Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1566 (2007)[1]

Honouring of obligations and commitments by Monaco

Parliamentary Assembly

1. The Principality of Monaco became a member of the Council of Europe on 5 October 2004. On its accession, it accepted the statutory obligations which all member states must meet and also made a number of specific commitments, which it undertook to honour within the time limits specified in Opinion No. 250 (2004) on the Principality of Monaco's application for membership of the Council of Europe.

2. The monitoring procedure was due to start in April 2005, six months after accession (paragraph 14 of the opinion). This report is the first to the Assembly assessing whether the principality has met the obligations and commitments it entered into on accession.

3. The first two years after accession were marked by events which both deeply affected the people of Monaco and had important implications for the functioning of institutions and compliance with the timetable for meeting the commitments entered into in 2004. On taking over from his father, Prince Rainier, who died in April 2005 after a fifty-six-year reign, Prince Albert II set a new course for the country.

4. The Parliamentary Assembly welcomes the signature in Paris on 8 November 2005 of the Convention on Adapting and Developing Administrative Co-operation between France and Monaco. This convention replaces the 1930 convention and ensures that the principle of non-discrimination is complied with so that Monégasque citizens can be appointed to the senior public and governmental posts in Monaco that are currently reserved for French nationals. The Assembly hopes that France will ratify the convention as soon as possible.

5. The Assembly notes that Monaco has now ratified 30 of the 200 conventions of the Council of Europe and signed two others – Protocol No. 1 to the European Convention on Human Rights (ETS No. 9) and the revised European Social Charter (ETS No. 163).

6. The Assembly welcomes the fact that within the set time limit of one year after accession, Monaco ratified the European Convention on Human Rights and its Protocols Nos. 4, 6, 7 and 13; it did so on 30 November 2005, at the same time as lodging two declarations and several reservations. The principality ratified Protocol No. 14 to the Convention (CETS No. 194) on 10 March 2006; the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 2) and its protocols were also ratified on 30 November 2005.

7. However, the Assembly regrets that the Principality of Monaco has not yet honoured its commitment to ratify Protocol No. 1 to the European Convention on Human Rights safeguarding property rights, the right to free elections and the right to education and it expects the Monégasque authorities to take the necessary steps for that purpose as soon as possible. The Assembly also notes that Monaco has not signed Protocol No. 12 (ETS No. 177) although required to do so within one year after its entry into force – that is, by 1 April 2006.

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1. Assembly debate on 28 June 2007 (26th Sitting) (see Doc. 11299, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Agramunt and Mr Slutsky). Text adopted by the Assembly on 28 June 2007 (26th Sitting).

8. With regard to the Council of Europe conventions which Monaco undertook to ratify within two years from accession – that is, by 5 October 2006 at the latest – the Assembly is pleased to note that on 19 March 2007 it ratified the Criminal Law Convention on Corruption (ETS No. 173), the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30) and the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights (ETS No. 161).

9. On the other hand the revised European Social Charter, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) and the European Convention on the Suppression of Terrorism (ETS No. 90) have not yet been ratified. The Assembly calls on the Monégasque authorities to ratify those conventions as soon as possible. It hopes that their ratification will be facilitated by the establishment on 16 February 2007 of the International Affairs Department, one of whose functions is to assess and monitor international conventions to which the principality is or will be a party.

10. In the matter of domestic law the principality also undertook, in accordance with Council of Europe standards, to pass a number of laws within one year of accession. The Assembly is pleased to note that:

10.1. amendments to the Civil Code incorporating the principle of equality between women and men, including as parents or spouses, were adopted in 2003 and 2004;

10.2. two laws amending the Nationality Law of 18 December 1992 were passed in December 2003 and May 2005 respectively;

10.3. the Law on Media Freedom was passed on 15 July 2005;

10.4. the Law on Stating Reasons for Administrative Acts was passed on 29 June 2006.

11. The Assembly trusts that the law on freedom of association, which should also have been passed within one year after accession, will be adopted without further delay.

12. The Assembly asks the Monégasque authorities to expedite the current reform of the Criminal Code and the Code of Criminal Procedure and to make sure that the planned amendments are in keeping with the European Convention on Human Rights as interpreted by the European Court of Human Rights, in particular with regard to Articles 5, 6, 7, 8 and 13 of the Convention.

13. The Assembly notes with satisfaction that the government of the principality has consented to the publication of the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) dated 31 May 2007. It hopes that the recommendations in this report will be implemented as soon as possible. The Assembly also hopes that the Monégasque authorities will take account of the recommendations in the report of the European Commission against Racism and Intolerance (ECRI) of 24 May 2007.

14. The Assembly is pleased to note that the principality has made considerable efforts to improve its legal weaponry against money laundering and particularly welcomes the November 2006 law amending Article 218 of the Criminal Code as regards offences underlying money laundering.

15. It also welcomes the June 2006 enactment of a law on local self-government which should make it possible to ratify the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities very soon. It encourages the Monégasque authorities to continue the reform process so as to ensure that foreign nationals residing in the principality are allowed to participate in the management of municipal affairs, in keeping with the relevant Council of Europe standards.

16. With regard to the powers of the National Council of Monaco, which it suggested should be extended within five years of accession, the Assembly is aware of the delicate situation which is an inherent feature of the functioning of Monaco's institutions. It therefore considers it necessary to draw attention to the recommendations set out in paragraph 11 of Opinion No. 250 (2004) concerning supervision of government action, annual presentation of the governmental programme, the right of legislative initiative, and the budget debate.

17. The Assembly urges the Monégasque authorities to adopt a new law on the functioning and organisation of the National Council of Monaco as soon as possible so as to reflect the constitutional changes made in 2002. It hopes in this connection that the work by the Government-National Council joint working party will shortly be successful.

18. The Assembly also calls on the National Council to review its rules of procedure without delay.

19. In addition the Assembly recommends that the Monégasque authorities:

19.1. begin considering the case for a law on political parties, in particular so as to ensure greater transparency in party financing;

19.2. redraw the list of international conventions and treaties in respect of which the National Council must pass a ratification law in accordance with Article 14 of the constitution and meanwhile submit initially to the National Council any draft reservations or declarations to a treaty in respect of which the National Council must pass a ratification law.

20. Bearing in mind not only the progress made since the Principality of Monaco acceded but also the number of commitments it still has to honour, the Assembly decides to continue monitoring the honouring of obligations and commitments by Monaco until progress in this area brings tangible results.