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Post-monitoring dialogue with Monaco

Report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Jordi XUCLÀ, Spain, Alliance of Liberals and Democrats for Europe

Summary:

The Principality of Monaco, which became a member of the Council of Europe in 2004, was required to fulfil six remaining accession commitments in the framework of the post-monitoring dialogue engaged in 2009. The Monitoring Committee notes that Monaco's accession to the Organisation has had a significant impact on the development of its institutions and their practices and on the compliance of domestic legislation with Council of Europe standards. At the same time, Monaco intends to preserve its specificities; the preferential treatment given to the Monegasque citizens – who are a minority, representing only 21.5% of the population – in respect of housing, employment and social benefits is a crucial and essential factor to perpetuate the presence of Monegasques on their own territory.

The committee acknowledges that significant progress has been made in the past months by Monaco, which has or is about to fulfil four of the commitments made in 2009 with respect to the ratification of the Convention on Cybercrime, the adoption of a new law on the functioning and organisation of the National Council, the reform of the Criminal Code and Code of Criminal Procedure and the involvement of the National Council in the ratification of international conventions and treaties.

Concerning the ratification of Protocols Nos. 1 and 12 to the European Convention on Human Rights and of the European Social Charter (revised), the committee notes that, at the present stage, it has not been possible to find a suitable legal solution to honour these commitments. It welcomes, however, the readiness of the Monegasque authorities to further explore all possibilities, especially for the European Social Charter (revised), that could pave the way to the ratification of these instruments, including by setting up working groups with Council of Europe experts.

In the light of the progress achieved since 2009 and the efforts made by Monaco to honour its obligations, the committee proposes to the Assembly to end the post-monitoring dialogue with Monaco, while continuing to follow legislative and institutional developments.

1. Reference to committee: Resolution 1115 (1997).

Contents **Page**

A. Draft resolution 3
B. Explanatory memorandum by Mr Xuclà, rapporteur 8
1. Introduction 8
2. The specific characteristics of Monaco in the context of Council of Europe membership 9
3. Review of the progress made on compliance with the remaining commitments to be fulfilled by Monaco 11
3.1. Ratification of the Protocols Nos. 1 and 12 to the European Convention on Human Rights 12
3.2. Ratification of the European Social Charter (revised) 13
3.3. Ratification of the Convention on Cybercrime 14
3.4. Expeditious enactment of a new law on the functioning and organisation of the National Council, enabling account to be taken of the constitutional amendments of 2002 14
3.5. Reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code 14
3.6. Review of the issue of the international conventions and treaties for which the National Council must adopt a law on ratification 15
4. Conclusions and outlook 16

A. Draft resolution[2]

1. The Principality of Monaco joined the Council of Europe in 2004. In 2009, the Parliamentary Assembly decided to close the monitoring procedure and to engage in a dialogue with the Monegasque authorities, which were invited to honour their final six commitments, namely:

– ratification of Protocol Nos. 1 and 12 to the European Convention on Human Rights (ETS Nos. 9, 177 and 5);

– ratification of the European Social Charter (revised) (ETS No. 163);

– ratification of the Convention on Cybercrime (ETS No. 185);

– expeditious enactment of a new law on the functioning and organisation of the National Council, to take account of the constitutional amendments of 2002;

– reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code;

– review of the issue of the international conventions and treaties for which the National Council must adopt a law on ratification.

2. The Principality of Monaco has a population of 36 000, of 121 nationalities, living in an area of barely 2.2 km². Only 8 000 residents, namely 21.5% of the population, are of Monegasque nationality. The Monegasques are thus in a minority in their own country. In view of the small size of the territory and the pressures on the real estate and employment market in Monaco, into which 50 000 workers commute across the border every day, the Principality gives preferential treatment to its own citizens in respect of housing, employment and social benefits, a factor which is crucial and essential to perpetuate the presence of Monegasques on their own territory. As far as access to employment is concerned, compliance with "national priority" is safeguarded by the Constitution.

3. The Assembly, together with the European Commission for Democracy through Law (Venice Commission), points out that Monaco has adopted a political system which is the only one of its kind: in this limited constitutional monarchy, the law stems from the joint will of the sovereign Prince and the National Council. The government is not accountable to the National Council. A network of advisory bodies nevertheless mitigates the Prince's extensive powers as compared to the limited powers of the National Council. Several mechanisms encourage dialogue. The functioning of institutions is, by necessity, consensual. The current political regime enjoys a broad consensus within the population, and political leaders from both the majority and the opposition are attached to that regime.

4. The situation of the Principality is also singular because of its privileged historical relationship with France, enshrined in the treaty between France and Monaco revised in 2005 at the time of the signature of the convention on adapting and extending administrative co-operation between the French Republic and the Principality of Monaco, ratified by France in 2008.

5. The Assembly also notes the presence of Italian and French communities which have long been established in the Principality and have made a contribution to the country's history: those people, known as "enfants du pays", whose numbers are declining as a result of the ageing of that population, the pressure on real estate and naturalisations, now wish for better recognition of their specific status within the Principality.

6. The Assembly points out that, when it joined the Council of Europe, the Principality of Monaco undertook to develop its institutions and to comply with the commitments entered into by its authorities. In this respect, the Assembly points to the revision of the Constitution in 2002, which enabled the powers of the National Council to be extended, and to the revision of the treaty between France and Monaco in 2005 (ratified by France in 2008), which now enables Monegasques to hold the post of Minister of State.

7. The Assembly welcomes the efforts made in recent months by the Monegasque authorities to honour their final commitments and comply with the Council of Europe's standards, taking account of the constraints imposed by the special treatment reserved for Monegasque citizens. The impetus given by HSH Sovereign Prince Albert II has been an essential contribution to the continuation of the country's development process.

2. Draft resolution adopted unanimously by the committee on 17 March 2015.

The Assembly also notes that Monaco's accession to the Organisation had a significant impact on the development of its institutions and their practices and on legislation, and the bringing of these into conformity with the standards and norms of the Council of Europe. In this context, the Assembly notes:

7.1. the ratification of 45 Council of Europe treaties since 2004 and the signature of a further five treaties;

7.2. Monaco's active contribution to the work of the Council of Europe, particularly its campaign on children's rights;

7.3. the ratification of the Criminal Law Convention on Corruption (ETS No. 173) in 2007, and Monaco's participation in the Group of States against Corruption (GRECO), which regularly monitors the situation in the country;

7.4. the setting up of the office of High Commissioner for the Protection of Rights, Liberties and for Mediation, following the recommendations made by the European Commission against Racism and Intolerance (ECRI);

7.5. the ratification, on the occasion of the 10th anniversary of the Principality of Monaco's membership of the Council of Europe, of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention") and of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention");

7.6. the starting of the process of reform of the funding of election campaigns, particularly the imposition of a maximum threshold for election incomes, following the recommendations made by GRECO.

8. In the light of recent developments in the Principality of Monaco and the information submitted by the national authorities:

8.1. in respect of ratification of Protocols Nos. 1 and 12 to the European Convention on Human Rights:

8.1.1. the Assembly notes that Protocol No. 1 has been ratified by all Council of Europe member States, with the exception of Monaco and Switzerland. It notes that ratification of that instrument, which covers the right to the protection of property, but also the right to free elections and the right to education, does not give rise to objections in principle from the Monegasque authorities, other than to the scope of Article 1 thereof relating to the protection of property. It welcomes the co-operation established with the Council of Europe's legal services with a view to identifying the appropriate legal formula enabling full compliance with the provisions of the Protocol to be ensured while, at the same time, safeguarding the provisions of the Constitution and administrative practices establishing national preference;

8.1.2. the Assembly welcomes the work carried out by the Monegasque authorities, in co-operation with the Council of Europe, to explore the possible reservation(s) that could be drafted to open the way to ratification of Protocol No. 1 in the near future. The Assembly notes, however, that so far no suitable mechanism has been found and that, at the present moment, none of the reserves explored by the Monegasque authorities and the Council of Europe experts would fully safeguard the Monegasque specificities. The Assembly therefore welcomes the will expressed by the authorities to set up a working group to look into new technical aspects which might make it possible to consider ratification;

8.1.3. as far as Protocol No. 12 is concerned, the Assembly notes that to date only 18 member States have ratified it, and a further 19 have signed it. It notes that this question should, in future, be the subject of a thorough continuing examination by the Monegasque authorities;

8.2. in respect of ratification of the European Social Charter (revised):

8.2.1. the Assembly points out that Monaco signed the European Social Charter (revised) in 2004. The Assembly itself had encouraged the Organisation to take account of the preferential treatment from which Monegasque nationals benefit in respect of housing and employment, at the same time emphasising that the European Social Charter (revised) offers the requisite flexibility for taking account of parties' specific characteristics. It notes that social standards are considered high in Monaco. It nevertheless notes that, if it were possible to rely directly on the Charter, this would undermine the "social covenant" established in Monaco, as well as the application of "national preference" and certain social benefits reserved for its citizens;

8.2.2. the Assembly welcomes the positive will expressed by the Government of Monaco to consider the formulation of a legal text in order to ratify the European Social Charter (revised). However, focusing specifically on this point, the government is still looking for an appropriate solution, both in the political and technical spheres. The Assembly expresses its confidence in the process, which has already begun, and urges all the parties concerned to find the appropriate mechanisms and initiate legislative steps to bring this process to an end as soon as possible, in co-operation with Council of Europe experts;

8.3. in respect of ratification of the Convention on Cybercrime, the Assembly notes with satisfaction the adoption, on 5 December 2013, of Law No. 1402 approving ratification of the Council of Europe Convention on Cybercrime, which confirms the wish expressed by the authorities – the government and National Council – to honour this commitment. It welcomes the fact that the government submitted to the National Council, on 27 February 2015, a draft law on the fight against high-tech crime, which aims to bring Monaco's legislation into line with the Cybercrime Convention. The Assembly also welcomes the fact that the vote for the adoption of this law is scheduled for 16 and 17 June 2015, which will enable the Monegasque authorities to deposit their instruments of ratification;

8.4. in respect of the expeditious enactment of a new law on the functioning and organisation of the National Council, enabling account to be taken of the constitutional amendments of 2002, the Assembly recalls that in December 2009 the government tabled in the National Council a draft law amending Law No. 771 of 25 July 1964 on the organisation and functioning of the National Council. The Assembly took a positive view of the setting up, in 2013, of a "Special Committee in charge of the amendment of electoral law and the law on the organisation and functioning of the National Council" and applauds the work that it has done subsequently. The Assembly welcomes the preparation of the expected draft law, which was forwarded to the government on 14 December 2014. The Assembly takes note of the government's readiness to accept the broad lines of the draft law, and welcomes the fact that the vote for the adoption of this law is scheduled for 16 and 17 June 2015, together with the revised Rules of Procedure;

8.5. in respect of the reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code:

8.5.1. The Assembly welcomes the pragmatism of the judicial bodies which rely on the case law of the European Convention on Human Rights even before the adoption of the requisite legislation. It notes the successive reforms of the Code of Criminal Procedure and Criminal Code, as requested in 2009, and of other legal provisions in order to harmonise Monegasque legislation with the Council of Europe's standards in the fields of fundamental rights and the combating of corruption. It takes note, with satisfaction, of the adoption of Law No. 1398 of 24 June 2013 on the administration and organisation of the judicial system, of Law No. 1399 of 25 June 2013 reforming the Code of Criminal Procedure as regards police custody, and of Law No. 1394 of 9 October 2014 reforming the Criminal Code and Code of Criminal Procedure as regards corruption and special investigation techniques;

8.5.2. it notes that Law No. 1364 of 16 November 2009 on the status of members of the judiciary allowed for the setting up of a Judicial Service Commission, chaired by the Director of Judicial Services, and for progress in the training and appraisal of members of the judiciary, including the seconded members of the French judiciary, as well as the setting up of a trade union for members of the judiciary in 2011;

8.5.3. furthermore, a draft law comprising various measures in the field of State liability and remedies was submitted to the National Council in December 2012. The Assembly also notes with satisfaction the preparation of a sovereign order designed to specifically incorporate fair-trial principles derived from the European Convention on Human Rights into the Supreme Court's own organisational and procedural rules, which should be published by the end of March 2015;

8.5.4. the Assembly also notes the progress made in respect of the combating of money laundering, including the adoption of Law No. 1362 of 23 July 2009 strengthening the money laundering detection system and the resources of the Financial Information and Monitoring Department (SICCFIN), and of Sovereign Order No. 3561 of December 2011 amending the 2002 legislation against the financing of terrorism, in accordance with the recommendations made by MONEYVAL;

8.6. In respect of the review of the issue of the international conventions and treaties for which the National Council must adopt a law on ratification:

8.6.1. the Assembly takes due note that Article 13 of the Monegasque Constitution reserves for the Prince, who "represents the Principality in its relations with foreign Powers", the authority to sign and ratify international conventions and treaties. The Constitution makes no provision for the involvement of the National Council for the adoption of a law authorising ratification except in certain specific cases set out in Article 14 of the Constitution, namely those cases in which the treaties: 1) affect the organisation of the Constitution; 2) entail the amendment of existing legal provisions; 3) entail participation by members of the National Council in an international organisation; or 4) result in budgetary expenditure of a new kind or for a new purpose. The Assembly notes that, since this provision of the Constitution came into force in 2002, Article 14 of the Constitution has been applied only seven times;

8.6.2. the Assembly is nevertheless convinced that greater interaction between the government and the National Council can only help to create a broad consensus and to establish more firmly higher international standards. The Assembly welcomes the spirit of dialogue and pragmatism shown in recent months by all the parties concerned to ensure that the National Council is involved in the examination of international conventions and treaties, in compliance with the provisions of the Constitution;

8.6.3. the Assembly therefore welcomes the agreement concluded in February 2015, through an exchange of letters between the Minister of State and the President of the National Council, which provides a modus operandi involving regular updating of, and non-binding consultations with, the National Council whenever Monaco intends to ratify a convention or treaty.

9. The Assembly expresses its confidence in the capacity of the Principality of Monaco to adapt to the new democratic challenges and to the changes necessitated by globalisation. It would like Monaco, while preserving the unique nature of its regime, to continue to reform its institutions. It is in this context that Monaco is engaging in important negotiations with the European Union. The Assembly consequently encourages the Monegasque authorities to continue their consideration of the future development of their institutions, drawing *inter alia* on the recommendations of the Council of Europe's monitoring mechanisms and on the work of the Venice Commission, and to:

9.1. specify the sharing of powers between the National Council and the Prince for those subjects which are not, according to the Constitution, a matter for the law or a matter for regulations (sovereign orders and ministerial decrees);

9.2. ensure that any ratification of an international treaty entailing new criminal offences and penalties is the subject of a law approving ratification adopted by the National Council, in pursuance of Article 20 of the Constitution, according to which no penalty may be introduced or applied except by law, and in conformity with the case law of the European Court of Human Rights;

9.3. in the context of a discussion of a future revision of the Constitution, examine the possibility of a right for the National Council to amend the budget, which would help to improve public policies and the quality of democratic debate within the National Council;

9.4. continue the work on the modernisation of the electoral law begun by the "Special Committee in charge of the amendment of electoral law and the law on the organisation and functioning of the National Council", as well as the extension of the provisions of the law on the funding of election campaigns and political groups, following the recommendations made by GRECO;

9.5. increase the independence of the office of the High Commissioner for the Protection of Rights, Liberties and for Mediation, in accordance with the recommendations made by ECRI.

10. To conclude, the Assembly welcomes the significant progress made by Monaco, which has, or is about to fulfil four of its 2004 accession commitments, namely:

10.1. the ratification of the Convention on Cybercrime;

10.2. the expeditious enactment of a new law on the functioning and organisation of the National Council, to take account of the constitutional amendments of 2002;

10.3. the reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code;

10.4. the review of the issue of the international conventions and treaties for which the National Council must adopt a law on ratification.

11. Concerning the ratification of Protocols Nos. 1 and 12 to the European Convention on Human Rights and of the European Social Charter (revised), the Assembly notes that, despite the fact that at the present stage no suitable legal solution has been found to honour these commitments, the Monegasque authorities remain open to further exploring all possibilities, especially for the European Social Charter, that could pave the way to the ratification of these instruments. The Assembly reiterates its confidence in the ability of Monaco to further co-operate with the Council of Europe, especially through the setting up of a working group proposed by the authorities, and to address these remaining challenges.

12. In the light of the progress achieved since 2009 and the efforts made by Monaco to honour its obligations, the Assembly decides to end the post-monitoring dialogue with Monaco. It will continue to follow legislative and institutional developments, particularly through the periodic reports drawn up by its Monitoring Committee, in accordance with Resolution 2018 (2014) on the progress of the Assembly's monitoring procedure (October 2013-September 2014). The Assembly reiterates the Council of Europe’s readiness to assist the Principality of Monaco with its future reforms.

B. Explanatory memorandum by Mr Xuclà, rapporteur

1. Introduction

1. The Principality of Monaco joined the Council of Europe on 5 October 2004. The Parliamentary Assembly opened a monitoring procedure following its adoption of Opinion 250 (2004) on the Principality of Monaco's application for membership of the Council of Europe. In Resolution 1690 (2009) on the honouring of obligations and commitments by Monaco, the Assembly decided to close the monitoring procedure and to carry on a dialogue with the Monegasque authorities on the questions raised in that resolution, particularly in paragraph 18 thereof, and any other question that might arise out of Monaco's obligations as a Council of Europe member State, namely:

– the ratification of Protocols Nos. 1 and 12 to the European Convention on Human Rights (ETS Nos. 9, 177 and 5);

– the ratification of the European Social Charter (revised) (ETS No. 163);

– the ratification of the Convention on Cybercrime (ETS No. 125);

– the expeditious enactment of a new law on the functioning and organisation of the National Council, to take account of the constitutional amendments of 2002;

– the reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code;

– the review of the issue of the international conventions and treaties for which the National Council must adopt a law of ratification.

2. The Monitoring Committee appointed me rapporteur on the post-monitoring dialogue with Monaco in February 2014, after the previous rapporteur, Ms Anne Brasseur, was elected President of the Parliamentary Assembly. I would like to pay tribute to her work. During this reporting period, the Monitoring Committee requested an opinion from the Venice Commission on the balance of powers in the Constitution and legislation of the Principality of Monaco.[3] The Assembly observed the elections of the National Councillors on 10 February 2013, including conclusions in its observation report.[4]

3. In order to prepare this report, I carried out three fact-finding visits to Monaco, on 5 and 6 June 2014, from 5 to 7 November 2014 and on 20 February 2015,[5] and had regular contacts with the representatives of Monaco at the Council of Europe.

3.1. During its meeting in Paris on 14 November 2014, the Monitoring Committee organised a hearing with Mr Laurent Nouvion, President of the National Council, and Mr Jacques Rit, Chairperson of the Special Committee in charge of the amendment of electoral law and the law on the organisation and functioning of the National Council. This provided an overview of the expectations and constraints deriving from Monaco's membership of the Council of Europe and of the state of play of the preparation of the Law on the functioning and organisation of the National Council.

3.2. On 25 November 2014, I met Mr José Badia, Government Counsellor for External Relations and Cooperation, in the presence of Ambassador Claudette Gastaud, Permanent Representative of Monaco to the Council of Europe, to discuss in particular the mechanisms for the ratification of international instruments.

3.3. Finally, I organised a working meeting on 10 December 2014 in Paris with Mr Laurent Anselmi, Director General of the Legal Affairs Department of the Government of Monaco, Mr Jean-Laurent Ravera, Head of the International Law, Human Rights and Fundamental Freedoms Unit of the Government of Monaco, and Mr Jörg Polakiewicz, Director of Legal Advice and Public International Law of the Council of Europe. Contacts were also made with Mr Régis Brillat, Executive Secretary of the European Committee of Social Rights. I would like to thank these two senior Council of Europe Secretariat members for their availability and advice. These meetings and consultations allowed me to get better acquainted with the specific characteristics of the country – which had been fully acknowledged by the Council of Europe when Monaco joined the Organisation.

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3. Opinion No. 695/2012 adopted by the Venice Commission on the balance of powers in the constitution and the legislation of the Principality of Monaco, adopted on 14-15 June 2013.
4. Doc. 13137.
5. The programmes of the visits are available from the Secretariat.

3.4. At the time of my visit of 20 February 2015, I was able to examine, with Minister of State Mr Michel Roger and the members of the government, on the one hand, and the President of the National Council, Mr Nouvion, and the members of the National Council and the Monegasque delegation to the Parliamentary Assembly, on the other hand, the state of progress of the procedures under way with a view to completing compliance with the final commitments, and I encouraged the authorities to continue their efforts and their consultations.

3.5. In March 2015, I acquainted myself with the comments[6] forwarded by the President of the National Council, the President of the Monaco delegation to the Parliamentary Assembly and the Monegasque Government, on the preliminary draft report which had been submitted to them, and on which the final drafting of this report draws.

4. I would like to express my warmest thanks to the President and the members of the National Council of Monaco and to the Monegasque authorities for the open, frank and constructive discussions we had, and for organising high-level contacts, including with HSH Prince Albert II, the Minister of State, Mr Roger, and the members of the Government Council, the President of the National Council, Mr Nouvion, and the delegation of Monaco to the Parliamentary Assembly, chaired by Mr Jean-Charles Allavena. I was in particular encouraged to pursue my efforts by the positive discussions I had with HSH Prince Albert II and his readiness to address all the remaining issues and to support the working out of legal solutions.

5. Pursuant to the findings made by my predecessor in 2011 and 2012, I intended to explore, with the Monegasque authorities, how the last remaining commitments that Monaco had undertaken when it joined the Council of Europe ten years ago could be fulfilled, as prescribed in Resolution 1690 (2009) on the honouring of obligations and commitments by Monaco. This report reflects discussions with the Monegasque authorities and is also inspired by the findings made by different Council of Europe monitoring mechanisms, in particular the report prepared by the European Commission against Racism and Intolerance (ECRI) and published on 8 February 2011 and its conclusions of 19 March 2014,[7] the compliance reports on Monaco adopted by the Group of States against Corruption (GRECO) on 1 October 2010 and 7 December 2012 (first and second evaluation rounds)[8] and on 20 June 2014 (third evaluation round)[9] and the first progress reports submitted by Monaco to the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) in 2011 and 2013.[10]

2. The specific characteristics of Monaco in the context of Council of Europe membership

6. It might be useful to recall here the specific characteristics of Monaco:

6.1. The Principality, which covers a small area of 2.2 km², has about 36 000 residents, of whom only 8 000 are Monegasque citizens. Consequently, Monegasque citizens are a minority in their own country (representing 21.5% of the population). They therefore enjoy preferential treatment, particularly in respect of employment and housing. The application of "national preference" is considered a prerequisite to enable Monegasque citizens to be able to live on Monaco's territory. Monaco generates more than 50 000 jobs. It is an economic hub which benefits the surrounding areas (France and Italy). Monaco has a very low unemployment rate: this healthy economic context is the reason why the application of the principle of "national priority",[11] which seems to be flexible, does not lead to social tensions among national communities.

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6. AS/Mon (2015) 04.
7. ECRI Conclusions on the implementation of the recommendations in respect of Monaco subject to interim follow-up, adopted on 19 March 2014, CRI(2014)23.
8. Compliance Report on Monaco (Joint First and Second Evaluation Rounds), adopted by GRECO at its 48th plenary meeting (Strasbourg, 27 September-1 October 2010) Greco RC-I/II(2010)3E, and its addendum of 7 December 2012 Greco RC-I/II(2010)3E addendum.
9. Compliance Report on Monaco (Third Evaluation Round on "Incriminations (ETS Nos. 173 and 191, GPC 2)" and "Transparency of political party funding"), adopted by GRECO at its 64th Plenary Meeting (Strasbourg, 16-20 June 2014), Greco RC-III(2014)4E.
10. MONEYVAL(2011)29, Second progress report and the analysis of progress on the core FATF recommendations, 13 December 2011 (available in French only) and MONEYVAL(2013)12, Fourth Round Mutual Evaluation Report adopted by MONEYVAL at its 42nd plenary meeting (Strasbourg, 16-20 September 2013) – see Executive summary.
11. Article 25.2 of the Constitution provides that "priority is given to workers of Monegasque nationality for accession to public and private employment, as provided by law or international conventions"; Article 5 of the Law of 17 July 1957 states that administrative authorisation is required to recruit a non-national, which can be granted "for candidates with the skills necessary for the employment, when such skills are not available among Monegasque citizens". The Supreme Court of Monaco indicated that "the [national] priority given to Monegasque [citizens] by the above provisions is applied, provided

6.2. The population is also characterised by the presence of "enfants du pays",[12] which is tending to decrease as a result of the ageing of that population, the pressure on real estate and naturalisations. A more precise definition of the concept of "enfants du pays", or even the creation of a status, is currently being considered.

6.3. As explained by Council of Europe constitutional experts, Monaco's is the only system of its kind, a limited constitutional monarchy with legislative power vested in both the sovereign Prince and the National Council. A network of advisory bodies mitigates the extensive powers of the Prince as compared to the limited powers of the National Council. Several mechanisms encourage dialogue, compromise and consensus: political struggles are replaced by consensual functioning of the institutions. The government is not accountable to the National Council.[13] The current political regime enjoys a high degree of consensus among the population and political leaders, who are attached to this regime and do not want to change it.

6.4. The exercise of legislative power in the Principality is a shared competence. Article 66 of the Constitution stipulates that "the instigation of law implies the agreement of wills of both the Prince and the National Council. The Prince alone may initiate law. Deliberating and voting on bills are the National Council's responsibility. It falls to the Prince to sanction laws, which confers on them a binding power through promulgation". Parliamentary business is therefore conducted on a basis of consensus and negotiation: while no law can be passed without the consent of the National Council, the government is entitled, in accordance with the Constitution, to "withdraw the bill before the final vote". The National Council has exclusive responsibility for its own agenda and the examination of draft laws – this may however be limited by the Prince's prerogative to convene the National Council in extraordinary session. While the Prince alone has the right to initiate law (Article 66, paragraph 2), the National Council has the right to initiate legislation indirectly: since the constitutional reform of 2002, it has been able to draft "bill proposals" (*propositions de loi*). The Minister of State must make his position known within six months of receiving such a "bill proposal". He can either make it a government bill (amended if necessary), which must then be tabled within a year, or he can decide to halt the legislative process. According to the Constitution, such a decision, however, must be explained by a declaration that can be – and in fact is – debated by the National Council during an ordinary session held in public.[14]

6.5. However, the fact that the government, as well as the Director of Judicial Services, are solely responsible to the Prince and not to the National Council poses a real challenge for democracy, even though the sovereign and the National Council, which share legislative power, check each other. Council of Europe experts therefore stressed that "the apportionment of the respective competences is crucial"[15]: while the legislative sphere and the regulatory sphere are clearly defined by the Constitution[16], the Constitution is however silent on how to solve new issues or in case of doubt.[17] There is another pending legal issue that has already been raised by previous Assembly rapporteurs and will need consideration in the future: in cases where a ratification law is not necessary, "new offences and criminal penalties can be created by the sole means of a Sovereign Order implementing an international treaty that provides for such offences and penalties, whereas Article 20 of the Constitution provides that no penalty may be imposed or applied except in accordance with the law".[18]

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that a post is vacant, and that they have the necessary skills for the employment; … It is up to the employer to assess the qualifications of candidates for the job that he wants to fill;" Article by Roland Drago, former President of the Supreme Court.

12. This group of residents is composed of non-Monegasque citizens whose families have lived in Monaco for several generations and who have close links with the country. They are estimated to number about 6 000 individuals, mainly nationals of France and Italy.

13. Opinion No. 695/2012 of the Venice Commission.

14. Ibid., p. 12.

15. Ibid., paragraph 69: "It is not clear how subject-matter is apportioned between legislation and regulations (ordinances and ministerial decrees). The sphere to be covered by ordinances and that covered by ministerial decrees are generally determined by ordinance (Article 48). But is only the Constitution that can decide what belongs to the legislative sphere and what belongs to the regulatory sphere."

16. The government explained that matters that are specifically assigned to the law in the Constitution require legislation, while any other matters can be dealt with in draft laws, "bill proposals" (*propositions de loi*) or regulations, as preferred. This division has been clearly understood in legal doctrine, without giving rise to any particular criticisms to the effect that the current arrangements are insufficiently democratic or lack clarity, AS/Mon (2015) 04.

17. Opinion No. 695/2012, p. 14

18. Doc. 12012, paragraph 36. The rapporteurs Mr Slutsky and Agramunt noted that "any conviction in the absence of a corresponding law which specifies the criminal offence established in a Sovereign Order could result in violations of Article 7 of the European Convention on Human Rights, which enshrines the same principle of compliance with statute".

6.6. The Principality has historical links with France. Monaco and France signed, on 8 November 2005, the convention on adapting and extending administrative co-operation between the French Republic and the Principality of Monaco,[19] which was ratified by France in 2008. Since then, in order to ensure that the principle of non-discrimination is complied with, it has been possible for Monegasque citizens to be appointed to senior public and governmental positions, which hitherto had been reserved for French nationals.

7. Monaco has, since its accession in 2004, played an active role in the Council of Europe. It has signed and ratified 45 Council of Europe treaties, and signed a further five treaties: the Protocol to the European Convention on Human Rights, the European Social Charter (revised), the Convention on Cybercrime and the Convention on Mutual Administrative Assistance in Tax Matters and its Protocol (ETS No. 127 and CETS No. 208), on 13 October 2014.[20] Monaco has made an active contribution to the work of the Council of Europe, as shown by the Monegasque delegation's involvement in the work of the Parliamentary Assembly, by the Principality's fundamental contribution in organising a high-level conference on children's rights in April 2006 and a conference on the Council of Europe strategy for the rights of the child 2012-2015 on 20 and 21 November 2011, under the Presidency of HRH the Princess of Hanover, and in funding a number of Council of Europe activities through voluntary contributions.

8. On the occasion of the 10th anniversary of Monaco's accession to the Council of Europe, on 5 October 2014, the Monegasque authorities deposited ratification instruments for the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention") and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, "Istanbul Convention"). This confirmed that the Principality is firmly anchored within the Organisation, attached to its ideals and a contributor to its activities.

9. Today, Monaco has to face a number of global challenges and find the right balance between preserving its specific characteristics and opening up to the world. During my visits, I discussed with various stakeholders the consequences of the very tense real estate market for the Monegasque population, the challenges posed by the reform of the pension scheme adopted in 2012 and the labour legislation, in particular in the public sector, the situation of the economy and of local businesses in the face of globalisation, etc.

10. At the same time, the Principality will engage in important negotiations with the European Union: on 16 December 2014, the European Council "reiterated its commitment to building closer ties with Andorra, Monaco and San Marino", considering that "a closer association with the three States is in the interest of the European Union. It looks forward to deepening and strengthening the current relations with them, which are extensive but fragmented, taking into account the importance of a coherent approach".[21] This should allow the European Commission to launch negotiations with Monaco, which could have a significant impact on its economic development.

3. Review of the progress made on compliance with the remaining commitments to be fulfilled by Monaco

11. Further to the organisation of the above-mentioned hearings and meetings, I proposed to draft a road map for bringing the post-monitoring dialogue to an end, which was endorsed by the Monitoring Committee at its meeting on 14 December 2014 and shared with the Monegasque authorities. On 19 January 2015, additional information was sent by Mr Roger, Minister of State, as well as by Mr Nouvion, President of the National Council, and Mr Allavena, Head of the Monaco Delegation to the Parliamentary Assembly. I am convinced that with strong political will and a high level of co-operation and trust, we will be able to address the remaining commitments to be honoured. I want to stress here, once again, that the Council of Europe

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The government, however, is of the opinion that this possibility "does not constitute a breach of Article 7 of the European Convention on Human Rights, especially as it is used only to a very limited extent, usually to enable Monaco to speedily comply with its commitments regarding organised transnational crime". See AS/Mon (2015) 04.

19. The 2005 convention replaced the 1930 convention and prescribes that the principle of non-discrimination be complied with, enabling Monegasque citizens to be appointed to senior public and governmental positions, which hitherto had been reserved for French nationals, see Resolution 1566 (2007), paragraph 4.

20. See www.conventions.coe.int.

21. Council conclusions on a homogeneous extended single market and EU relations with non-EU western European countries, General Affairs Council meeting, Brussels, 16 December 2014.

remains ready to provide expertise and advice to overcome any potential legal impediments to ratification by Monaco of these international instruments. The road map included the following requirements of the authorities of Monaco:

3.1. Ratification of the Protocols Nos. 1 and 12 to the European Convention on Human Rights

12. When it joined the Council of Europe, Monaco committed itself to ratifying Protocols Nos. 1[22] and 12[23] to the European Convention on Human Rights. Protocol No. 1 covers notably the protection of property, education and free elections. The right to property, as understood by the European Court of Human Rights, but also the "socialisation of the concept of property", as it arises from the Court's interpretation, taken in conjunction with the general principle of non-discrimination contained in Article 14 of the Convention, is a matter of concern for the Monegasque authorities[24], where the regulations provide for differentiated access to housing rights for citizens, "enfants du pays", residents and foreigners, and provides for specific regulation of real estate.[25] This question has been discussed on various occasions with the Monegasque authorities, and was again recently during my meeting in Paris on 10 December 2014 with Mr Anselmi, Director General of the Legal Affairs Department of the Government of Monaco, and Mr Polakiewicz, Director of Legal Advice and Public International Law of the Council of Europe. In his letter of 19 January 2015, the Minister of State, Mr Roger, stressed that the government would continue to examine with attention all the solutions that were envisaged during the 10 December 2014 meeting, "as they might lead to ratification of both Protocol No. 1 and the Social Charter". The support expressed by the Minister of State is an encouraging signal.

13. Considering the potential legal impediments to ratification of the Protocol, the Monegasque authorities conducted on 27 February 2015, in co-operation with the Council of Europe, a thorough expert examination of the feasibility of ratification and the possible legal options (reservations, declarations) open to Monaco for ratifying these instruments, taking into account Monaco's specific characteristics, and requested the Council of Europe's expert advice on the possible drafting of reservations. Two options were explored:

13.1. The first option would be to draft a reservation that would exclude from the scope of Article 1 of Protocol No. 1 only certain provisions of the Constitution, in particular those relating to the priorities given to nationals and the entitlements of non-nationals. Such reservation, however, is likely to be recognised as invalid by the Court, not least because of the overly broad nature of the constitutional provisions on which it is based.

13.2. The second option would be based on an "exclusive enumeration" approach, based on an exhaustive list of any domestic legislation that is to be excluded from the scope of the said Article 1. Such an arrangement, however, would not cover any provisions that might be adopted after the Protocol is ratified. The authorities pointed out that a reservation of this kind would be ill-equipped to deal with new requirements, as and when they emerged, and, once again, there is risk that it would be rejected by the Court, on the ground that it was too general owing to the large number of texts included in the list.[26]

14. Based on this assessment, the government indicated that, while Monaco has made every effort, in good faith, to honour its international commitments in this area, through numerous discussions and meetings with the Council of Europe's technical services, ratification of Protocol No. 1 seemed to be unlikely. The same argument could be made, if not more so, for Protocol No. 12.[27] However, I took good note that the Monegasque authorities remain committed to finding a solution, and welcomed the idea of setting up a working group which could look into new technical aspects which might make it possible to consider ratification,[28] following the positive and useful experience of previous technical consultations organised with Council of Europe experts. I also took note that both the Monegasque authorities and the Council of Europe experts shared the same vision that, at the present moment, none of the two mechanisms of reserves explored (see paragraph 13) would fully safeguard the Monegasque specificities.

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22. Ratified by all member States except Monaco and Switzerland.
23. Ratified by 18 member States and signed by 19 member States.
24. Comments from the Monegasque Government of 4 March 2015, AS/Mon (2015) 04.
25. Real estate is subject to different regulations in Monaco, depending on whether it belongs to the "private sector" (which is completely free), to the sector "protected" by the law (in which specific conditions apply to the rental of certain housing units built or completed before 1 September 1947) or to the "secteur domanial" (State-owned sector), for which the access criteria are laid down in a Ministerial Decree/Order.
26. Comments from the Monegasque Government of 4 March 2015, AS/Mon (2015) 04.
27. Letter of H.E Mr Roger, Minister of State, of 4 March 2015, AS/Mon (2015)04
28. Letter of H.E Mr Roger, Minister of State, of 11 March 2015, AS/Mon (2015)04

15. Considering ratification of Protocol No. 12 to the European Convention on Human Rights and the replies provided by the authorities, I can only encourage the Monegasque authorities to further explore, with the Council of Europe, the possibilities that could enable Monaco to overcome the legal obstacles and ratify this protocol.

16. I believe that ratification of these two protocols would further enhance the protection of human rights in Monaco. In this respect, I would like to welcome as a very positive move the decision made by the Prince in October 2013 to create the office of High Commissioner for the Protection of Rights, Liberties and for Mediation.[29] Ms Anne Eastwood was appointed High Commissioner in February 2014. Her remit includes the protection of human rights (Articles 15 to 27) and the fight against discrimination (Articles 28 to 32). She also has responsibility for mediation. The European Commission against Racism and Intolerance (ECRI) considers "that the setting up of the High Commissioner constitutes significant progress towards better protection against racism and discrimination", while calling for greater independence of the institution.[30]

3.2. Ratification of the European Social Charter (revised)

17. The European Social Charter (revised) has been ratified by 33 member States and signed by 12 (including Monaco in 2004). While social standards are considered high in Monaco, there is a fear that direct applicability of the European Social Charter (revised) could undermine the "social covenant" established in Monaco and could undermine the application of "national preference" and some specific social allowances which are reserved for its citizens.

18. It should be recalled in this connection that in 2004, when the Principality of Monaco joined the Council of Europe, the Assembly encouraged the Organisation to take account of the preferential treatment from which Monegasque nationals benefit in respect of housing and employment, but at the same time emphasised that the European Social Charter (revised) offered the requisite flexibility for taking account of parties' specific characteristics.[31]

19. Further to my series of consultations, I invited the Monegasque authorities to conduct, in co-operation with the Council of Europe, a thorough expert examination of the feasibility of ratifying the European Social Charter (revised), to identify articles and paragraphs that could be accepted by Monaco[32] and the legal options (declarations) open to Monaco for ratifying the European Social Charter (revised), taking into account Monaco's specific characteristics, and to identify the appropriate mechanisms relating to the applicability of the Charter ensuring that the legal effects of the Charter do not affect the specific characteristics of Monaco.

20. Despite the difficulties mentioned by the authorities, citing the specificities of Monaco, the government signalled, on 11 March 2015, its readiness to find a legal solution. We appreciate the positive will expressed by the government to consider the formulation of a legal text in order to ratify the European Social Charter (revised). However, focusing specifically on this point, the government is still looking for an appropriate solution, both in the political and technical spheres. We express our confidence in the process, which has already begun, and urge all the parties concerned to find the appropriate mechanisms and initiate legislative steps to bring this process to an end, as soon as possible, in co-operation with Council of Europe experts.

21. I believe that the ratification of the Charter, which provides for a ratification "à la carte", could be a strong signal of Monaco's commitment to upholding its already existing high social standards. I strongly encourage the Monegasque authorities to further explore all legal possibilities which would enable them to honour this commitment whilst safeguarding the specificities of Monaco. Ultimately, if ratification, for serious and justified reasons, does not appear feasible at the moment, Monaco should incorporate the substance of the rights guaranteed in the European Social Charter (revised) into its domestic legislation.

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29. Sovereign Order No. 4524 of 30 October 2013.

30. The Prince has the power to abolish the new institution by another sovereign order. ECRI therefore points out that the terms of reference of the High Commissioner "would need to be set out in primary legislation and not in a sovereign order". For more details, see the 2014 ECRI conclusions, pp. 5/6.

31. Opinion 250 (2004), The Principality of Monaco's application for membership of the Council of Europe, paragraph 9.

32. To accede to the European Social Charter, Monaco should "consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20" and "consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs".

3.3. Ratification of the Convention on Cybercrime

22. The process of ratification of the Council of Europe Convention on Cybercrime, which was signed by Monaco in May 2013, is about to be completed. The National Council adopted, on 5 December 2013, the Law No. 1402 approving ratification of the Convention on Cybercrime.

23. On 28 February 2015, the government submitted to the National Council a draft law on the fight against high-tech crime aimed at bringing Monaco's legislation into line with the Cybercrime Convention. We now expect the National Council to swiftly adopt this draft law to enable the government to deposit the ratification instruments. The President of the National Council indicated that the vote for the adoption of this law will be on the agenda of the public sitting of 16 and 17 June 2015.

3.4. Expeditious enactment of a new law on the functioning and organisation of the National Council, enabling account to be taken of the constitutional amendments of 2002

24. The bill amending Law No. 771 of 25 July 1964 on the organisation and functioning of the National Council was tabled in the National Council by the government in December 2009. The setting up of the "Special Committee in charge of the amendment of electoral law and the law on the organisation and functioning of the National Council" in 2013 has speeded up the preparation of the law. The Monitoring Committee was informed about the state of play of this Committee at its meeting on 14 November 2014. Mr Nouvion, President of the National Council, and Mr Rit, Chairperson of the Special Committee, presented the substantial changes that could be achieved thanks to this law to increase the administrative capacity of the National Council, facilitate the work of the part-time National Councillors (with the recruitment of parliamentary assistants), formalise the role of political groups, enlarge the Bureau of the National Council with the participation of the opposition, etc.

25. On 14 December 2014, the Special Committee unanimously adopted the amendments to Law No. 771 on the functioning and organisation of the National Council, and this was transmitted to the government. The drafting of the Rules of Procedure of the National Council should be examined by the end of March 2015. We welcome these positive developments. We now expect the government to swiftly consider the amended law, so as to enable the National Council to adopt it in good time. In this context, I was informed that the government has not found, in the text submitted by the National Council, any major difficulties that might delay the review of the amended draft law. I was pleased then to learn that the President of the National Council had decided to table the vote for the adoption of this law at the public sitting of the National Council of 16 and 17 June 2015.

3.5. Reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code

26. A number of positive steps have been taken to reform the Code of Criminal Procedure and the Criminal Code (as expected in 2009) and other legislation to bring Monegasque legislation into line with the Council of Europe's standards in the fields of fundamental rights and the fight against corruption. As highlighted by my predecessor, Ms Brasseur, the pragmatism of the judicial bodies, which are relying on the case law of the European Court of Human Rights even before the requisite legislation has been adopted, deserves to be acknowledged. The President of the Supreme Court, Mr Linotte, also informed me about the drafting of a future Sovereign Order which will allow the formalisation of already existing practices in order to specifically incorporate fair-trial principles derived from the European Convention on Human Rights. We should mention here:

– the adoption of Law No. 1398 of 24 June 2013 on the administration and organisation of the judicial system;

– the adoption of Law No. 1399 of 25 June 2013 reforming the Code of Criminal Procedure as regards police custody;

– the adoption of Law No. 1394 of 9 October 2014 reforming the Criminal Code and Code of Criminal Procedure as regards corruption and special investigation techniques;

– the submission to the National Council, on 10 December 2012, of draft Law No. 879 comprising various measures in the field of State liability and remedies;

– the preparation of a Sovereign Order designed to specifically incorporate fair-trial principles derived from the European Convention on Human Rights in the Supreme Court's own organisational and procedural rules, which should be published by the end of March 2015.

27. This requirement can thus be considered to have been satisfactorily fulfilled or to be in the process of being fulfilled.

28. As a member of the Criminal Law Convention on Corruption (ETS No. 173) since 2007, Monaco is subject to a regular monitoring procedure by the Group of States against Corruption (GRECO). As a consequence, we welcome an initial reform of the Law on the funding of election campaigns, in order to regulate not only campaign expenditure, but also campaign donations. In this context, we refer to Law No. 1389 of 2 July 2012 on the funding of election campaigns, which should be revised in the near future, following the tabling on 2 October 2014 of draft Law No. 924 amending the 2012 law.[34]

29. In addition, we should also note the adoption of Law No. 1364 of 16 November 2009 on the status of members of the judiciary. This law led to the setting up of a Judicial Service Commission, chaired by the Director of Judicial Services, and to progress in the training and appraisal of members of the judiciary, including the seconded members of the French judiciary, as well as the setting up of a trade union for members of the judiciary in 2011.

30. Concerning the fight against money laundering, progress was also noted during the reporting period with the passing of Law No. 1362 of 23 July 2009,[35] which reinforced the anti-money laundering system and the resources allocated to the Financial Information and Monitoring Department (SICCFIN). In addition, Sovereign Order No. 3561,[36] amending the 2002 legislation on combating the financing of terrorism, was adopted on 9 December 2011. Monaco remains subject to the monitoring of MONEYVAL, which assesses legislation and its implementation, including the application of preventive measures by financial and non-financial businesses and professions. The 2009 anti-money laundering law also places an obligation on lawyers to report any suspicious transactions to the Prosecutor General in certain cases. Ms Boisson, SICCFIN Director, indicated in November 2014 that 500 to 600 suspicious transaction reports were submitted to SICCFIN every year.[37] At the end of the process, only a few cases had led to prosecutions: It was explained to me that it was necessary to identify the predicate offences – which often take place abroad –, deal with the difficulties encountered with international letters rogatory and obtain the necessary information abroad. At the same time, I was impressed by the speedy reply given by Monaco (within two months on average) to international letters rogatory.

3.6. Review of the issue of the international conventions and treaties for which the National Council must adopt a law on ratification

31. Article 14 of the Constitution provides for the ratification of international treaties by the Prince. Prior consideration and the adoption of a law on ratification by the National Council are only required in some specific cases[38] of treaties which:

i. affect the organisation of the Constitution;

ii. entail the amendment of existing legal provisions;

iii. entail participation by members of the National Council in an international organisation;

iv. result in budgetary expenditure of a new kind or for a new purpose.

32. Since the entry into force of this constitutional provision in 2002, only seven laws have been passed by the National Council and promulgated in order to secure the ratification of international legal instruments.

33. Pursuant to Resolution 1690 (2009), I raised the issue of the involvement of the National Council in the ratification of international instruments. When mentioning this issue during my visits to Monaco, I found that there is a strong consensus among all members of the National Council not to change the Constitution in this

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33. Comments from the Monegasque Government of 4 March 2015, AS/Mon (2015) 04.
34. www.conseil-national.mc/index.php/textes-et-lois/projets-de-loi/item/364-924-projet-de-loi-modifiant-la-loi-n-1389-du-2-juillet-2012-relative-au-financement-des-campagnes-electorales.
35. Law No. 1362 of 23 July 2009 on the combating of money laundering, the financing of terrorism and corruption. www.conseil-national.mc/index.php/textes-et-lois/lois/item/232-1362-loi-relative-a-la-lutte-contre-le-blanchiment-de-capitaux-le-financement-du-terrorisme-et-la-corruption
36. Sovereign Order No. 3561 amending Sovereign Order No. 15320 of 8 April 2002.
37. For example, in 2012, 17 cases (representing 28 reports) were forwarded to the prosecuting authorities. Five cases were dismissed, 12 are still ongoing.
38. Article 14 of the Constitution (as amended by Law No. 1249 of 2 April 2002).

respect. However, I also felt that it could be beneficial for all stakeholders to find adequate ways, either formal or informal, of increasing communication between the government and the National Council when Monaco intends to ratify new international instruments and, in certain cases, to draft reservations and declarations. The ratification of international instruments is, essentially, a positive process which enhances standards and gathers a broad consensus. Such "interaction" would in no way interfere with the prerogatives of the Prince who "represents the Principality in its relations with foreign Powers" (Article 13 of the Constitution) and "signs and ratifies treaties and international agreements" (Article 14 of the Constitution).

34. While fully implementing the constitutional provisions requiring the adoption of ratification laws by the National Council, as specified in Article 14 of the Constitution, I have encouraged the Monegasque authorities to find the appropriate mechanisms, possibly enshrined in the National Council's Rules of Procedure, to ensure regular information and non-binding consultation of the National Council when Monaco intends to ratify a convention or a treaty and to draft reservations or a declaration relating to these instruments. This could be done by an exchange of letters between the government and the National Council, to establish the procedure and ensure regular consultations of the National Council in this field.

35. This possibility was welcomed by the President of the National Council and the head of the Monaco delegation, who considered it necessary and useful to formalise the modus operandi of this constitutional process, and by the Minister of State, Mr Roger, who said in a communication addressed to the President of the National Council on 18 February 2015 that he was willing to consider, "in accordance with practice at the opening of each ordinary session of the National Council where draft laws are concerned, making a regular review at the meetings between the External Relations Committee and the government of all the conventions and treaties under discussion requiring, or not requiring, the adoption of a law on ratification in pursuance of Article 14 of the Constitution. That would be an opportunity both to inform the National Council and to answer any questions raised by the elected representatives". I therefore welcome the agreement concluded in February 2015, through an exchange of letters between the Minister of State and the President of the National Council, which provides a modus operandi involving regular updating of, and non-binding consultations with, the National Council whenever Monaco intends to ratify a convention or treaty. The practical details and frequency of these discussions remained to be specified, and I was informed on 11 March 2015 by the Minister of State that the procedure should soon be initiated. This agreement represents undeniable progress, in line with the expectations expressed by the Parliamentary Assembly in 2009.

4. Conclusions and outlook

36. Since its accession to the Council of Europe in 2004, Monaco has made progress in a number of areas. It is unquestionable that membership of the Council of Europe has had a profound impact on Monaco's legislation and practices and stimulated the adoption of higher standards and better democratic practices, in particular in the areas of the fight against discrimination, the fight against corruption and money laundering, and the promotion of human rights, in particular women's and children's rights. With the recent ratification of the Istanbul and Lanzarote Conventions on the 10th anniversary of Monaco's accession to the Council of Europe, Monaco has confirmed that the Principality is firmly anchored within the Organisation, attached to its ideals and a contributor to its activities.

37. Keeping in mind the specific characteristics of Monaco, which need to be respected, and the objective difficulties that the Principality has had to face to combine the honouring of its commitments to the Council of Europe and the preservation of those specific legal characteristics, vital to perpetuating the presence of Monegasque citizens on their territory, I applaud the determination over the past few months of the Monegasque authorities, both the government and the National Council, in close co-operation with the Council of Europe, to identify the legal solutions necessary to fulfil its remaining accession commitments, 10 years after joining the Council of Europe. I welcome the constructive dialogue and the progress made, despite limited administrative and human resources given the size of the country. This may explain an apparent slowness of the legislative process, and certain difficulties encountered in rapidly implementing reforms affecting key fields such as justice, democratic institutions and dialogue between the social partners.

38. I am also convinced that Monaco has the capacity to adjust to new democratic challenges and a changing globalised world, and, while preserving the uniqueness of its regime, will continue to reform its institutions. The "Special Committee in charge of the amendment of electoral law and the law on the organisation and functioning of the National Council" has now started work on modernising electoral law: the National Council, on 9 October 2014, thus adopted Law No. 1409 on national and municipal elections,[39] and it also passed an amendment of Article 47 of the 1968 law (on the validity of ballot papers) on 26 November 2014.[40] There should in future be a general discussion on the electoral system.

39. In future, it should also be able to align its legislation and Constitution with the practices developed in the country, and to make the necessary clarification (between legislation and orders, for example). The question of the right to amend the budget, raised by the members of the opposition, also deserves consideration. The authorities could draw inspiration from the Council of Europe's expertise and member States' practices. I welcome the fruitful co-operation established with the Council of Europe. I am therefore confident that Monaco will further upgrade its legislation and rules, as it is subject to several monitoring mechanisms which are formulating recommendations. The Council of Europe also remains ready to provide the Monegasque authorities with expertise and legal assistance.

40. To conclude, I would like to stress, once again, the important contribution of Monaco to the Council of Europe, and the significant steps taken by Monaco since its accession to the Organisation in 2004 to upgrade its standards and align its practices with Council of Europe norms. The Assembly acknowledges these efforts, while the Principality of Monaco has to face many constrains in terms of human resources, and administrative capacities, and has a essential need to preserve the preferential treatment (in housing, employment and social benefits) granted to Monaco citizens, which is seen as vital to perpetuate the presence of Monegasques on their own territory.

41. The present report highlights that Monaco has made significant progress and fulfilled, or is about to fulfil, four of its 2004 last accession commitments from 2004, namely:

– the ratification of the Convention on Cybercrime;

– the expeditious enactment of a new law on the functioning and organisation of the National Council, to take account of the constitutional amendments of 2002;

– the reform of the Code of Criminal Procedure and finalisation of the reform of the Criminal Code;

– the review of the issue of the international conventions and treaties for which the National Council must adopt a law on ratification.

42. Concerning the ratification of Protocols Nos. 1 and 12 to the European Convention on Human Rights and of the European Social Charter (revised), we should note that, despite the fact that no suitable legal solution could be found at the present stage to honour these accession commitments, the Monegasque authorities remain open to further exploring the legal possibilities, in particular for the European Social Charter, that could pave the way to the ratification of these instruments. I would like to reiterate my confidence in the capacity of Monaco to address these remaining challenges, especially through the setting up of a working group proposed by the authorities, in co-operation with the Council of Europe.

43. While praising the achievements made by Monaco on most of the 2004 accession commitments, the Assembly now expects Monaco to make progress on the remaining commitments. Pending further progress on these issues, I had first considered proposing to pursue the post-monitoring dialogue with Monaco. However, given the position expressed by several Monitoring Committee members on 17 March 2015, and the renewed commitment of the authorities to pursue the work on the pending issues, as indicated to me by the Minister of State, I have proposed to the committee to amend my original proposal and to suggest to end the post-monitoring dialogue with Monaco in the light of the progress achieved since 2009 and the efforts made by Monaco to honour its commitments. The Assembly should continue to follow legislative and institutional developments, particularly through the periodic reports drawn up by the Assembly's Monitoring Committee, in accordance with Resolution 2018 (2014). The Assembly and the Council of Europe remain ready to assist the Principality of Monaco with its future reforms

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39. Law No. 1409 amending Law No. 839 of 23 February 1968 on national and municipal elections, as amended, and various provisions relating to such elections (www.conseil-national.mc/index.php/textes-et-lois/lois/item/369-1409-loi-modifiant-la-loi-n-839-du-23-fevrier-1968-sur-les-elections-nationales-et-communales-modifiee-et-dispositions-diverses-relatives-a-ces-elections).

40. Law No. 1411, adopted on 26 November 2014, amending Article 47 of Law No. 839 of 23 February 1968 on national and municipal elections, as amended, which was adopted by the National Council at a public sitting (www.conseil-national.mc/index.php/textes-et-lois/lois/item/384-1411-loi-portant-modification-de-l-article-47-de-la-loi-n-839-du-23-fevrier-1968-sur-les-elections-nationales-et-communales-modifiee).