

NATIONAL LEGAL MEASURES TO COMBAT RACISM AND INTOLERANCE IN THE MEMBER STATES OF THE COUNCIL OF EUROPE

MONACO, Situation as of 31 December 2005

General Overview

Preliminary Note: this table is accompanied by an explanatory note

COUNTRY: MONACO	Constitutional provisions	Specific Legislation	Criminal Law	Civil and Administrative Law
Norms concerning discrimination in general	No	No	No	No
Norms concerning racism	No	No	No	No
Relevant jurisprudence	No	No	No	No

EXPLANATORY NOTE

MONACO / GENERAL OVERVIEW

The Monegasque Constitution of 17 December 1962 lists the fundamental rights (Title III), which are implemented and protected by the Criminal and Civil Codes and the Codes of Criminal and Civil Procedure.

There is no national human rights commission, as the national judicial and administrative bodies are expected to safeguard fundamental human rights.

The Order of 3 June 1910 on freedom of the press punishes anyone who “through speeches, shouts or threats made or uttered at public meetings, through written or printed matter sold, distributed, offered for sale or displayed in public places or meetings or on placards or posters displayed in public” (Article 15) incites others to theft, murder, pillage or war (Article 16), rouses contempt or hatred among the inhabitants (Article 25) or commits an offence against morality (Article 26).

The Order of 23 January 2002 gives effect to the recognition of the competence of the Committee for the Elimination of Racial Discrimination under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination, adopted in New York in 1966¹. Through this Order, the Principality recognises the competence of the Committee for the Elimination of Racial Discrimination.

On 3 November 2005, Monaco passed Law No. 1.304 ratifying the European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by various protocols².

When signing and ratifying the International Covenant on Civil and Political Rights³, the Government of the Principality made certain interpretative declarations and reservations. Among other things, it interpreted Article 26 of the Covenant⁴ as follows: “Article 26, together with article 2, paragraph 1, and article 25, is interpreted as not excluding the distinction in treatment between Monegasque and foreign nationals permitted under article 1, paragraph 2, of the International Convention on the Elimination of all forms of Racial Discrimination, taking into account the distinctions established in article 25 and 32 of the Monegasque Constitution.”

The Government of the Principality states that certain rights are specifically reserved for nationals. Article 17 of the Constitution states: “All Monegasques shall be equal before the law. None shall be granted any preference over others.” Article 32 lays down the principle that “foreign nationals in the Principality shall enjoy all the public and private rights which are not formally reserved for nationals” by the Constitution or the law. This could be regarded as a form of discrimination but the aim is actually only to restrict the full freedom of the exercise of certain rights to nationals.

There is no specific legislation setting out the punishments for racial discrimination. Neither does the Monegasque Criminal Code provide for any specific penalties for racial discrimination.

Constitutional Law -Monaco

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note

Constitutional Provision	Scope	Relevant jurisprudence	Remarks
Articles 17 and 32 of the Constitution	Article 17 of the Constitution states: “All Monegasques shall be equal before the law. None shall be granted any preference over other.” Article 32 states: “Foreign nationals in the Principality shall enjoy all the public and private		These provisions could be regarded as a form of discrimination but the aim is actually only to restrict the full freedom of the exercise of certain rights to nationals.

rights which are not formally reserved for nationals” by the Constitution or the law.

Civil and Administrative Law -Monaco

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note

Provision	Scope	Consequences of breach	Relevant jurisprudence	Remarks
Order of 3 June 1910 on freedom of the press (Articles 15 and 25)	These Articles punish persons who incite Monegasques to hatred or contempt for one another through speeches or written material.			
Order of 23 January 2002	The Order gives effect to the recognition of the competence of the Committee for the Elimination of Racial Discrimination established under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination, adopted in New York in 1966.			

Note

¹ *Official gazette of the Principality, No. 7532 of 11 February*

2002.

Note

² *Official gazette of the Principality, No. 7729 of 11 November 2005.*

Note

³ *Signed by Monaco on 26 June 1997 and ratified on 28 August 1997.*

Note

⁴ *Article 26: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*