



Resolution 1690 (2009)¹

Honouring of obligations and commitments by Monaco

Parliamentary Assembly

1. The Principality of Monaco will celebrate five years of Council of Europe membership on 5 October 2009. The Parliamentary Assembly finds that Monaco is well advanced on the path of democratic reforms to fulfil its obligations and commitments towards the Organisation, particularly in connection with its procedure of supervising and implementing the Constitution revised in 2002. It supports and encourages the Monegasque authorities' efforts in this regard.

2. The Assembly welcomes France's recent ratification of the Convention to Adapt and Develop Administrative Co-operation between the French Republic and the Principality of Monaco, signed in Paris on 8 November 2005. This convention replaces the 1930 convention and stipulates compliance with the principle of non-discrimination enabling Monegasque citizens to be appointed to high public positions and government offices hitherto reserved for French nationals, in particular the offices of Minister of State, Government Counsellor for the Interior, Director of Judicial Services, Director of Public Safety and Director of Fiscal Services.

3. The Assembly notes that to date Monaco has ratified 40 of the 205 Council of Europe conventions and signed three others, namely the Protocol to the European Convention on Human Rights (ETS No. 9), the revised European Social Charter (ETS No. 163) and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

4. The Assembly is gratified that the Principality has honoured many of its undertakings to ratify the conventions specified in its [Opinion 250 \(2004\)](#) on Monaco's application for membership of the Council of Europe. In particular, it has ratified :

- 4.1. the European Convention on Human Rights (ETS No. 5), accompanied by the lodging of two declarations and several reservations, and Protocols Nos. 4, 6, 7, 13, 14 and 14bis thereto ;
- 4.2. the European Convention for the Prevention of Torture and Inhuman or Degrading Punishment or Treatment (ETS No. 126) ;
- 4.3. the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 2) and the additional protocols thereto ;
- 4.4. the Criminal Law Convention on Corruption (ETS No. 173) ;
- 4.5. the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30) ;
- 4.6. the European Agreement relating to persons participating in proceedings of the European Court of Human Rights (ETS No. 161) ;
- 4.7. the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) ;
- 4.8. the European Convention on the Suppression of Terrorism (ETS No. 90).

1. Assembly debate on 1 October 2009 (34th Sitting) (see [Doc. 12012](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs : Mr Agramunt and Mr Slutsky).



5. The Assembly nevertheless observes that the Principality of Monaco has so far not honoured its undertakings to :

5.1. ratify the First Protocol to the European Convention on Human Rights (ETS No. 9) securing the right of property, the right to free elections and the right to education, within the agreed time of one year after accession ;

5.2. sign Protocol No. 12 (ETS No. 177) within the agreed time of one year after its entry into force, that is by 1 April 2006 ;

5.3. ratify the revised European Social Charter (ETS No. 163) within the agreed time of one year after accession. The Assembly takes note of the comments submitted by the Monegasque authorities during the co-rapporteurs' visit in July 2009 and hopes that the draft of the ratifying law for the Social Charter will be tabled in the National Council no later than October 2009 ;

5.4. ratify the Convention on Cybercrime (ETS No. 185) within the agreed time of five years after accession, which expires on 5 October 2009. During the co-rapporteurs' July 2009 visit, the Monegasque authorities gave an assurance that the preparation of a bill on the ratification of the instrument was in hand and that it would be promptly tabled in the National Council.

6. The Assembly takes note of the Monegasque Government's misgivings and decision to give itself extra time for consideration before it proceeds to respectively ratify or sign the first Protocol and Protocol No. 12 to the European Convention on Human Rights. While aware of Monaco's special situation and particularly that its indigenous population is numerically smaller than the foreign population living and/or working in the Principality, it must nonetheless recall that these undertakings were freely made on accession to the Council of Europe and will have to be honoured.

7. The Assembly welcomes the fact that the Principality has honoured all the commitments made in [Opinion 250 \(2004\)](#) where domestic legislation is concerned ; notably, the following laws have been enacted :

7.1. amendments to the Civil Code incorporating equality between women and men as parents and spouses as well as in other respects ;

7.2. two laws amending the law of 18 December 1992 on nationality ;

7.3. the law on freedom of the media ;

7.4. the law on the statement of grounds for administrative decisions ;

7.5. the law on associations and federations of associations. The Assembly encourages the Monegasque authorities to continue the legislative reforms aimed at maximum transparency in public finances, while regretting that the question of financial oversight of subsidised associations was not addressed in this new law.

8. The Assembly supports the work undertaken by the Monegasque Government's legislative staff to draw up a bill on the punishment of domestic violence committed by persons living under one roof, and encourages the authorities to prepare a law in keeping with Council of Europe standards of non-discrimination.

9. Reiterating its earlier recommendations, the Assembly invites the Monegasque authorities to envisage preparing a law on political parties, particularly to ensure greater transparency in political party financing, and a law on the organisation of elections and the election campaign.

10. The Assembly notes that Monegasque criminal legislation is selectively amended to be brought into line with the provisions of the international conventions to which Monaco is a party. However, it asks the Monegasque authorities to speed up the reform of the Code of Criminal Procedure and finalise the reform of the Penal Code so as to transpose into the corresponding statutes the implementing measures in the criminal law sphere that follow from the Principality's ratification of an international treaty, in accordance with the European Convention on Human Rights as interpreted by the European Court of Human Rights.

11. The Assembly values at their true worth the Principality's significant efforts to strengthen its criminal justice apparatus for combating money laundering and takes particular note of the enactment in June 2008 of a law amending the Penal Code and instituting the criminal liability of legal persons as regards the predicate offences to the offence of laundering, and of the passing in July 2009 of a law to combat money laundering, financing of terrorism and corruption.

12. The Assembly notes with satisfaction that the Monegasque authorities have taken a good number of measures to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which were awaiting action, set out in its report of 31 May 2007. It asks that the Monegasque authorities also take account of the recommendations in the report of the European Commission against Racism and Intolerance (ECRI) of 24 May 2007.

13. The Assembly welcomes the progress made in budgetary and financial independence at the level of the municipality after the enactment of the law on local self-government. It encourages the Monegasque authorities to carry on the reform for enabling the Principality's resident aliens to participate in the conduct of municipal affairs in accordance with the relevant Council of Europe standards.

14. As to the National Council's role in the operation of a pluralist democracy within the meaning of the Council of Europe Statute, the Assembly recalls the recommendations in paragraph 11 of [Opinion 250 \(2004\)](#) on supervision of government action particularly as regards the annual presentation of the governmental programme, the right of legislative initiative, and the budgetary debate. It is aware that the 2002 constitutional revision prepared the way for an improvement in preservation of the institutional balance peculiar to Monaco's hereditary constitutional monarchy. It nevertheless wishes that these constitutional provisions may be transposed into the legislative and regulatory texts, thus allowing the legislature's independence vis-à-vis the executive, and balance between the institutions, to be secured.

15. The Assembly takes note of the Sovereign Prince's position, stated during the meeting with the co-rapporteurs on 28 July 2009, which is that the extension of the powers of the National Council desired by the Assembly can be achieved by including the presentation of the governmental programme and the discussion of the initial and rectified budgets in the annual joint meetings between the government and the National Council on the economic and social situation in the Principality.

16. The Assembly takes note of the formation of a joint National Council-government working group. It has met on several occasions and the Assembly sincerely wishes that its proceedings may lead to the early enactment of a new law on the operation and organisation of the National Council, accommodating the constitutional amendments which occurred in 2002. The Assembly also invites the National Council to revise its rules of procedure accordingly. It furthermore encourages the government to espouse transparency in its relations with the National Council to enable it to consolidate its role and improve the system of checks and balances and, through its press centre, to secure direct access for the National Council members to the local television channel.

17. In addition, the Assembly reiterates its recommendations to the Monegasque authorities to redraw the list of international conventions and treaties requiring the passage of a ratifying law by the National Council under Article 14 of the Constitution and, in the meantime, to put to the National Council beforehand any draft reservation or declaration pertaining to a treaty on which the National Council must pass a ratifying law.

18. Accordingly, and in the context of the current process of reforms undertaken by the Monegasque authorities, the Assembly invites Monaco to :

18.1. ratify the first Protocol to the European Convention on Human Rights (ETS No. 9) and the revised European Social Charter (ETS No. 163) ; to sign and ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177) and the Convention on Cybercrime (ETS No. 185). The Assembly urges the Monegasque authorities' speedy consideration, with the Council of Europe, of the necessary measures for ratifying these instruments ;

18.2. hasten the reform of the Code of Criminal Procedure and finalise the reform of the Penal Code ;

18.3. enact expeditiously the new law on the functioning of the National Council ;

18.4. redraw the list of international conventions and treaties requiring the passage of a ratifying law by the National Council ;

18.5. strengthen its relations with international organisations.

19. The Assembly considers that over the past five years Monaco has clearly demonstrated its determination and ability to fulfil the undertakings made upon its accession to the Council of Europe, and the statutory obligations which it contracts as a member state. Having regard to the progress achieved since 2004, the Assembly expresses its confidence that the Monegasque authorities will continue the reforms commenced. The Assembly therefore decides to close the monitoring procedure.

20. The Assembly, through its Monitoring Committee, will carry on the post-monitoring dialogue with the Monegasque authorities on the questions raised in this Resolution, particularly in paragraph 18 above, or on any other question that may arise out of Monaco's obligations as a Council of Europe member state.