Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Monaco - 5th Session - 2009
4th May 2009, 3pm to 6pm

National Report

29. All restrictions relating to the transmission of Monegasque nationality to children whose mother has obtained nationality through naturalization have been repealed by Act No. 1.276 of 22 December 2003.

41. The protection of the rights of the child, in particular against violence of any kind, is a familiar topic. Monaco has had a longstanding commitment to the issue at the national and international level.

42. The definition of the child under article 1 of the Convention corresponds to the definition under Monegasque civil law even though there is a preference under Monegasque law for the term “minor” rather than “child”.

44. The age of criminal liability is established under article 46 of the Criminal Code as follows: “If it is decided that there must be a criminal conviction of a minor between the age of 13 and 18 years, the sentence may not exceed 20 years’ imprisonment in the case of a crime. In the case of a misdemeanour, the penalty may not exceed half of the penalty that would have applied to an 18 year-old adult.”

45. With respect to improving the Code of Criminal Procedure, a debate has been launched to introduce the notion of age of sexual majority, which is not legally defined under positive law. However, sexual crimes against minors under 16 are severely punished.

47. Assistance is also provided to professionally active persons in Monaco (prenatal and family allowances, a housing allowance, education grants, a one-off allowance for the start of the school year, an end of the year allowance, a holiday assistance voucher and day-care and child-minding vouchers).

48. All these guarantees and this assistance ensure a decent standard of living for parents to enable them to raise their child or children under the best possible circumstances.

49. Monaco adopted Act No. 1.334 on education on 12 July 2007, in place of a previous law that recalls that access to education is a national service and that school is mandatory for both boys and girls between the ages of 6 and 16.

50. Children participate in the education system in the following ways:
(a) The school rules have been drawn up with the students;
(b) Class representatives represent their classmates at staff meetings and disciplinary committees;
(c) The Council of Europe campaign entitled “All different, all equal”, which stresses participation, was run in schools in 2006;
(d) In 2002, a United Nations Educational, Scientific and Cultural Organization club was set up within secondary schools (for the last three forms);
(e) In general, the education system includes clubs (theatre, cinema, computer and recreational clubs) led by students.

51. Concerning the participation of young persons in civil life, one of the most significant measures taken is the establishment of a youth advisory commission (by sovereign order No. 16.121 of 6 January 2004), which aims at promoting a dialogue between the authorities and young persons to include them as much as possible in the youth policymaking process. It usually meets once a year at the request of its Chairperson. Each meeting has an agenda, proposed in collaboration with youth representatives, and is presided over by senior State officials.

52. In addition, an economic and social youth council was established in 2007. It is intended to put forward proposals to the Economic
and Social Council on everyday or long-term issues (the environment, transport and public and social policy). The council is composed of 36 young delegates elected by their classmates within the schools.

53. Starting at the primary school level, a thorough sustainable development study programme has been implemented, including pilot projects such as the classification of schools according to European eco-school environmental standards.

54. The three-year Council of Europe programme entitled “Building a Europe for and with Children” was launched at a conference of the Council held in Monaco in April 2006 and presided over by Her Royal Highness the Princess of Hanover. The programme consists in the promotion of the rights of the child and the protection of children against violence.

55. The Universal Declaration of Human Rights and the Convention on the Rights of the Child are benchmarks for school activities, in particular those in the humanitarian field.

56. For more than five years, all schools in Monaco have been raising funds through various activities organized in the context of International Children’s Rights Day. The funds are donated to humanitarian associations for children in other countries whose rights have been trampled on. Education for democratic citizenship and human rights education are incorporated into the in-service training given to teachers through the promotion of teaching methods that instil a sense of responsibility in pupils and encourage their participation.

57. Legislation in force in Monaco already provides for the protection of children and punishes violations against them by making the following acts criminal offences: infanticide (article 255 of the Criminal Code); the rape of a minor (article 262 of the Criminal Code); aggravated indecent assault and indecent assault (articles 261 to 264 of the Criminal Code); and indecent contact with a minor (article 273 of the Criminal Code).

58. Articles 243 et seq. of the Criminal Code punish assault and battery, neglect, starvation and abuse of a child under the age of 15.

59. Articles 260 et seq. of the Criminal Code punish indecent acts. Articles 261 et seq., which punish indecent assault excluding rape, take cognizance of the notion of aggravating circumstances relating to the victim’s status as a minor and punish more severely these acts when they are committed by a father, mother or persons exercising authority over the minor.

60. Articles 280 et seq. of the Criminal Code punish crimes and misdemeanours against children (abducting, harbouring or concealing children or leaving a child in an isolated place).

61. Monaco is making specific efforts to inform and educate children, parents and professionals about combating violence against children, in coordination with various stakeholders, including through administrative services responsible for caring for children who are victims of violence and/or abuse (a conference, the Day of the Rights of the Child and the Minors and Social Protection Section).

62. Since it became a member of the Council of Europe, Monaco has sought to participate in its discussions on and its project for the protection of children. A meeting of the Standing Committee of the Parliamentary Assembly, honoured by the active participation of the Princess of Hanover, was organized in September 2005 and included in its agenda a topical debate on the protection of children against violence and all forms of abuse.

63. Through its representatives, the Government participated actively in drafting the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

64. Civil society plays an important role in Monaco in combating violence against children, mainly through the involvement of Monegasque non-governmental organizations and associations, including the World Association of Children’s Friends, Innocence en danger, Jeune J’écoute (Young person, I am listening), L’Enfant d’Abord (Putting the Child First), Dignity International and Action innocence Monaco.

65. Act No. 1.334 of 12 July 2007 on education specifies that the legal obligation to provide an education for children and adolescents with disabilities or an incapacitating physical disorder must be met by providing them with an education in an ordinary school environment or, if necessary, special education determined according to their particular needs within health, medical and social welfare and specialized institutions or services or by home schooling.

66. Minors with disabilities domiciled in Monaco enjoy comprehensive care adapted to their disability. Children with disabilities have the same access to day-care centres and drop-in nurseries as to schools. School orientation and integration courses (in primary school) and special general and vocational studies (in secondary school) ensure that students receive decent education and training. Every child with disabilities is enrolled in school according to an admissions agreement (“protocole d’accueil”) specifying the methods of schooling.

67. In this context, the surrounding areas and interiors of schools have undergone renovations necessary to make them accessible to children with disabilities, and trained personnel has been taken on.

68. A medical and psychological consultation centre for outpatient mental health diagnosis and treatment accommodates Monaco schoolchildren and children domiciled in Monaco who are not yet of school age. The services provided are free and the costs are borne entirely by the State. Its operations are based on the principle of individual and/or family care. There are plans to open a new complementary facility, a part-time therapeutic welcome centre, which will allow for part-time group care for no more than half a day.
70. Depending on the type of disability, the total number of pupils in some classes does not warrant the establishment in Monegasque territory of specialized facilities. These children are thus placed in various health and welfare centres in the neighbouring country.

71. Any person residing in Monaco who cares for a minor with disabilities may receive a special education allowance if the degree of permanent disability of the minor is at least 50 per cent and, if necessary, an additional allowance.

72. Coming under the State budget, these allowances are not subject to a means test.

73. Minors with disabilities are covered by the social insurance arrangements of the person caring for them. They are insured until the age at which the legal obligation to provide them with an education ceases, while the right may be maintained up to the age of 21 years if the eligible party is unable to take up employment.

111. Monaco has recently added a measure to its criminal legislation to prevent the commission, via the Internet, of acts constituting an affront to human dignity. Article 21 of Act No. 1.344 of 26 December 2007 on the reinforcement of penalties for offences against children now reads: “The act of either making, producing, conveying or disseminating, by any means and through any medium, a message that is violent or obscene or likely to constitute a grave affront to human dignity, or of engaging in business concerning such message, is punishable by a term of imprisonment of from six months to two years and the fine prescribed in article 26 (3), where the message is targeted at minors. An attempt to commit such an offence carries the same penalties.”

115. For example, the training programme for Monegasque police officers includes a section devoted to respect for human dignity. Similarly, by means of the civic education provided in Monegasque schools, the teaching staff endeavour to establish, with their pupils, relations based on the respect, tolerance and cooperation that life in society demands. In addition, school trips are organized by private or public schools on specific topics (such as to Germany for the commemoration of the sixtieth anniversary of the liberation of the Nazi concentration camps).

152. Aware that the initiatives taken should be stepped up, Monaco plans to continue its institutional and regulatory reforms in order to harmonize its national legislation with international human rights instruments. It also remains particularly mindful of the need to continue the work already done in raising awareness about human rights in schools and at the workplace. Furthermore, Monaco intends to continue its policy concerning child protection and improving the daily lives of older persons and accessibility of persons with disabilities.


156. The Monegasque authorities are reviewing the following laws:
(a) The European Convention on the Adoption of Children (opened for signature in November 2008);
(b) The European Convention on the Exercise of Children's Rights (Council of Europe, Strasbourg, 25 January 1996);
(d) The Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and the Protocol on the Law Applicable to Maintenance Obligations (Final Act of 23 November 2007);

**OHCHR Compilation of UN information**

The Committee on the Rights of the Child (CRC) recommended that Monaco consider becoming a party to ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

9. CESCR encouraged Monaco to ensure that human rights education is provided in schools at all levels, which was also recommended by CRC 24, and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

12. CRC recommended that Monaco disseminate specific information on the provisions of the Optional Protocol on the involvement of children in armed conflict. CRC – 2nd and 3rd periodic review overdue since 2000 and 2005 respectively.

15. In 2006, CESCR, while welcoming the adoption of Act No. 1296 of 12 May 2005 on the transmission of Monegasque nationality from mothers to children, remained concerned about the restrictions that prevent naturalised Monegasque women from transmitting Monegasque nationality to their children in the event of divorce. CESCR encouraged Monaco to adopt legislation that provides for equality at law in respect of the transmission of nationality of children by Monegasque women, regardless of the manner in which nationality was acquired.

16. In 2008, the HR Committee noted with satisfaction the legislative advances made in equality between the sexes, in particular the Act No. 1278 of 29 December 2003 amending the Civil Code so that (a) man and wife have equal rights in the household and the choice of place of residence is now subject to agreement between the spouses, and (b) children born in and out of wedlock have equal rights. In 2006, CESCR noted with satisfaction the major efforts made by Monaco to modernize its legislation, including by amending the Civil Code so as to ban any discrimination between children born in or out of wedlock or of adulterous or incestuous relationships and welcomed the fact that the Civil Code now refers only to “children” or “descendants”, as well as the replacement in the Code of the concept of paternal authority with that of parental authority.

21. In 2001, CRC was concerned that corporal punishment is not prohibited under law and recommended that Monaco prohibit the
practice of corporal punishment in the family and conduct information campaigns targeting, among others, parents, children, law
enforcement and judicial officials and teachers, explaining children’s rights in this regard and encouraging the use of alternative forms of
discipline in a manner consistent with the child’s human dignity and in conformity with the Convention, especially articles 19 and 28,
paragraph 2.

22. CRC, in order to strengthen international measures for the prevention of the recruitment of children and their use in hostilities, recommended that Monaco, in line with the minimum standards prescribed by the Convention on the Rights of the Child, and relevant instruments of international humanitarian law, consider establishing extra-territorial jurisdiction over war crimes which involve conscripting or enlisting children under the age of fifteen into the armed forces, or using them to participate actively in hostilities, if such crime are committed by or against a Monegasque national or a person who otherwise has a close link with Monaco.

24. CRC noted with appreciation that members of the Prince’s Guard and the Fire Brigade, which are the only bodies having military status in the principality, must be at least 21 years of age.

28. CESCR was concerned about the fact that non-Monegasques continue to be subject to a five-year residence requirement which prevents them from enjoying the right to housing and access to social welfare and medical treatment and recommended that Monaco reduce this five-year residence requirement. In 2001, CRC was concerned that while Monegasque children have a right to free health care, domestic legislation and practice do not expressly guarantee the same right to all children in Monaco, in particular children from disadvantaged backgrounds and who are neither nationals nor residents of Monaco, and therefore recommended that Monaco ensure that a right to health care be provided to all children within its jurisdiction.

29. In 2006, CESCR noted with concern the health problems affecting young people, resulting in particular from drug use and drug addiction and, recommended that Monaco step up its efforts to combat and prevent drug addiction, particularly among young people, and that it adopt specific legislation in that regard. CRC, in 2001, expressed similar concerns and recommended that Monaco provide rehabilitative assistance to children who have abused drugs.

34. CRC noted with appreciation the activities in the area of international cooperation, including the provision of financial support for action to protect the rights of children in armed conflict and encouraged Monaco to continue these activities.

OHCHR Summary of stakeholders’ information

19. Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment of children is lawful in alternative care settings and in the home and that provisions against violence and abuse in the Criminal Code are not interpreted as prohibiting corporal punishment in childrearing. It added that corporal punishment in schools is considered unlawful and is not among the permitted disciplinary measures in the Education Law (2007), but that there is no explicit prohibition. Corporal punishment is unlawful in the penal system as a sentence for crime and it is considered unlawful as a disciplinary measure in penal institutions but there is no explicit prohibition, according to GIEACPC.

20. GIEACPC recalled that in its concluding observations on Monaco’s initial report in 2001, the Committee on the Rights of the Child expressed concern that corporal punishment is not prohibited by law, and recommended prohibition in the family.

26. COE/CPT reported that its delegation had been informed that Monaco Prison sometimes housed minors. It considered that the incarceration of young offenders aged 13 and 14 for some 10 days in December 2005 was frankly unacceptable. According to COE/CPT, it was far preferable for young offenders to be placed in detention centres specifically reserved for minors.

27. COE/CPT said that it recognized the practical difficulties facing the Monegasque authorities in that respect, but was confident that they would find a way to resolve the problem. COE/CPT recommended that as long as minors were detained in Monaco Prison, particular attention should be given to their education (including physical education). The Monegasque authorities made comments on that recommendation.

43. COE/ECRI stated that there are approximately 5,900 school pupils in Monaco and compulsory education is free of charge in state schools for Monegasque children and children living in Monaco. It encouraged the Monegasque authorities to continue to grant the children of cross-frontier workers access to State schools, and to pay special attention to the case of children whose parents received their whole education in the Principality or work there. COE/ECRI also encouraged the Monegasque authorities to continue to ensure that non-French-speaking children can quickly learn French and recommended that they pursue and reinforce the steps taken to cater for pupils from different backgrounds. The Government of Monaco made comments regarding the issues raised in this paragraph.

Final Outcome

17. La Constitution garantit aux Monégasques le droit à l’instruction gratuite, primaire et secondaire. Toutefois, les enfants, quelle que soit leur nationalité, bénéficient dans les mêmes conditions que les Monégasques de l’instruction primaire et secondaire, comme le prévoit la loi n° 1.334 de 2007 sur l’éducation. La Principauté de Monaco est dotée d’un système de bourses d’études ouvert au plus grand nombre de nationaux et résidents.

20. Au cours des années récentes, la Principauté de Monaco est devenue Partie à plusieurs Conventions internationales, telle que la Convention relative aux droits de l’enfant, en 1993, qui a été incorporée dans l’ordre juridique monégasque.

21. En application de cette Convention, la loi n° 1.344 de 2007 aggrave les sanctions encourues par les auteurs des crimes et délits...

30. During the interactive dialogue, statements were made by 28 delegations. A number of delegations thanked Monaco for its comprehensive national report, for taking an active part in the dialogue and for its commitment to human rights. Statements were also made to welcome the establishment of a Department on Human Rights and Fundamental Freedoms in the Department of Foreign Affairs. Several delegations praised Monaco for its activities in the area of international cooperation, in particular projects that it finances to fight poverty and for the protection of children in armed conflict.

34. Italy noted that Monaco had informed the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment that it did not intend to act upon the Committee’s recommendation to set up a detention centre for minors. Italy asked what specific measures had been taken to safeguard the rights of children who are arrested and held in custody. Italy commended Monaco for its endeavours to improve the situation of persons with disabilities and noted that the authorities have expressed the intention of becoming party to the Convention on the Rights of Persons with Disabilities (CPD). Italy recommended that Monaco sign and ratify the Convention as soon as possible.

40. The Congo commended Monaco’s considerable efforts to modernize its legislation to abolish any discrimination among children of legitimate, natural, adulterous or incestuous relationships. While noting the progress made regarding ways to acquire citizenship, the Congo recommended that the conditions for acquiring and transferring nationality be the same for men and women. The Congo also recommended amending the provision of the Civil Code stating that “a child born out of wedlock has, in his or her non-proprietary relations with his or her father or mother, the same rights and obligations as a legitimate child” so as to put an end to this form of discrimination in terms of property succession. Highlighting that banishment, beyond refoulement and expulsion, is one of the measures applied to fight illegal immigration in Monaco, the Congo recommended the abolishment of this measure in view of its inhumane character.

41. Burkina Faso commended Monaco for financing projects to fight poverty and improve the condition of women, some of which have Burkina Faso as a beneficiary. Burkina Faso also made reference to other priority areas where Monaco intends to improve, such as the protection of children, accessibility of persons with disabilities and improving the daily lives of senior citizens. Burkina Faso encouraged Monaco to continue and strengthen what it has already achieved in the area of human rights and to share these good practices with any States that requests it.

43. Azerbaijan noted that Monaco is party to most of the key human rights treaties. However Azerbaijan joined the United Nations treaty bodies and the Europe Commission against Racism and Intolerance in recommending that Monaco (a) ratify (i) ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation and (ii) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Azerbaijan recommended that Monaco (b) consider ratifying the Optional Protocol to the Convention against Torture. Azerbaijan noted the level of cooperation of different State bodies with non-governmental organizations in Monaco. Azerbaijan recommended that Monaco (c) establish an independent national human rights institution and ensure that it complies with the Paris Principles. Azerbaijan further noted that some treaty bodies had expressed concern over the difference between legal requirements with respect to men and women while applying for nationality as well as over restrictions that prevent naturalized women from transmitting Monegasque nationality to their children after divorce. Azerbaijan therefore recommended that Monaco (d) ensure that relevant rules are applied equally irrespective of sex and adopt legislation to allow the transmission of nationality by naturalized Monegasque women to their children.

50. S’agissant des mineurs en conflit avec la loi, la Principauté de Monaco dispose d’une Maison d’arrêt qui est conçue pour accueillir des mineurs en détention (détention provisoire essentiellement). Il y a moins de 10 mineurs par an qui y sont incarcérés et pour une durée moyenne de moins de 28 jours. Le maximum d’arrangements sont apportés pour la protection des mineurs qui ne sont jamais en contact avec les majeurs et bénéficient de deux fois plus de temps de promenade que les majeurs. Des activités pédagogiques sont dispensées par les meilleurs professeurs de la Principauté selon le niveau scolaire des mineurs.

61. China noted that Monaco enjoys a generally healthy human rights situation. It has established a sound legal system and has taken many initiatives, such as protecting the rights of women, children, persons with disabilities and senior citizens; education; anti-racism; and the elimination of torture. It has actively promoted international cooperation in this regard. While affirming these achievements, China noted that some human rights mechanisms had expressed concern that Monaco had not passed domestic violence legislation. China asked if that legislation would be passed in the near future, and asked what measures Monaco would take to implement and raise awareness about this law among the general public.

62. Canada appreciated that women were generally well represented in the elected assemblies and the Government but noted that there were no women in the Government Council. Canada recommended that Monaco (a) consider steps to encourage the participation of women on the Government Council. While Canada noted with satisfaction that Monaco had taken active measures to protect women and children and to promote gender equality internationally, it recommended that Monaco (b) further strengthen its policy and programmatic response to address domestic violence against women. Canada agreed with the views of the Monegasque Economic and Social Council and recommended that Monaco (c) complete the reviews under way to update labour legislation, giving
particular attention to issues of harassment in the workplace. Canada congratulated Monaco for its very active engagement in international discussions on, among other matters, assisting persons with disabilities and generally promoting an environment of freedom of expression and association, religion and belief.

70. Ukraine commended the Government for participation in almost all core human rights treaties and in this respect it encouraged Monaco to continue its institutional and regulatory reforms in order to harmonize its national legislation with international human rights instruments. Ukraine noted that awareness-raising about human rights in schools, protection of the child, improving the daily lives of older persons and accessibility of person with disabilities are the main priorities of the Government of Monaco. In this regard, Ukraine encouraged the Government to strengthen its efforts in these spheres. It welcomed the fruitful cooperation between Monaco’s authorities and non-governmental human rights organizations and associations, particularly in the context of the protection of the rights of the child.

72. Morocco thanked Monaco for having made of Morocco a priority country among those benefiting from support programmes, giving support to income-generating activities for women. Morocco also welcomed the particular interest that Monaco was giving to combating racism and intolerance, including through information systems like the Internet. The legislative measures in this area set a good practice for other countries. Morocco welcomed the measures to follow up on the recommendations of the Human Rights Committee, considering the adoption of specific legislation on domestic violence. Morocco considered that the Economic and Social Council for Young People established in 2007 is an innovative initiative in the area of education and the right to participation. In this context, it asked for more information on this experienced. Finally, Morocco recommended that Monaco shares its experience with other countries concerning preventive measures against affront to human dignity and against racism as mentioned in paragraphs 110 and 111 of the national report.

74. The Philippines noted with satisfaction the various steps and measures which Monaco has undertaken to promote and protect the rights of its citizens as well as the foreigners who live and work in the Principality. The Philippines recommended that the Principality of Monaco (a) consider signing and ratifying the International Convention on the Rights of All Migrant Workers and Members of their Families. It also recommended that (b) Monaco share with the members of the international community its best practices and policies and programmes, including educational programmes, with respect to women, children, older persons and persons with disabilities.

**Conclusion and Recommendations**

80. The recommendations formulated during the interactive dialogue have been examined by Monaco and the recommendations listed below enjoy the support of Monaco:

7. Amend the provision of the Civil Code stating that “a child born out of wedlock has, in his or her non-proprietary relations with his or her father or mother, the same rights and obligations as a legitimate child” so as to put an end to this form of discrimination in terms of property succession (Congo);

9. Ensure that relevant rules are applied equally irrespective of sex and adopt legislation to allow the transmission of nationality by naturalized Monegasque women to their children (Azerbaijan);

21. Share with the members of the international community its best practices and policies and programmes, including educational programmes, with respect to women, children, older persons and persons with disabilities (Philippines);