



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

Seventy-sixth session

15 February–12 March 2010

### Consideration of reports submitted by States parties under article 9 of the Convention

#### Concluding observations of the Committee on the Elimination of Racial Discrimination

##### Monaco

1. The Committee on the Elimination of Racial Discrimination considered the initial to sixth periodic reports of Monaco (CERD/C/MCO/6), submitted in a single document, at its 1973rd and 1974th meetings (CERD/C/SR.1973 and 1974), held on 15 and 16 February 2010. At its 1997th and 1998th meetings (CERD/C/SR.1997 and CERD/C/SR.1998), held on 3 and 4 March 2010, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the report submitted by the State party, which is in conformity with the reporting guidelines, as well as its written replies to the list of issues (CERD/C/MCO/Q/6 and Add.1). Furthermore, it appreciated the clarifications provided orally by the delegation in response to the Committee's questions, as well as the open and constructive dialogue between the Committee and the delegation. However, the Committee takes note of the 12-year delay in the submission of the State party's report and invites the State party to respect the timetable that the Committee has set for the submission of future reports in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination.

#### B. Positive aspects

3. The Committee welcomes the initiative taken by the State party to engage in dialogue with the Committee, as well as the renewal of its commitment to and support for international organizations.

4. The Committee also welcomes the fact that on 6 November 2001 the State party made the declaration provided for in article 14 of the Convention.

5. The Committee welcomes the adoption of the following laws by the State party:
  - (a) Act No. 1,229 of 15 July 2005 on freedom of public expression, which criminalizes the provocation and incitement of racial hatred and violence;
  - (b) Act No. 1,353 of 4 December 2008, amending Act No. 1,165 of 23 December 1993 on the processing of personal information, which prohibits and punishes any processing of such information, including data of a racial or ethnic nature, without the express written permission of the person concerned.

### **C. Concerns and recommendations**

6. While taking note of the information provided by the State party on the distribution by nationality and sex of the population residing in its territory and on the total number of nationals and non-nationals, the Committee notes the lack of statistical data in the State party's report on the ethnic composition of the population and the socio-economic situation of the various groups.

**In accordance with paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party provide information on the composition of its population, disaggregated by national and ethnic origin, as well as statistical data on the socio-economic situation of the various groups, to enable the Committee to evaluate their situation in economic, social and cultural terms and the level of protection of their rights.**

7. The Committee is concerned by the fact that the State party maintains its reservations to article 2, paragraph 1, and article 4 of the Convention.

**The Committee recommends that the State party consider withdrawing its reservations to article 2, paragraph 1, and article 4 of the Convention, given the developments in its legislation since its ratification of the Convention (art. 1).**

8. The Committee notes that several bills containing provisions aimed at preventing and combating racial discrimination are still under examination or consideration.

**The Committee recommends that the State party should expedite the consideration and adoption of these bills, including bill No. 818 concerning offences involving information systems, which provides for an aggravating circumstance in the offence of making threats via a telecommunications network when such threats are motivated by race or religion, and the sports bill aimed at combating expressions of intolerance at sporting events, in order to give full effect to the provisions of the Convention. The Committee also recommends that the State party should inform the Committee about the provisions of these bills relating to racial discrimination in its next periodic report.**

9. The Committee takes note of the information provided by the State party on the activities of the Human Rights Unit of the Department of External Relations and those of the Human Rights Ombudsman. However, the Committee remains concerned at the absence of an independent national human rights institution in conformity with the Paris Principles.

**The Committee invites the State party to consider establishing an independent national human rights institution in conformity with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), to allocate it the financial and human resources necessary for its operation, and to endow it with authority and a mandate in the field of racial discrimination (art. 2).**

10. The Committee notes that Act No. 1,229 of 15 July 2005 on freedom of public expression criminalizes the provocation and incitement of racial hatred and violence.

However, the Committee is concerned that national legislation still contains no provisions that give full effect to article 4 of the Convention.

**The Committee draws the State party's attention to its general recommendations Nos. 1 (1972), 7 (1985) and 15 (1993), according to which the provisions of article 4 are mandatory, and emphasizes the preventive nature of legislation expressly prohibiting incitement of racial discrimination and racist propaganda. The Committee recommends that the State party adopt the bill intended to supplement the Criminal Code by including a specific offence based on article 1 of the Convention, as well as an aggravating circumstance related to the racist, anti-Semitic or xenophobic nature of offences, so as to give full effect to the provisions of article 4 (art. 4).**

11. While noting the information provided by the State party in its report, written replies and oral explanations concerning the non-application of the penalty of banishment, the Committee remains concerned that this penalty is still provided for in the State party's Criminal Code and is applicable to non-nationals.

**The Committee recommends that the State party adopt the proposal to abolish this penalty within the framework of the reform of its Criminal Code that is now under way (art. 5).**

12. While taking note of the information provided in the written replies, which state that only distinctions related to nationality and residence are applied in the field of employment, the Committee is concerned by the absence of legislation to protect foreign workers from racial discrimination, particularly during recruitment and with regard to working conditions.

**With reference to its general recommendation No. 30 (2005) on discrimination against non-citizens, the Committee recommends that the State party:**

**(a) Strengthen the protection of foreign workers by adopting legislation to protect them from racial discrimination, particularly during recruitment;**

**(b) Ensure implementation of existing mechanisms, such as labour inspections, with regard to the working conditions of foreign workers;**

**(c) Inform foreign workers about their rights and, in particular, about complaint mechanisms and facilitate access to those mechanisms;**

**(d) Consider signing and ratifying the International Labour Organization (ILO) Convention concerning Discrimination in respect of Employment and Occupation (No. 111) (1958);**

**(e) Consider acceding to the European Social Charter;**

**(f) Provide statistical data, in its next report, on the number of inspections carried out, complaints lodged, judgements handed down and compensation measures, if any (art. 5 (e) (i) and art. 6).**

13. The Committee takes note of the information provided by the State party on the existence in the State party of different religions, due to the presence of persons of different ethnic origin and of non-nationals, and the fact that freedom of religion is protected under article 23 of the Constitution.

**The Committee recommends that the State party consider in this respect the official recognition of all religions, including Islam, in order to meet the needs of all persons of a different ethnic origin or of non-nationals in the Principality of Monaco, and to encourage and promote understanding, tolerance and friendship among different religious groups (art. 5).**

14. The Committee notes that the Department of Public Security in the State party intends to include a special section in its “register of offences” for complainants to state whether the offence against them was racist in nature. However, the Committee is concerned at the lack of information on complaints, investigations and judgements related to acts of racial discrimination.

**The Committee recalls paragraph 1 (b) of its general recommendation No. 31 (2005) on racial discrimination in the administration and functioning of the criminal justice system, according to which the absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination may reveal either that victims have inadequate information concerning their rights, or that they fear social censure or reprisals, or that they fear the cost and complexity of the judicial process, or that there is a lack of trust in the police and judicial authorities, or that the authorities are insufficiently alert to or aware of offences involving racism. The Committee recommends that the State party, in its next report, provide statistical data on:**

**(a) The number of complaints, prosecutions and convictions relating to acts of racial discrimination;**

**(b) Compensation measures ordered by the courts in the State party pursuant to such convictions;**

**(c) Public information on all available remedies with regard to racial discrimination.**

**The Committee also recommends that the State party provide information on the methods available to inform persons, particularly foreigners, about their rights with regard to racist acts or acts involving racial discrimination, and complaint mechanisms (art. 6).**

15. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider acceding to those international human rights treaties which it has not yet signed or ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

16. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

17. The Committee recommends that the State party continue consulting and expanding the dialogue it has initiated with the Human Rights Unit in connection with the preparation of the next periodic report. The Committee also encourages the State party to promote the establishment of non-governmental human rights organizations in Monaco.

18. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the 14th meeting of States parties to the Convention (see CERD/SP/45, annex) and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee recalls paragraph 14 of General Assembly resolution 61/148, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

19. The Committee recommends that the State party's reports should be made readily available to the public at the time of their submission, and that the concluding observations adopted by the Committee following the examination of those reports should be similarly publicized in the official languages and other languages commonly used in the State party, as appropriate.

20. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 7, 10 and 11 above.

21. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 6, 8 and 14 and requests the State party to provide detailed information in its next periodic report on concrete and appropriate measures taken to effectively implement these recommendations.

22. The Committee recommends that the State party submit its seventh, eighth and ninth periodic reports in a single document by 27 October 2012, taking into account the guidelines for the preparation of CERD-specific reports adopted at the Committee's seventy-first session (CERD/C/2007/1), and addressing all the issues raised in the present concluding observations.

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