

# MONACO

## Follow-up - State Reporting

### Action by Treaty Bodies, Including Reports on Missions

CCPR A/58/40 vol. I (2003)

## CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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### Overview of the application of the follow-up procedure

265. At its seventy-first session, in March 2001, the Committee began its routine practice of identifying, at the conclusion of each set of concluding observations, a limited number of priority concerns that had arisen in the course of the dialogue with the State party. The Committee has identified such priority concerns in all but one of the reports of States parties examined since the seventy-first session. Accordingly, it requested that State party to provide, within one year, the information sought. At the same time, the Committee provisionally fixed the date for the submission of the next periodic report.

266. As the Committee's mechanism for monitoring follow-up to concluding observations was only set up in July 2002, this chapter describes the results of this procedure from its initiation at the seventy-first session in March 2001 to the close of the seventy-eighth session in August 2003. These are described session by session, but in future reports this overview will limit itself to an annual assessment of the procedure.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
...			
<i>Seventy-second session (July 2001)</i>			
...			
Monaco	25 July 2002	7 March 2003	At its seventy-seventh session, the Committee decided to take no further action.

**CCPR, CCPR/C/SR.2738/Add.1 (2010)**

Human Rights Committee  
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting  
Held at Palais Wilson, Geneva,  
on Wednesday 28 July 2010, at 11:25 am

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**Follow-up to concluding observations on State reports and to Views under the Optional Protocol**

*Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/99/2/CRP.1)*

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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47. Monaco, which had been requested in the light of its second periodic report to adopt legislation on specific kinds of violence, had now provided a follow-up report on its draft legislation on the subject, and on a planned decision to train judges and public officials in the areas concerned. Information on the legislation was pending and no action was required from the Committee at present.

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49. **The Chairperson** proposed that the Committee should adopt the Special Rapporteur's recommendations.

50. *It was so decided.*

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## Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,<sup>16</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,<sup>17</sup> an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>18</sup> Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.<sup>19</sup>

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

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#### **Ninety-fourth session (October 2008)**

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#### **State party: Monaco**

**Report considered:** Second periodic (due on 1 August 2006), submitted on 4 March 2007.

#### **Information requested:**

Para. 9: Adopt specific legislation on domestic violence; step up public information campaigns, inform women of their rights, and provide victims with material and psychological support; the police should be given specific training on the subject (art. 3).

**Date information due:** 31 October 2009

#### **Date information received:**

*26 March 2010* Follow-up report received (responses largely satisfactory).

**Recommended action:** While taking note of the cooperativeness of the State party, the Committee should send a letter indicating that the procedure is complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory. In addition, the State party should be invited to keep the Committee apprised of any new development in respect of the bill designed to combat and prevent specific forms of violence and the order to be issued with a view to improving the training of judges and other officials.

**Next report due:** 28 October 2013

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<sup>16</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40, vol. I (A/58/40 (vol. I)).*

<sup>17</sup> *Ibid., Sixty-Fourth Session, Supplement No. 40, vol. I (A/64/40 (vol. I)).*

<sup>18</sup> The table format was altered at the ninetieth session.

<sup>19</sup> As the next periodic report has become due with respect to the following States parties, the

Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

## **Follow-up - Reporting**

### **(ii) Action by State Party**

#### **CCPR CCPR/CO/72/MCO/Add.1 (2003)**

1. The Government has carefully examined the concluding observations of the Human Rights Committee and sets out below its replies to the questions put by the Committee on the lack of justification for administrative measures relating to the expulsion of foreigners and on exile.

Lack of justification for administrative measures2. The Committee stated that it was concerned about the lack of justification for administrative measures relating to the expulsion of foreigners.3. At present, there is no legislative or statutory measure requiring the Minister of State to justify any expulsion decision he may take.4. However, under article 90 B of the Constitution, as an administrative matter, an expulsion measure can be referred to the Supreme Court.5. The Supreme Court has long refused to consider whether such a decision is appropriate or valid.6. Henceforth, however, the Supreme Court will consider that it has the authority to ask the administration to explain the reasons for a decision so as to ensure that it is lawful. In an interim decision dated 13 March 2002, the Supreme Court stated that: "Although the decision by which the Minister of State expelled the applicant from Monegasque territory did not have to be justified, the Supreme Court does have to ensure that the reasons given by the Minister of State as the basis for his decision are accurate and lawful; that in response to the applicant's claim that the facts invoked for ordering him to leave Monegasque territory are materially inaccurate, the Minister of State did not comment on these facts and simply emphasized that his decision did not have to be justified; and that he has thus made it impossible for the Supreme Court to ensure that the decision is lawful" (Supreme Court, 13 March 2002, Mr. Isley, recorded on this date).7. This decision represents a major step forward in jurisprudence for the protection of human rights.8. At the same time, it is increasingly frequent for legislation to establish the obligation to justify certain administrative decisions in various areas. For example, this is the case with Act No. 1231 of 12 July 2000 relating to the professions of independent auditor and chartered accountant; Act No. 1264 of 23 December 2002 relating to private activities for the protection of property and persons; Act No. 1266 of 23 December 2002 relating to cosmetic products; Act No. 1241 of 3 July 2003 amending Act No. 1194 of 9 July 1997 relating to portfolio management and similar brokerage activities; and Sovereign Order No. 13839 of 29 December 1998 relating to the status of hospital doctors at Princess Grace Hospital.9. In particular, moreover, a bill is currently being drafted on the justification of administrative acts. The text provides for the establishment of a genuine right to a justification of administrative decisions. It is due to be submitted to the office of the National Council this year.Exile10. The Committee's second concern relates to the maintenance of criminal legislation providing for exile (article 12 of the Covenant). The Government recognizes that this legislation is outdated, but points out that this penalty has not been applied by Monegasque courts for decades. There are thus plans to repeal this legislation, which has become totally obsolete. 11. As indicated above, it may be considered that the Government has begun to implement the two recommendations by the Human Rights Committee.

**CCPR, CCPR/C/MCO/CO/2/Add.1 (2010)**

**Comments by the Government of Monaco on the concluding observations of the Human Rights Committee (CCPR/C/MCO/CO/2)**

[26 March 2010]

1. A bill designed to help combat and prevent specific forms of violence by providing greater protection to women, children and persons with disabilities was submitted to the office of the National Council (the legislative body of Monaco) on 13 October 2009. The passage of this bill would provide Monaco with a legal instrument which takes into account the extent of a victim's vulnerability and many different forms of violence.
2. The bill would afford greater protection for women, children and persons with disabilities by introducing specific measures for prevention, protection and punishment. The proposed law focuses on domestic violence involving spouses or persons living together under the same roof on a long-term basis, "honour crimes", female genital mutilation and forced marriage.
3. Under this bill, in cases where such offences concern a spouse or a person living under the same roof as the perpetrator on a long-term basis, the penalties are increased substantially; either the sentence corresponding to the offence under ordinary law is doubled, or the maximum sentence is applied. In addition, a failure to fulfil the obligation to make reparations counts as an aggravating circumstance with respect to the penalty to be imposed; this may lead, inter alia, to the revocation of the suspension of a sentence or of probation (art. 10).
4. This provision also applies to perpetrators of female genital mutilation, honour crimes or rape of a spouse or a domestic worker (art. 12). The bill covers domestic slavery and harassment as well.
5. The bill provides for measures to protect victims and for the training of judges and other persons who deal with victims of such acts. In addition, victims of the acts of violence covered in the first article will be entitled to be kept fully informed and to receive personal counselling. Police officers and members of the judicial police force are to inform victims orally and by any other appropriate means of: their right to reparations for the harm suffered; their right to sue for damages if criminal proceedings are initiated by the public prosecutor's office, to bring charges against the perpetrator before the corresponding court or to lodge a complaint with the examining magistrate; and their right to receive assistance from the appropriate government agency or from a government-approved victims' aid association. The victim is also to be furnished with Ministry-approved documentation for that purpose. All public and private hospitals and medical practices in the Principality of Monaco are to have free and anonymous access to that documentation as well. Persons with disabilities who become victims of such acts of violence will have full access to all relevant information in a form that is suited to their disability. Training within the corresponding field is to be provided to persons whose occupations bring them into contact with victims of violence, including judges, health professionals, and judicial

police agents and officers, in order to assist them to improve the manner in which they deal with such victims. The relevant training procedures are to be established by ministerial order.