedure, available at:

<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>.

³¹ For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.

³² CERD/C/MCO/CO/6, para. 8.

³³ *Ibid.*, para. 5(a).

³⁴ *Ibid.*, para. 10.

³⁵ *Ibid.*

³⁶ Letter dated 2 September 2011 from the Committee on the Elimination of Racial Discrimination (see note 16), p. 1, available at:

http://www2.ohchr.org/english/bodies/cerd/docs/followup/MonacoLetter_02092011.pdf.

³⁷ CERD/C/MCO/CO/6/Add.1, para. 16.

³⁸ CERD/C/MCO/CO/6, para. 11, and letter dated 2 September 2011 from the Committee on the Elimination of Racial Discrimination to the Permanent Mission of Monaco in Geneva, pa. 2, available at http://www2.ohchr.org/english/bodies/cerd/docs/followup/MonacoLetter_02092011.pdf.

³⁹ CERD/C/MCO/CO/6/Add.1, para. 18.

⁴⁰ CAT/C/MCO/CO/4-5, paras. 7-8.

⁴¹ *Ibid.*, para. 11.

⁴² CAT/C/MCO/CO/4-5/Add.1, para. 16. See also CCPR/C/MCO/CO/2/Add.1.

⁴³ CAT/C/MCO/CO/4-5, para. 11.

⁴⁴ *Ibid.*, para. 10.

⁴⁵ *Ibid.*, para. 11.

⁴⁶ CAT/C/MCO/CO/4-5, para. 13.

⁴⁷ *Ibid.*, para. 12.

⁴⁸ CERD/C/MCO/CO/6, para. 14.

⁴⁹ *Ibid.*, para. 13.

⁵⁰ UNESCO submission to the UPR on Monaco, para. 24.

⁵¹ *Ibid.*, para. 22.

⁵² *Ibid.*, para. 30.

⁵³ *Ibid.*, para. 31.

⁵⁴ *Ibid.*, para. 32.

⁵⁵ CERD/C/MCO/CO/6, para. 17.

⁵⁶ *Ibid.*, para. 12.

⁵⁷ UNESCO submission to the UPR on Monaco, para. 29.

⁵⁸ *Ibid.*, para. 33.

⁵⁹ CAT/C/MCO/CO/4-5, para. 9.

⁶⁰ Ibid., para. 14.
