Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13137
07 March 2013

Observation of the elections to the National Council of Monaco (10 February 2013)

Election observation report
Ad hoc Committee of the Bureau
Rapporteur: Mr Piotr WACH, Poland, Group of the European People's Party

Contents **Page**

1. Introduction 1
2. Legal context 2
3. Election campaign 3
4. The campaign and the media 5
5. Election administration, electoral roll and lists of candidates 5
6. Election day and results 6
7. Conclusions and recommendations 6
Appendix 1 – Composition of the ad hoc committee 7
Appendix 2 – Programme of the election observation mission (Monaco, 8-11 February 2013) 8
Appendix 3 – Statement by the election observation mission 9

1. Introduction

1. At its meeting of 5 October 2012, the Bureau of the Parliamentary Assembly decided to observe the elections to the National Council of Monaco, subject to receipt of an invitation and confirmation of the date, and to set up an ad hoc committee for this purpose comprising six members, one from each political group, and the rapporteur for the post-monitoring dialogue with Monaco. The Bureau, at its meeting of 17 December 2012, took note of the declarations of absence of conflict of interests made by the candidates for the observation mission, approved the membership of the ad hoc committee and appointed Mr Piotr Wach as its chairperson. On 25 January 2013, the Bureau approved the definitive membership of the ad hoc committee (Appendix 1).

2. On 27 December 2012, the Minister of State of Monaco, Mr Michel Roger, sent a letter to the Secretary General of the Council of Europe, Mr Thorbjørn Jagland, requesting the Parliamentary Assembly to organise a mission to observe Monaco's national elections of 10 February 2013.

3. The ad hoc committee met in Monaco from 8 to 11 February 2013. *Inter alia* it met Mr Michel Roger, Minister of State, the Government Councillors on external relations and internal affairs, Mr Jean-François Robillon, President of the National Council, officials and representatives of the three lists of candidates, the members of Monaco's delegation to the Parliamentary Assembly, Mr James Charrier, Chair of the board responsible for auditing campaign accounts, Mr Georges Marsan, Mayor of Monaco, Mr Philippe Narmino, Director of Judicial Services, the experts of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE), and representatives of the media. The

programme of the ad hoc committee's meetings is in Appendix 2. The delegation wishes to thank the staff of the National Council, Ministry of State and Office of the Mayor of Monaco for their excellent co-operation in the organisation of the election observation mission.

4. At the end of election day the ad hoc committee concluded that, on 10 February 2013, "Monegasques chose their representatives freely from among three lists of candidates for the National Council". The delegation congratulated the electorate on a "high turnout … which proves the attachment of the Monegasques to representative democracy in the Principality of Monaco. The Office of the Mayor of Monaco, in its capacity of election administrator, has done a commendable job with professionalism, efficiency and transparency during the electoral process, in the run-up to the elections and during the counting of the vote. The transparency of the vote counting was an example to all". However, the ad hoc committee also pointed out that democratic elections "are not limited only to voting day itself, but include the whole electoral process and election campaign [which was] marked by serious tensions ..., tarnished by verbal violence, slander and homophobic insults, as well as a physical assault, personal attacks and scandals. … The role and the aim of the Council of Europe were misinterpreted in a way which was exploited … This is all the more regrettable in view of the efficient and constructive relations between the Organisation and Monaco since its accession to the Council of Europe in 2004". The statement issued by the ad hoc committee after the elections is in Appendix 3.

2. Legal context

5. On 24 July 2012, Mr Michel Roger, Minister of State, decided to hold national elections on 10 February 2013.

6. Elections to the National Council are governed by the Constitution of the Principality of 1962, as amended in 2002 to increase the degree of political pluralism and to make it possible for the opposition to be represented in the National Council. Amendments to the constitution have also introduced a mixed system combining majority and proportional voting and raising the number of seats from 18 to 24.

7. It is important to note that, following its accession to the Council of Europe in 2004, Monaco has yet to ratify the Protocol to the European Convention on Human Rights (ETS No. 9), Article 3 of which guarantees, *inter alia*, the right to free elections.

8. The legal context also includes the law on election campaign expenses, the government ordinances on the arrangements for proxy voting, and the ministerial decree on election campaigning on television. Since 2006, some aspects of electoral legislation have been amended; *inter alia* the right to vote by proxy has been introduced for the following categories of voters, with the proviso that no person may hold more than two proxy votes:

– Monegasque citizens permanently or temporarily resident abroad while pursuing their studies or undergoing training;

– Monegasque citizens unable to attend the polling station on election day on account of a disability or their state of health or because of essential work-related obligations;

– Monegasque citizens permanently resident abroad (other than in the adjoining French department of Alpes-Maritimes and the adjoining Italian province of Imperia).

9. According to the ODIHR report of 21 December 2012 on the legal framework for the national elections in Monaco, the right to vote by proxy enables election turnout to be increased. For the elections of 10 February 2013, the Office of the Mayor of Monaco authorised 276 proxy votes, in compliance with the statutory procedures. This figure represents over 5% of voters.

10. The National Council comprises 24 members elected for a five-year term. Suffrage is universal and direct. Voters in elections to the National Council choose between lists containing several names, in a single round of voting, and have the option of voting for candidates from different lists, without preferential voting. Lists must contain a number of candidates at least equal to the figure representing the absolute majority within the assembly, namely 13, listed in alphabetical order.

11. Two thirds of the seats in the National Council are allocated on the basis of majority voting, and the remaining one third on the basis of proportional voting. The 16 candidates who obtain the largest numbers of votes are elected. In the event of a tie, the oldest candidate is declared elected. The remaining eight seats are allocated to those lists which have obtained at least 5% of the valid votes cast, on the basis of proportional representation.

12. Each list obtains a number of seats equal to the number of times that the electoral quotient is contained in the total number of valid votes cast for all of its candidates. The electoral quotient is obtained by dividing the total number of valid votes cast by the number of seats to be filled on a proportional basis. Any seats remaining are allocated through application of the rule of the highest average. Within each list, the seats obtained are allocated to candidates in the order of the number of votes which they obtained. In the event of a tie, the oldest candidate is elected.

13. The law on election campaign expenses was passed on 2 July 2012. On 23 November 2012, the board responsible for auditing campaign accounts wrote to the lists of candidates standing in the 2013 elections specifying the rules relating to election expenses. The Group of States against Corruption (GRECO), in its report on campaign expenses at the time of the 2008 national elections, had taken the view that those expenses were considerable, exceeding half a million euros in a country with a small electorate.

14. According to the new law, the lists of candidates may obtain, in the conditions for which the law provides, a refund of a portion of their election expenses. Campaign expenses are subject to a maximum of 400 000 euros. Each list which has obtained at least 5% of the votes receives a refund of 80 000 euros. In the event of any irregularity, the law provides *inter alia* for some or all of the campaign expenses not to be refunded.

15. The members of the ad hoc committee for the observation of the elections, when they met the chair of the board responsible for auditing campaign accounts and other persons, took the view that the law in force should be improved in order to make election campaign funding more transparent, *inter alia* through publication of the list of donors who have donated to lists of candidates sums exceeding a certain amount, such as 1 000 euros.

3. Election campaign

16. Under the law on national elections, pre-election campaigning may begin 90 days before the date of the election. The official campaign began 14 days before the poll and came to an end on 9 February.

17. In order to avoid conflicts of interest and be able to defend in all circumstances Monaco's specific characteristics and its hereditary constitutional monarchy, the 24 candidates of the Monegasque Union list decided to sign a candidates' charter at the start of the election campaign. In this document they undertook, among other things, to "contribute to the election campaign by taking positions hallmarked by dignity, and therefore to respond to any attacks by taking carefully considered positions or using the legal means available, and not through public argument or personal attacks".

18. However, this election campaign was marked by tensions and incidents which were unprecedented in the country. The ad hoc committee also observed that relations with the Council of Europe had become an issue during the election campaign.

19. For example, while preparing its report on post-monitoring dialogue with Monaco, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) had decided, on 2 October 2012, to "ask the Venice Commission for an opinion on the Constitution of Monaco, assessing in particular whether the constitutional provisions concerning the National Council are compatible with democratic standards, bearing in mind the specificities of the Principality of Monaco".[1]

20. This decision by the Monitoring Committee, and particularly its political appropriateness days before the start of the election campaign, seem to have been misinterpreted and were regrettably exploited by various Monegasque political leaders who omitted to mention that the Monitoring Committee had asked the European Commission for Democracy through Law (Venice Commission) to take account of Monaco's specificities. Some of the ad hoc committee's interlocutors expressed the view that the Monitoring Committee's decision might have influenced the election result. Criticism relayed by the media, sometimes virulent, was directed at members of the Monegasque delegation from the majority, the Monitoring Committee's rapporteur and the Venice Commission. The ad hoc committee feels that it is useful here to recall that the Venice Commission issues advisory opinions, and that a request for an opinion from the Venice Commission, an internationally recognised independent body, is a standard procedure for the Monitoring Committee in the context of its preparation of monitoring or post-monitoring dialogue reports.

1. Monitoring Committee synopsis, AS/Mon (2012) CB 07.

21. The Monegasque authorities reminded the members of the election observation mission that there was no question of revising the 1962 Constitution to extend the powers of parliament. The strong reactions of some political leaders as regards relations between the Council of Europe and Monaco might stem from a misunderstanding of the functioning of certain advisory bodies of the Council of Europe.

22. Several Monegasque interlocutors to whom the ad hoc committee spoke explained that the Principality had been admitted to the Council of Europe in 2004 on an institutional basis which had not been called into question since its accession, even in the context of the Parliamentary Assembly's monitoring procedure. The ad hoc committee was also informed that the request for an opinion from the Venice Commission had been condemned by every member of the National Council, from all political sides. Nevertheless, the national authorities had confirmed during the election campaign that they were to be visited by constitutional experts from the Venice Commission, before delivery of their opinion in spring or summer 2013.

23. The election campaign was marred by tensions and incidents. On 9 December 2012, a candidate from the Monegasque Union list was a victim of homophobic insults, defamation and physical assault inside the National Council. The person responsible, a member of the National Council and a candidate on the Horizon Monaco opposition list, admitted insulting his colleague. The Monegasque Union list candidate started legal proceedings.

24. On 17 January 2013, the *Petit Niçois* published an article about the private life of Mr Laurent Nouvion, leader of the Horizon Monaco opposition list. A complaint has been lodged with the public prosecutor's office in Nice for violation of privacy, and the 1 000 copies of the *Petit Niçois* in Monaco had been seized. The Monegasque Union list stated that the election campaign was a time for discussing ideas and programmes, but certainly not for accusations or allegations of a personal nature.

25. On 26 January 2013, the second home, situated in France, of Mr Stéphane Valeri, Government Councillor on social affairs and health, who had been President of the National Council from 2003 to 2010, was severely damaged by a fire started by one or more persons. No threat preceded this act, and there was no claim of responsibility for it. Mr Valeri lodged a complaint with the competent French authorities. This incident also gave rise to allegations and accusations in the context of the election campaign. The Government of Monaco and the National Council condemned this criminal act.

26. During the final days of the campaign, some election posters were torn down. On 1 February a Monegasque citizen was taken into police custody for the dissemination by electronic means of defamatory messages about eminent personalities of Monaco. According to information published in the media, another Monegasque citizen was interviewed at the Police Department.

27. Given the mounting verbal violence during the election campaign, the Minister of State declared on 25 January 2013, without wishing to interfere in the campaign, that personal attacks and scandalous disclosures should be excluded from the election campaign, and he called for the campaign to be conducted with respect and in a good atmosphere.

28. During the final part of the election campaign, the candidates from the three lists focused on the priorities of their respective programmes. The Monegasque Union, for example, put forward 153 proposals for Monaco with a view to building state-owned homes in the face of the housing shortage, to prepare an investment plan straight away in 2013 so as to make economic recovery possible, to draw up a bioethics code so as to tackle the most sensitive issues – medically assisted procreation, creation of a Monegasque register of organ donors and access to palliative care – and to promote the employment of Monegasque nationals in the administrative and hotel sectors.

29. The candidates of the Horizon Monaco opposition list continued to criticise the outgoing majority for its management of relations with the Council of Europe, emphasised the need to preserve Monaco's specific characteristics and proposed to review housing allocation criteria in order to rectify certain unfair situations. They also proposed to set up an investment agency to help to provide support for investors, to maintain current investments and seek future investments, to promote the employment of young Monegasques in the private sector, and to set up a national priorities monitoring board to ascertain whether national priorities were respected where access to employment was concerned.

30. The candidates of the Renaissance list proposed to hold a major conference on employment to be attended by the different stakeholders in a spirit of dialogue, to preserve and increase the employment of Monegasques in the Société des Bains de Mer (SBM),[2] to defend and preserve the independence of State officials vis-à-vis party politics and to introduce a meritocracy.

4. The campaign and the media

31. Freedom of expression is guaranteed by the constitution. Monaco has no specific legislation on the media coverage of election campaigns. On 8 August 2012, the government adopted a decree relating to election campaigning on television for the elections of 10 February 2013. During the official campaign period, the lists of candidates had equal access to the local television channel Monaco Info, as well as to the other media.

32. The ad hoc committee noted that media coverage of the campaign was balanced overall, although Monaco's only daily newspaper received the bulk of official advertisements and announcements financed by the government and very few weekly and monthly news magazines existed in Monaco. According to some media representatives whom the ad hoc committee met, journalists' main difficulty was that of covering an election campaign which had been particularly tense.

5. Election administration, electoral roll and lists of candidates

33. In accordance with the electoral law, election administration is organised by the Office of the Mayor of Monaco, the Mayor chairing the electoral commission. The polling station team comprises the Mayor or a deputy, at least two members of the Communal Council and, as assessors, voters who are not candidates and have the status of official of the state or of the commune. These team members are appointed by the Mayor on the day after the deadline for depositing candidatures.

34. The ad hoc committee noted with satisfaction that the Office of the Mayor, in its capacity as the organiser of elections, did a commendable job with professionalism, efficiency and transparency during the election campaign, on election day and during the vote counting, the transparency of which was remarkable. The representatives of the three lists of candidates expressed complete confidence in the electoral process.

35. A positive development was that the Office of the Mayor ran an election-awareness campaign, producing leaflets and posters explaining to voters the rather complicated voting procedures in a mixed voting system allowing votes to be cast for candidates from different lists. The ad hoc committee considers that the election authority could have standard ballot papers printed in order to avoid the disparity between papers, currently prepared by the lists of candidates. Even a handwritten vote on a piece of paper is considered a valid ballot. Voting procedures on election day could be altered in order to avoid the risk of candidates from the lists bringing pressure to bear on voters inside the polling station on the day of the ballot, although in this instance no such pressure was observed.

36. The electoral roll is permanent. It may be revised only annually. The electoral roll revision operations are definitively closed on 31 December in every calendar year. Monaco has a population of 36 300, approximately 8 400 of whom are of Monegasque nationality. A total of 6 825 voters were included on the electoral roll for the national elections of 10 February 2013.

37. Monegasques who have reached the age of 18 are entitled to vote, with the exception of those deprived of their right to vote for one of the reasons provided for by law. Also deprived of the right to vote are those Monegasque citizens convicted of a serious crime and those sentenced, *inter alia*, to an unconditional prison term of more than five days or to a suspended prison term of more than three months for theft, fraud or misappropriation, for a lesser offence punishable by one of the penalties applicable to those offences, or for embezzlement by a person responsible for public funds. The right to vote is suspended for prisoners and persons convicted i*n absentia*.

38. The ad hoc committee and the experts from ODIHR noted that certain restrictions on the right to vote did not correspond to the arrangements set out in the Venice Commission's Code of Good Conduct in Electoral Matters and were applicable even for minor offences.

39. Three lists of candidates were registered for the national elections of 10 February 2013, on which the names of 72 candidates appeared. The list of the Monegasque Union, the outgoing majority, was led by Mr Jean-François Robillon, President of the National Council; the Horizon Monaco opposition list was led by Mr Laurent Nouvion, a member of the National Council. One of the specific characteristics of the Renaissance list, comprising candidates from the Société des Bains de Mer (SBM), was the absence of any leader. The SBM had played a central role in the electoral debate during the previous elections, but this was the first time that SBM staff had formed a list of candidates to stand in national elections.

---

2. The Société des Bains de Mer is a State-controlled company which manages many assets in the hotel and leisure sector in the Principality.

40. According to the electoral legislation, voters aged at least 25 who have held Monegasque nationality for at least five years may stand in national elections. Ineligible for membership of the National Council are Crown councillors, members of the Supreme Court, State councillors, voters who, through the effect of another nationality, hold public or elected office in another country, and those who work with various Monegasque public authorities.

6. Election day and results

41. Election day was marked by a high turnout (74.55% of Monegasques voted, 5 088 voters from the total on the electoral roll of 6 825; 159 votes were invalid and 63 were blank). The election officials showed outstanding efficiency and professionalism. The counting of votes was conducted in full conformity with the procedures in force, in an exceptional atmosphere of complete transparency in which anyone was allowed to observe the process.

42. The results of the poll were: Horizon Monaco 20 seats, Monegasque Union three seats and Renaissance one seat.

7. Conclusions and recommendations

43. The ad hoc committee concluded that the national elections of 10 February 2013 enabled Monegasques freely to elect their representatives to the National Council of the Principality of Monaco from the three lists of candidates. The delegation is convinced that the high turnout reflects the Monegasques' attachment to representative democracy in the Principality of Monaco.

44. The ad hoc committee emphasised that democratic elections are not limited solely to polling day itself, but span the whole electoral process, including the election campaign. In this respect, it deplores the fact that this election campaign was marked by high levels of tension and marred by verbal violence, defamation and physical aggression, homophobic insults, personal attacks and scandalous disclosures.

45. The ad hoc committee therefore regrets that the role and objectives of the Council of Europe, and more specifically the decision to request an opinion from the Venice Commission, were misunderstood in a way which was exploited. This is all the more regrettable because Monaco has co-operated with the Council of Europe in a highly efficient and constructive manner since it joined the Organisation in 2004.

46. The ad hoc committee takes satisfaction in emphasising the professionalism of the work of the Office of the Mayor in its capacity as election organiser, as well as its efficiency and exemplary transparency throughout the election campaign, the day of the ballot and the vote-counting process. The representatives of the three lists of candidates expressed complete confidence in the electoral process.

47. Media coverage of the campaign was balanced overall taking into account the limited media pluralism in the Principality. All the lists of candidates had equal access to the media.

48. The ad hoc committee invites the authorities of the Principality of Monaco, in close co-operation with the Council of Europe, to improve its electoral legislation, and in particular to increase the transparency of the financing of election campaigns in accordance with the recommendations made by GRECO, to ratify the first Protocol to the European Convention on Human Rights, in accordance with the commitments made by the Principality of Monaco at the time of its accession to the Council of Europe in 2004, and to make a number of technical adjustments mentioned in the report.

Appendix 1 – Composition of the ad hoc committee

Based on proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

– Piotr WACH, Head of the delegation, Poland (EPP/CD)

– **Socialist group (SOC)**

– - Jonas GUNNARSSON, Sweden

– **European Democrat Group (EDG)**

– - Olga KAZAKOVA, Russian Federation

– **Alliance of Liberals and Democrats for Europe (ALDE)**

– - Marina SCHUSTER, Germany

– **Group of the Unified European Left (UEL)**

– - Tuur ELZINGA, Netherlands

– **Rapporteur of the Monitoring Committee (ex officio)**

– - Anne BRASSEUR, Luxembourg

– **Secretariat**

– - Vladimir DRONOV, Head of Secretariat, Interparliamentary Co-operation and Election Observation Unit
  - Chemavon CHAHBAZIAN, Deputy Head of Secretariat
  - Danièle GASTL, Assistant

Appendix 2 – Programme of the election observation mission (Monaco, 8-11 February 2013)

Friday 8 February 2013

10:00	Meeting of the ad hoc committee
10:30-11:30	Meeting with Mr Georges Marsan, Mayor of Monaco, and members of the Municipal Council
11:40-12:30	Meeting with Mr Philippe Narmino, Director of Judicial Services
14:00	Meeting with the experts of the OSCE/ODIHR mission: – Mr Konrad Olszewski, Team leader – Mr Jurij Toplak, Political/Campaign Finance Analyst – Ms Enira Bronitskaya, Legal Analyst – Ms Alice Colombi, Media Analyst
	15:00 Meeting with Mr Michel Roger, Minister of State
16:00	Meeting with media representatives: – Mr François Chantrait, Director of the Press Centre – Mr Noel Mettey, Director of the *Gazette de Monaco* – Mr Adrian Paredes, *Monaco Hebdo* – Mr Gregory Leclerc, *Monaco matin*

Saturday 9 February 2013

12:00-14:00	Working lunch with the members of the delegation of Monaco to the Pa rliamentary Assembly
	Meetings with the leaders and members of different lists of political parties:
14:00	List “Horizon Monaco”
14:45	List “Renaissance”
15:30	List “Union Monégasque”
16:15	Meeting with Mr Jean-François Robillon, President of the National Council

Sunday 10 February 2013

08:00	Observation of voting at the Salle du Canton (polling station)
20:00	Counting of the votes at the Salle du Canton

Monday 11 February 2013

09:30-10:10	Meeting with Mr James Charrier, Chairperson of the High Commission of Auditors
10:10-10:45	Meeting of the ad hoc committee

Appendix 3 – Statement by the election observation mission

Elections were free, after a very tense election campaign

Strasbourg, 11.02.2013 – On 10 February 2013, Monegasques chose their candidates freely from among three lists of representatives for the National Council of the Principality of Monaco.

The delegation congratulates the electorate on a high turnout (74.55%) which proves the attachment of the Monegasques to representative democracy in the Principality of Monaco.

The Office of the Mayor of Monaco, in its capacity of election administrator, has done a commendable job with professionalism, efficiency and transparency during the electoral process, in the run-up to the elections and during the counting of the vote. The transparency of the vote counting was an example to all. Representatives of all three candidates' lists expressed their full confidence in electoral administration.

Media coverage of the election campaign was in principle balanced, taking into account that Monaco has only one daily newspaper. All candidates' lists had equal access to media.

Elections are not limited only to voting day itself, but include the whole electoral process and election campaign. The delegation underlines that this election campaign has been marked by serious tensions. The campaign was tarnished by verbal violence, slander and homophobic insults, as well as a physical assault, personal attacks and scandals.

The delegation of the Assembly regrets that during this campaign, the role and the aim of the Council of Europe were misinterpreted in a way which was exploited during this campaign. These are all the more regrettable in view of the efficient and constructive relations between the Organisation and Monaco since its accession to the Council of Europe in 2004.

The delegation also underlines the importance of new rules on expenditure during the election campaign which reinforces the transparency and fairness of the electoral process. However some further improvements can be made to the law.

The authorities of the Principality of Monaco invited the Parliamentary Assembly of the Council of Europe to observe the parliamentary elections and a delegation visited the principality from 8-11 February 2013. The delegation met with the Minister of State, the Speaker of the National Council, the leaders and representatives of the lists of candidates, the Mayor of Monaco and the Director of Judicial Services, experts from the Office for Democratic Institutions and Human Rights (ODIHR), the President of the High Commission of Auditors as well as media representatives.

The delegation wishes to thank the offices of the National Council, the Minister of State and the Mayor of Monaco, for their excellent co-operation in the organisation of the observation mission.

The Parliamentary Assembly will consider its report on the parliamentary elections in Monaco on 8 March 2013.