



Convention on the Rights of the Child

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Committee on the Rights of the Child Sixty-fourth session

Summary record of the 1839th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 1 October 2013, at 3 p.m.

Chairperson: Mr. Mezmur (Vice-Chairperson)

Contents

Consideration of reports of States parties (*continued*)

Second and third periodic reports of Monaco on the implementation of the Convention on the Rights of the Child (continued)

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The meeting was called to order at 3 p.m.

Consideration of reports of States parties *(continued)*

Second and third periodic reports of Monaco on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/MCO/2-3; CRC/C/MCO/Q/2-3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Monaco resumed places at the Committee table.*
2. **Ms. Ceysac** (Monaco) said that the provisions that discriminated against children born out of wedlock had been repealed in 2003. Article 615 of the Civil Code would henceforth be applicable, which provided that “inheritance rights were granted once filiation had been established”, irrespective, therefore, of the family status of the parents.
3. **Ms. Cotta** (Monaco) said that only two women had given birth anonymously in Monaco over the past 20 years. The number of children likely to seek information about their parentage was therefore extremely small. Women who gave birth at the Princess Grace Hospital Centre could preserve their anonymity if they so requested. They were then invited to place all the information that they wished to transmit in a sealed envelope; the envelope was kept in the archives in case the child wished to make enquiries at some future time.
4. Mental health was one of the priority areas of public health policy. Any person who had attempted suicide was automatically placed under the care of a psychiatrist in the Princess Grace Hospital. As a second step, monitoring was carried out either by the hospital’s psychiatric service, or by the “La Roseraie” psychiatric unit. Minors were monitored by child psychiatrists.
5. The level of funding for children from the Social Welfare Office had remained stable over the past three years, at around 3 million euros per year.
6. **Ms. Pettiti** (Monaco) said that the education budget had accounted for 5.3 per cent of the Government budget in 2012.
7. **Ms. Nègre** (Monaco) said that the Directorate of Health and Social Welfare was currently monitoring 66 families, comprising a total of 80 children considered to be at risk.
8. **Ms. Ceysac** (Monaco) said that anyone who used funds derived from the exploitation of children could be prosecuted for money-laundering under article 249-2 of the Criminal Code, which made it a criminal offence, subject to a term of imprisonment of 5 years, to obtain services for no remuneration or remuneration manifestly unrelated to the work performed, from a person whose vulnerability or state of dependence was obvious or known to the offender, and to “subject a person whose vulnerability or state of dependence was obvious or known to the offender to working or living conditions inconsistent with human dignity”. Article 218-3 of the Criminal Code, which defined subsidiary laundering offences, was applicable. Moreover, under article 8, paragraph 3, of the Code of Criminal Procedure, the underlying offence, namely the offence covered by article 249-2 of the Criminal Code, could be subject to prosecution even if it was committed abroad.
9. **Mr. Bessi** (Monaco) explained that Monaco’s labour legislation reflected the main principles of the International Labour Organization (ILO) Conventions on the Minimum Age for Admission to Employment and the Worst Forms of Child Labour. Its specific feature was that, in Monaco, any employer who planned to recruit staff must inform the Directorate of Labour which would authorize the recruitment after checking a number of facts, including the age of the future employee, the hours of work and working conditions.

10. The employment of under-16-year-olds was prohibited, subject to two exceptions: first, a minor aged under 16 could work in the family business if it was run by his legal representative and employed no wage earners outside the family. That requirement was not observed in practice. Secondly, a minor 15 years of age or older could work part-time under an apprenticeship contract, provided that he had completed lower secondary education. Labour inspectors carried out an average of 1,000 checks per year, but no infringement of the legislation on child labour had ever been found.
11. A minor between the ages of 16 and 18 was entitled to work if his parents and the Directorate of Labour gave their consent; the minor then enjoyed the protection of specific legislation prohibiting *inter alia* hazardous work, night work, overtime, the carrying of heavy loads and activities contrary to public morals.
12. Minors could not be employed by the civil service. In the private sector, only 22 minors were in salaried employment and 17 were employed as apprentices, only 1 of whom was aged under 16. The minor concerned was a school dropout whose teachers had considered, in agreement with his parents, the Occupational Health Department and the Directorate of Labour, that he was eligible for work-linked training.
13. **Ms. Gamba** (Monaco) explained that under-16-year-olds were seldom enrolled in work-linked training courses. Only a tiny minority of school dropouts followed such courses and they could subsequently return to school and possibly obtain a vocational baccalaureate diploma.
14. Lower secondary school pupils, at around the age of 13, were entitled to register for a company “immersion” internship of five days, as a means of familiarizing themselves with the world of work. Such unpaid internships were also organized for the benefit of vocational high school pupils.
15. **Ms. Aidoo** welcomed the fact that the State party had brought its labour legislation into line with ILO Conventions Nos. 138 and 182, and asked whether it might consequently consider acceding to the ILO.
16. **Ms. Pettiti** (Monaco) said that Monaco was continuing to weigh up the possibility of accession to the ILO, but constantly had to contend with the incompatibility between certain principles of that organization and the so-called “employment priority” system, under which citizens of Monaco were given priority in hiring.
17. **Mr. Prado** (Monaco) said that, in the light of trends in its legislation, Monaco did not rule out the possibility of withdrawing the declaration it had made on ratifying the Convention.
18. **Ms. Ceysac** (Monaco) said that the best interests of the child underpinned the entire Monegasque judicial system, and was sometimes expressly referred to in the relevant legislation, particularly in areas such as divorce or legal representation of children. Indeed, the best interests of the child were routinely referred to in court decisions on custody or in cases of failure to hand over a child to the person entitled to custody, and there had been various occasions when the highest court, the Court of Revision, had expressly cited the Convention.
19. **Mr. Cardona Llorens** (Country Rapporteur) asked whether a judgement could be set aside in cases where the best interests of the child were not taken into account.
20. **Ms. Ceysac** (Monaco) said that there was no express provision to that effect, but that the courts could invoke the Convention, which was an integral part of the legal corpus of Monaco, in order to draw attention to the importance of the child’s best interests.
21. **Ms. Cotta** (Monaco) said that abortion was governed by Act No. 1359 of 2009, which provided for the establishment of a prenatal coordination and family support centre.

Abortion was authorized if the life of the mother was at risk, if the foetus was affected by an incurable disease or if the pregnancy was the result of rape. Minors made pregnant as a result of rape had to obtain the consent of a parent or guardian in order to carry out an abortion; in the absence of consent, abortion could be authorized by a panel of judges. The last abortion performed on a minor dated back to 2007.

22. Addictions were considered a public health problem and were the subject of a prevention policy and school information campaigns. The young people concerned were placed under the responsibility of the Child Professionals Network and care was administered in partnership with medical psychological centres and the adolescent advice service of the Princess Grace Hospital Centre.

23. **Ms. Aidoo** requested more detailed information on trends in drug consumption.

24. **Ms. Gamba** (Monaco) said that, unfortunately, prevention efforts had not produced very positive results. Monaco, like many other countries, faced the increasingly widespread phenomenon of cannabis consumption. Any use of cannabis in schools was immediately reported to the parents, and the pupil concerned was placed under medical supervision. Prevention measures focused on making pupils and parents aware of their responsibilities.

25. An educational partnership had been established with the “Action Innocence” association in order to raise awareness of Internet security issues among schoolchildren from the age of 8, by organizing thematic discussions on dangerous practices associated with the Internet.

26. **Ms. Ceysac** (Monaco) said that a total of six minors had been admitted to prison in 2012. A new law, adopted in June 2013, established a specific police custody regime for minors aged over 13, who could only be placed in police custody if there was serious grounds for believing that they had committed an offence punishable by imprisonment. Police custody was strictly supervised and was used only after the exhaustion of all the other measures provided for in Act No. 740 of 1963 on juvenile offenders, such as reprimands, release under parental supervision or release under surveillance. All the guarantees afforded under police custody were applicable to minors, namely notification of rights, examination by a doctor, the right to silence, the recording of hearings and the assistance of a lawyer. Hearings were conducted by a senior police officer with experience of matters relating to the protection of minors, and the parents or legal representatives of the minor had to be notified of the placement of the minor in police custody. If the duration of police custody was extended, the guardianship judge conducting the investigation was so informed. The provisions of the Code of Civil Procedure which made it possible, where compelling reasons so required, to waive certain guarantees related to police custody, were not applicable to minors.

27. **Mr. Cardona Llorens** asked how matters stood with regard to children under 13 years of age.

28. **Ms. Ceysac** (Monaco) said that article 60-13 of Act No. 1.399 of 25 June 2013 on reform of the Code of Criminal Procedure authorized the placement of a minor aged under 13 in police custody for a few hours, but that was not a detention measure.

29. **Ms. Winter**, emphasizing that police custody should not be allowed for under-13-year-olds, as they could not be held criminally responsible for their acts, asked whether it was possible for a minor aged under 13 to share a police custody cell with an adult.

30. **Mr. Cardona Llorens** said that it was his understanding that, under article 60-14 of Act No. 1.399, the duration of police custody for a child aged under 13 could be extended to 24 hours, or even 48 hours. He requested further clarification on that subject.

31. **Ms. Ceysac** (Monaco) explained that a minor aged under 13 could be placed in police custody for the purposes of an enquiry only if there were reasons for suspecting that he had committed or attempted to commit a crime punishable by a minimum of 5 years' imprisonment.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

32. **Ms. Ceysac** (Monaco) said that judges were trained in the French Legal Service Training College and could follow supplementary training courses on the rights of the child, as well as on topical issues, such as cybercrime or sexual violence against minors. Under the new law on the prevention and punishment of specific forms of violence, training courses had been organized for judges, registrars, police officers and social workers on the provision of care for vulnerable children. The police custody of a minor was recorded on film and the hearing of the minor took place in the presence of a psychologist or a doctor. In the case of foreign children, translation or interpretation costs relating to the procedure were covered by legal aid.

33. **Mr. Cardona Llorens** asked whether a protocol concerning care for victims of sexual offences had been drawn up to help judicial and medical staff to intervene rapidly and effectively.

34. **Ms. Ceysac** (Monaco) replied that there was no written procedure, but that social workers communicated with doctors and the police, thus facilitating rapid intervention.

35. **Ms. Lanteri** (Monaco) added that the police took swift action in cases where there was a suspicion of ill-treatment or some other violation of children's rights, and that protection measures were promptly implemented.

36. **Mr. Kotrane**, returning to the question of police custody for under-13-year-olds, asked what was the age below which a minor was presumed not to be capable of violating the criminal law, and whether a minor aged under 13 could be held criminally responsible for his acts and be subject to criminal prosecution.

37. **Ms. Ceysac** (Monaco) said that placement in police custody was without prejudice to the subsequent treatment of the minor and the further procedure. That measure could even serve as a means of protecting and assisting the minor by placing him under judicial protection for a few hours, before releasing him. Even though such a situation had never occurred in Monaco, the law provided that the guardianship judge must take account of the age of the child when seeking to evaluate his responsibility, and it was not out of the question that guardians or parents could be held responsible for acts ascribed to the minor.

38. Children under 13 years of age could not be sentenced to a term of imprisonment, but those that had committed a crime were not exempted from liability. They could be made subject to educational or protective measures and on that basis placed in a children's home, particularly if there were failings in the child's family environment.

39. **Ms. Gamba** (Monaco) said that the International Day of the Child was the occasion each year to raise public awareness of the Convention through shows, debates and other events broadcast on national television.

40. **Ms. Cotta** (Monaco) said that a study carried out in 2007 and again in 2011 on the consumption of psychoactive substances by young people between the ages of 16 and 18 in Monaco had revealed an increase in the consumption of tobacco, alcohol and cannabis during that period. Thus, 38 per cent of young people had admitted to smoking, 67 per cent to consuming alcohol and 21 per cent to consuming cannabis, while 39 per cent had indicated that they had occasionally indulged in heavy drinking of alcohol and 11 per cent had already experimented with a drug other than cannabis.

41. **Ms. Ceysac** (Monaco) said that Monaco had become a party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in 1999, and that the principles and procedures governing adoption were set out in articles 240 et seq. of the Civil Code. Persons ordinarily resident in the Principality could institute a procedure for adoption of a child who was ordinarily resident in another State. For more than five years, married couples had been able to apply for full adoption by means of the legitimization procedure, while unmarried couples and single persons could only apply for simple adoption. The Directorate of Judicial Services was the competent authority for international adoptions, including in cases where the child to be adopted was located in a country that had not ratified the Hague Convention.

42. Enquiries about the morals of adoptive parents, as well as their social, medical and psychological status, were made by the Directorate of Health and Social Welfare and the Directorate of Public Security, which had discretion to issue a certificate comparable to the authorization required under French legislation. In any event, whether the adoption involved a national or an international procedure, the parents were required to submit an application for adoption to the Judge's Chambers of the Court of First Instance.

43. Once the child had arrived in the Principality, the Directorate of Judicial Services checked to ensure that he was properly integrated into his new home and asked the social services to prepare a report, irrespective of whether the State of origin of the child was a party to the Hague Convention.

44. With regard to national adoptions, it should be noted that only two women had given birth anonymously over the past 20 years, and that the two children concerned had been adopted in Monaco. Between March 2006 and April 2013, 11 children from States parties to the Hague Convention and 9 children from States not parties to that Convention had been adopted in Monaco.

45. **Ms. Gamba** (Monaco) said that children with disabilities had access to HIV/AIDS prevention campaigns and sexual and reproductive health services on the same basis as other children.

46. Under Act No. 1334 on education, disabled children and adolescents were subject to compulsory school attendance. According to their specific needs, they were either placed in an ordinary school or in a medico-social or specialized institution; alternatively, they received education within their own families. Some Monegasque children with particularly serious disabilities had been placed in specialized institutions in France, because of a lack of adequate care facilities in the Principality.

47. **Mr. Bessi** (Monaco) said that the State defrayed 85 per cent of the remuneration and employee contribution costs of a person with disabilities and also covered the cost of adaptation of the workplace.

48. **Mr. Kotrane** asked whether the State party intended to ratify the Rome Statute of the International Criminal Court and to establish extraterritorial jurisdiction for cases relating to the recruitment of children in armed conflicts.

49. **Ms. Lanteri** (Monaco) said that constitutional obstacles had prevented the Principality of Monaco from ratifying the Rome Statute, but that there were no obstacles to cooperation with the International Criminal Court. Any residents or nationals who enlisted minors into armed forces abroad would be punishable under Monegasque law.

50. **Mr. Pardo** (Monaco) said that, in principle, the courts of Monaco had jurisdiction if the victim was a Monegasque citizen, if the perpetrator of the offence had been found on the territory of Monaco or if there was a material factor connecting the offence to Monegasque territory. That having been said, in the case of certain war crimes such as organ trafficking, rape or torture, the Monegasque courts had jurisdiction as long as the

perpetrator had been found on Monegasque territory, even if there was no material link to the territory of the Principality. The enlistment of children in armed conflicts was not one of the crimes concerned. On the other hand, if such enlistment had been accompanied by acts of torture or violence, the jurisdiction of the courts would be established.

51. The Principality of Monaco regularly collaborated with the International Criminal Court in response to requests for judicial assistance from the Chief Prosecutor of that Court.

52. **Ms. Lanteri** (Monaco) said that the Principality would spare no efforts if it were faced with a request for asylum in Monaco from a child soldier. It would cooperate to that end with the French Office for the Protection of Refugees and Stateless Persons in handling the case, and would ensure that the applicant was afforded all the conditions conducive to his social reintegration.

53. **Mr. Cardona Llorens** thanked the delegation of Monaco for its detailed and candid replies.

54. **Ms. Lanteri** (Monaco) assured the Committee that the Principality would give careful attention to the Committee's concluding observations and that it would make the necessary changes to its regulatory, legal and customary provisions in order to improve the situation of children's rights in Monaco.

55. She explained that the considerable delay in the submission of Monaco's reports was due to the lack of human resources and said that the Monegasque Government undertook to make up for that delay by 2015.

The meeting rose at 5.55 p.m.