

ECRI REPORT ON MONACO

(sixth monitoring cycle)



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TABLE OF CONTENTS

FOREWORD	4
SUMMARY	5
FINDINGS AND RECOMMENDATIONS	7
<i>I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS.....</i>	7
A. EQUALITY BODIES	7
B. INCLUSIVE EDUCATION	9
C. IRREGULARLY PRESENT MIGRANTS	10
D. LGBTI EQUALITY	12
<i>II. HATE SPEECH AND MOTIVATED VIOLENCE.....</i>	13
A. HATE SPEECH	13
B. HATE-MOTIVATED VIOLENCE	16
<i>III. INTEGRATION AND INCLUSION.....</i>	17
A. MIGRANTS	17
B. JEHOVAH’S WITNESSES	24
INTERIM FOLLOW-UP RECOMMENDATIONS.....	25
LIST OF RECOMMENDATIONS	26
BIBLIOGRAPHY	28
APPENDIX: GOVERNMENT’S VIEWPOINT	32

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism, discrimination (on the grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, racial discrimination, xenophobia, antisemitism and intolerance.

As part of its remit, ECRI conducts country monitoring work which analyses the situation in each member state of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals to deal with the problems identified.

ECRI’s country monitoring deals with all member states on an equal footing. The work takes place in five-year cycles. The reports pertaining to the first cycle were completed at the end of 1998, those pertaining to the second cycle at the end of 2002, those pertaining to the third cycle at the end of 2007, those pertaining to the fourth cycle at the beginning of 2014 and those pertaining to the fifth cycle at the end of 2019. Work on the sixth cycle reports began at the end of 2018.

The working methods by which reports are prepared involve documentary analyses, a visit to the country concerned and then confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The *in situ* visit provides an opportunity to meet the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities enables the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors that the report might contain. At the end of this dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth cycle country reports focus on three themes common to all member states: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of issues specific to each one of them.

In the sixth cycle, priority implementation is once again required for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years after this report is published.

ECRI was fully and solely responsible for the drawing-up of this report. Except where expressly indicated otherwise, it covers the situation up to 9 December 2021. Developments since that date are, as a rule, neither covered in the following analysis nor taken into account in the conclusions and proposals herein.

SUMMARY

Since ECRI's fifth cycle report on Monaco was adopted on 8 December 2015, progress has been made and good practices developed in a number of fields.

In 2019, the High Commissioner for the Protection of Rights, Freedoms and Mediation adopted a Charter of Ethics and Good Practice setting out its principles of neutrality, impartiality and independence.

In the field of education, promising practices for the promotion of equality and the fight against racism and intolerance have been developed, as have measures to tackle bullying in schools.

Migrant children benefit from protection measures regardless of their migration status and measures have been taken to improve care for victims and witnesses of human trafficking.

The level of tolerance of LGBTI people is relatively high; same-sex couples can now form civil partnerships and enjoy the same legal protection as opposite sex couples in the event of domestic violence.

Hate-motivated verbal or physical violence is rare in Monaco and measures to raise awareness of it and prevent it have been taken in schools and the sport sector. In addition, the relevant provisions of the Criminal Code have been made tougher and care and support for victims have been strengthened.

Effective measures to integrate foreign minors are in place and qualifications gained abroad can be officially recognised.

All employees, regardless of nationality, are covered by a social protection scheme for the main risks and have the same health insurance and pension entitlements. Measures have been taken to extend access to certain welfare benefits to resident foreign women.

The provisions stipulating that a majority of Monegasque and French nationals must sit on the governing boards of trade union bodies are being revised.

ECRI welcomes these positive developments. However, despite the progress made, some issues still give rise to concern.

The High Commissioner lacks some of the functions and powers provided for in General Policy Recommendation (GPR) No. 2 on Equality Bodies to combat racism and intolerance at national level, particularly in terms of formal independence, protection of staff members in

their official capacity and powers of promotion and prevention, opinion on proposed legislation, investigation, access to information and legal assistance.

Irregularly present adult migrants do not appear to be able to benefit from "firewalls" guaranteeing access to education, health care, housing, social security and assistance, workplace safety and justice.

No statistics on the situation of LGBTI people and the discrimination they may experience are available. Nor is there any association representing them. It remains to be established whether there are any unjustified differences in the law concerning homosexual persons whose marriage was contracted abroad and all family and parental rights, including inheritance and survivor's pension entitlements. In addition, the law does not explicitly regulate changes in gender or their official recognition.

Online hate speech is removed through an administrative procedure, with no prior judicial review.

The way in which asylum claims are processed is not governed by law. There is no right to family reunification and residence permits can be denied for reasons of "good character" which are not defined in law.

Access to citizenship is heavily restricted and a new law has further restricted it for new spouses of Monegasque citizens.

Foreign nationals have no rights to vote or stand as candidates in elections, not even at the local level, and their access to some welfare benefits is limited.

No studies have been carried out on the effects of the system of national priority (or preference) in recruitment, which, together with the lack of protection against unfair dismissal, could encourage discrimination and bullying in the workplace.

There has been no follow-up to the court rulings that allow the Monegasque Association of Jehovah's Witnesses to establish itself in Monaco.

In this report, ECRI asks the authorities to take further action in a number of areas and makes a series of recommendations, including the following.

The authorities should pass legislation governing the fight against all forms of discrimination. The

High Commissioner's powers should be strengthened, particularly with regard to inquiries.*

Any unjustified differences in treatment between same-sex couples and opposite-sex couples should be eliminated.

Measures to raise awareness of racist and discriminatory treatment should be taken and victims of such treatment should be able to access appropriate assistance more easily, particularly in the case of school bullying and undeclared work.

The judicial authorities should be able to tackle online hate speech more effectively.*

Domestic law should include a procedure for processing asylum claims in accordance with international law.

Monaco should ratify the revised European Social Charter, prohibit termination of employment without a prior valid reason and take effective measures to guarantee access to housing for foreign residents.

* These recommendations will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies¹

1. Established in 2013, the High Commissioner for the Protection of Rights, Freedoms and Mediation² is an independent public institution. ECRI welcomes as a **good practice** the adoption of a Charter of Ethics and Good Practice in 2019 which formally establishes the principles of neutrality, impartiality and independence on the basis of which it operates.³ ECRI notes with satisfaction that the law provides guarantees as to the High Commissioner's independence, including with regard to independent management of its human and material resources.⁴ However, because the institution of the High Commissioner and its functions and powers are provided for in a sovereign order and not in a constitutional or parliamentary instrument, its independence is not fully consistent with ECRI's General Policy Recommendation (GPR) No. 2 on Equality Bodies to combat racism and intolerance at national level.⁵ Although there are strong indications that the High Commission has *de facto* independence, the law should be brought into line with §§1-2 of ECRI GPR No. 2.
2. The main role of the High Commissioner is to assist anyone who believes that their rights or freedoms have been infringed by the authorities (except in relation to employment disputes within the civil service)⁶ or that they have suffered "unjustified" discrimination in the public or private sector.⁷ The majority of complaints (60% in 2017-2019) concern foreign nationals;⁸ the most common issues are residence rights and, to a lesser extent, discrimination (11% in 2017-2019), especially in relation to employment and social protection. However, it should be pointed out that due to the system of national priority that exists in certain sectors in Monaco (see §44 below), including employment and housing, differences in treatment that favour Monegasque nationals, who form a minority in the country, are not regarded as "unjustified" discrimination under domestic law.⁹
3. ECRI notes with regret that in the absence of any organic law concerning discrimination, the High Commissioner's powers in relation to promotion and prevention (§§10a and 13 of GPR No. 2) are still very limited, because any action to raise awareness of equality and promote it can only be based on the few provisions that exist.¹⁰ In particular, the High Commissioner has no power to conduct inquiries, publish studies or issue opinions on proposed legislation of its

¹ The term "national specialised bodies" was replaced with the term "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

² See [Order No. 4.524 of 30/10/2013](#). The authorities have pointed out that the Order was discussed by the Cabinet on the basis of Article 45 of the [Constitution](#) and that it is a regulatory instrument which, having been passed by virtue of the Prince's independent authority to make regulations, does not have sub-legislative force.

³ High Commissioner, [Activity Report 2017-2019](#), pp. 13-14.

⁴ See, *inter alia*, Articles 2, 4, 6, 7, 9, 10-12, 13, 14 and 40 of [Order No. 4.524 of 30/10/2013](#).

⁵ According to Article 45 of the [Constitution](#), sovereign orders are discussed in Cabinet, are submitted to the Prince with the Minister of State's signature and mention the discussions to which they relate. They are signed by the Prince and his signature gives them binding force. See also ECRI's fifth cycle report on Monaco, §20.

⁶ [Order No. 4.524 of 30/10/2013](#), Articles 15 to 27.

⁷ [Order No. 4.524 of 30/10/2013](#), Articles 28 to 32.

⁸ High Commissioner, [Activity Report 2017-2019](#), pp. 26-27 and [Summary](#).

⁹ High Commissioner, [Activity Report 2017-2019](#); [The National Priority – National Council \(conseil-national.mc\)](#).

¹⁰ For example, measures to raise awareness of disabled persons' rights have been taken on the basis of Law No. 1.410 of 2 December 2014 on the protection and independence of disabled persons and the promotion of their rights and freedoms.

own accord (§13 c, d, j and n of GPR No. 2)¹¹ and it is rarely consulted when legislation is drafted.¹²

4. With regard to the support and litigation function (§§10b and 14 of GPR No. 2), ECRI observes that the High Commissioner essentially plays a support role by helping victims to put together a file and identify avenues that may be open to them. Most complaints concerning individual instances of discrimination lead to a proposed friendly settlement, with a success rate of 75%.¹³ Where the alleged infringement stems from legislation or regulations, the High Commissioner can approach the authorities,¹⁴ but the proportion of general recommendations that are implemented is around 50%.¹⁵ ECRI notes with concern that the authorities often fail to act on requests for information or the High Commissioner's recommendations (particularly where the authorities have been asked to reverse a decision regarded as disproportionate), or do not co-operate at the speed necessary to find a solution in due time, to the detriment of complainants.¹⁶ In ECRI's opinion – and this is a cause for concern – the High Commissioner also has limited powers to access evidence and information necessary for its inquiries as this access can be denied on the basis that the requested information is secret or confidential.¹⁷
5. ECRI also regrets to note that no action has been taken to implement its recommendations to give the High Commissioner the function of providing legal assistance to victims of discrimination, including representation in judicial proceedings.¹⁸ In addition, ECRI notes that the High Commissioner has no authority to take decisions on complaints.
6. In the light of the foregoing, ECRI strongly recommends that appropriate legislation be passed in order to provide a framework for combating all forms of discrimination and to enable the High Commissioner to play its role as an equality body at national level to the full, taking due account of the recommendations made in ECRI General Policy Recommendation (GPR) No. 2, in particular in §§ 1, 2, 13, 14, 17, 24 and 36.

¹¹ [Order No. 4.524 of 30/10/2013](#). See also: High Commissioner, [Activity Report 2017-2019](#), p. 121.

¹² High Commissioner, [Activity Report 2017-2019](#), p. 25 and Appendix 2: the High Commissioner has been consulted over, *inter alia*, draft laws concerning family allowances, the decriminalisation of abortion, civil partnerships and the revision of staff regulations applicable to public-sector workers. The Government has consulted it on just two occasions, in 2016 and 2020, without ever publishing its opinions, unlike the National Council which has published them systematically since 2019.

¹³ High Commissioner, [Activity Report 2017-2019](#), p. 34 and [Summary](#).

¹⁴ High Commissioner, [Activity Report 2017-2019](#), p. 30.

¹⁵ For example, the High Commissioner has recommended that gender equality be restored in relation to the allocation of family benefits and that the discriminatory criteria for access to unemployment benefits for cross-border workers be revised. These recommendations have yet to be implemented. See High Commissioner, [Activity Report 2017-2019](#), pp. 42, 108-112 and 116-117 and [Summary](#).

¹⁶ High Commissioner, [Activity Report 2017-2019](#), pp. 20, 27, 36 and 42. The activity report highlights that the authorities often do not reply to requests for information or recommendations made by the High Commissioner or do not comply with time limits, which can be irreversibly prejudicial to complainants' rights (such as where residence rights expire or are not renewed). Current legislation provides no means of satisfying the High Commissioner's requests or obtaining a response with regard to the implementation of recommendations.

¹⁷ According to Article 22 of [Order No. 4.524 of 30/10/2013](#).

¹⁸ The option of referring a matter to the Prosecutor General where a criminal prosecution is to be considered, provided for in Article 30 of [Order No. 4.524 of 30/10/2013](#), is also difficult to exercise in practice as the High Commissioner does not, in principle, have any functional immunity that would protect it from prosecution if its report led to termination of proceedings or discharge of the accused (High Commissioner, [Activity Report 2017-2019](#), p. 11). The authorities nevertheless refer in this respect to the case law of the Court of Review (see, in particular, Court of Review, 7 May 2018, Mr d., w., h. LI/c/ Mr d AN. and the Public Prosecutor's Service) according to which complainants would not face a conviction for false accusations under Article 307 of the Criminal Code if they did not know that the accusations were false when they made them.

7. ECRI recommends that the Monegasque authorities strengthen as a matter of priority the High Commissioner's powers of inquiry as a matter of priority, in accordance with §21 of ECRI GPR No. 2, to enable the institution to obtain the information it needs for its inquiries – including information not in the public domain – within a set time frame.

B. Inclusive education

8. This sub-chapter relates to education policies¹⁹ that aim to tackle exclusion and marginalisation through inclusive education for all and build a society that respects diversity and is tolerant, in accordance with chapters II and III of GPR No. 10.²⁰
9. In Monaco, free public education is provided in 10 public schools with more than 4 350 pupils and nearly 450 teachers. Private education is provided under contract in two schools with 1 250 pupils and just over 108 teachers. In addition, private education not subject to a contract with the government is offered by the *International School of Monaco* which has approximately 700 pupils and nearly 150 teachers.
10. ECRI welcomes the fact that human rights education forms an integral part of school curricula in Monaco from elementary education to the end of upper secondary education,²¹ as recommended in GPR No. 10,²² and that it raises awareness of rights and values, multicultural education and tolerance.²³ In higher education, topics relating to human rights and the fight against discrimination are addressed in some classes relating to fields connected with training.²⁴ ECRI notes with satisfaction that the positive role of education was recognised by everyone that the ECRI delegation spoke to during the visit, which is a real strength.
11. ECRI welcomes the **promising practices** aimed at promoting equality and the fight against racism and intolerance in the education sector. Tolerance-related issues are addressed in syllabuses about sexuality and moral and civic education, and targeted actions to promote tolerance are also being implemented, such as those conducted jointly with the “Peace Jam” foundation as part of an annual project.²⁵ A civil society organisation called “Action Innocence” works in schools from primary level to the end of lower secondary education to address risks associated with digital technology, such as cyberbullying. During these activities, the issue of homophobia is only addressed to the extent that young people raise it. A civil society organisation known as “Fight Aids Monaco” addresses LGBTI issues through initiatives such as “Channel-hopping Afternoons” which are run in order to raise upper secondary school pupils’ awareness of sexual health.
12. It should be noted that ECRI’s GPR No. 10 recommends that a system to monitor incidents involving racism and intolerance in schools be set up. As a preliminary remark, ECRI is pleased to note that according to Article 50 of Law No. 1.334 on education, the internal regulations of all public and private schools in Monaco are

¹⁹ This sub-chapter deals with the education of all children and young people. Measures aimed specifically at migrant children are addressed in the “Integration and Inclusion” section.

²⁰ ECRI [General Policy Recommendation No. 10](#) on combating racism and racial discrimination in and through school education.

²¹ The *International School of Monaco* (which has complete freedom to plan its curricula as it wishes) has confirmed that its curriculum also includes human and fundamental rights education, which is provided for one and a half hours a week, and has informed ECRI that the subjects of sex education, personal health and safety have a prominent place in its curriculum.

²² Human rights education is provided through the promotion of respect for fundamental freedoms and rights through teaching and education.

²³ Curricula meet the requirements laid down by the French Department of Education. See also the ECRI fifth cycle report on Monaco, §29, and [Human and Civil Rights Education | éducol](#).

²⁴ There is no teacher training in Monaco. However, since 2018, new teachers and education professionals have undergone the equivalent of one afternoon of induction training during which the workings of the Monegasque education system are explained to them, and this can include the topic of Monegasque social diversity.

²⁵ According to civil society, pupils and their teachers in public schools participate every year in initiatives and projects aimed at children in particular age brackets which cover topics such as equal rights for girls, children’s rights and bullying.

adopted through a decree based on a standard format which specifically mentions the right to respect, respect for others and “rejection of all forms of violence”. ECRI is also pleased to learn that measures have been taken since 2015 to tackle school bullying, such as the “Say No to Bullying” day, training for staff and the introduction of a procedure for dealing with cases of bullying²⁶ which includes a protocol for dealing with suspected cases of bullying and a procedure for reporting them through the management of schools to the Department of National Education, Youth and Sports (DENJS) and the Department of Home Affairs and, depending on the seriousness and nature of cases, to other departments such as the Department of Public Safety and the social services.²⁷

13. ECRI also welcomes the adoption, after its visit, of a law against bullying in schools (Law No. 1.513 of 3 December 2021 on combating bullying and violence in schools).²⁸ The law provides for anti-bullying training for all staff involved in teaching, prevention plans for each school, awareness-raising activities, appointing an anti-bullying delegate – under DENJS’ authority – and school focal points and introducing penalties or strengthening existing penalties for personal injury (mainly to deal with acts that could be described as hazing and the offence of inciting another to commit suicide). The law also addresses cyberbullying, with increased penalties,²⁹ “mobbing” and “cyber-mob attacks”.³⁰ School bullying is defined in the new Article 236-1-1 of the Criminal Code as the act of subjecting a pupil, within his or her direct or indirect school environment, knowingly, and by any means whatsoever, including by a process of electronic communication, to repeated actions or omissions with the purpose or effect of degrading his or her learning conditions or school life, resulting in a violation of his or her dignity or damage to his or her physical or mental health. In addition, Article 236-1-1 of the Criminal Code provides for aggravated penalties when the acts are committed “against a person or group of persons on the grounds of their physical appearance, sex, disability, origin, sexual orientation, actual or assumed belonging or not to a particular ethnic group, nation, race or religion”. ECRI considers that the adoption of this law is a positive development which makes progress towards meeting the requirements of GPR No. 10. It will monitor its implementation carefully.

C. Irregularly present migrants

14. In its GPR No. 16,³¹ ECRI recommends that governments set up “firewalls” so that providers of public services such as schools and hospitals do not share personal data of irregularly present migrants with immigration control and enforcement authorities. “Firewalls” protect these migrants’ fundamental human rights by ensuring that they can access essential public services such as health care and education without fear of deportation.
15. ECRI notes that there are no data on the number of irregularly present foreign nationals in Monaco.³² However, according to estimates given to the ECRI delegation during the visit, approximately 200 migrants pass through Monaco en route to France every year. According to the authorities, there is no “phenomenon of illegal immigration” in Monaco. There are no administrative detention centres,

²⁶ [Law No. 1.334](#) of 12/07/2007 on Education; Monaco Hebdo, [10 May 2021](#).

²⁷ The International School of Monaco said that it has an internal guarantee system based on the principle of child protection and child safeguarding and also works together with the social services and the police.

²⁸ [Law No. 1.513 of 3 December 2021 on combating bullying and violence in schools \(gouv.mc\)](#).

²⁹ In view of the particular aggravation resulting from the means used, the law now states that school bullying is punishable by one to three years’ imprisonment and the fine provided for in Article 26, point 4 when the acts are committed “through the use of an online public communication service or through a digital or electronic medium”.

³⁰ These new provisions make it possible to punish anyone who participates in cyberbullying, even if they have only sent a few emails, tweets or messages on forums.

³¹ ECRI [General Policy Recommendation No. 16](#) on safeguarding irregularly present migrants from discrimination.

³² See, for example, Monaco Matin, [17 January 2018](#).

and any cases of irregular migration are dealt with by France under the France and Monaco Convention on Good Neighbourliness,³³ with the exception of a few cases involving unaccompanied minors.

16. It emerged from the visit that “firewalls” ensuring that irregularly present migrants in Monaco have access to education, health care, housing, social security and assistance, workplace safety and justice are lacking, particularly as, in these fields, the law can give priority to long-standing residents or even Monegasque nationals.³⁴ According to the authorities, all irregularly present migrants³⁵ are reported and registered with the competent administrative authorities³⁶ who decide, in each individual case, whether to apply the principle of non-refoulement and provide emergency assistance (accommodation, subsistence and medical/social assistance) or care, follow-up and support as required. With regard to minors, child protection arrangements apply regardless of the child’s migration status; the Principality gives child migrants access to education, health care, housing, social security and assistance and justice. ECRI welcomes the measures applied to migrant children and encourages the authorities to set up “firewalls” enabling irregularly present adult migrants to access health care, housing, social security and social assistance, workplace safety and justice.³⁷
17. Monegasque law provides that irregularly present foreign nationals are to be deported and criminal penalties including imprisonment imposed on anyone who knowingly accommodates an irregularly present foreign national.³⁸
18. While the number of irregularly present migrants in the Principality appears to be very limited, civil society reports that a large number of foreign nationals live in France and work in Monaco without their employment being declared. Without a “recruitment declaration”, some of them are unable to regularise their residence status, and they would have been particularly hard hit by the restrictions imposed due to the health situation in 2020. Although there is no consensus as to the existence or scale of this situation, some information provided to ECRI during the visit indicates that it may apply to 5-7% of foreign workers, mainly Filipinos but also Portuguese, Thai, Moroccan or Sri Lankan nationals employed as domestic workers. ECRI notes with interest that the authorities have decided to create an interministerial working group and an interdepartmental co-ordination plan to protect victims and witnesses of human trafficking. Within this framework, it encourages them to put additional measures in place to improve protection for irregularly present foreign workers.³⁹

³³ [France and Monaco Convention on Good Neighbourliness of 18 May 1963](#). The information provided to ECRI indicates that irregularly present migrants have been accommodated in Beausoleil (a neighbouring commune located in France) with the Principality’s support and that the Monegasque Red Cross and the Italian Red Cross are jointly running a migrant camp near Ventimiglia, Camp Roya. See France Dimanche, [25 February 2016](#) and France3, [18 April 2020](#).

³⁴ For example, [Sovereign Order No. 5.743 of 3 March 2016](#) provides that free health care can be given, depending on the person’s means, only to Monegasque nationals and persons who have been habitually resident in Monaco for at least five years.

³⁵ According to [GPR No. 16](#), “irregularly present migrants” are individuals – women, men and children – present in a member state that is not their country of origin, who do not, or no longer, fulfil the conditions under national law for entry or stay in that member state.

³⁶ Pursuant to the provisions of the [France and Monaco Convention on Good Neighbourliness of 18 May 1963](#), the Government of Monaco undertakes to maintain its legislation on the entry, residence and establishment of foreigners in harmony with French legislation on the subject, and in the Principality, the regime for the entry and movement of foreigners is identical to that which applies to them in France.

³⁷ According to the authorities, adult irregularly present migrants who are found in Monaco are deported to the French-Monegasque border and handed over to the French authorities for Schengen area entry checks.

³⁸ See Articles 16, 17, 18 and 21 of [Ordinance No. 3.153 of 19/03/1964](#).

³⁹ See, in this regard, [Recommendation of the Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings](#), which was adopted on 12 June 2020, pp. 3-4.

ECRI notes that, according to the authorities, in most cases clandestine work in Monaco does not result specifically from the migratory flows which many countries face, but from an intention to defraud the authorities and conceal such work. In addition, thorough inspections of working conditions are carried out in order to prevent all forms of exploitation and employing staff who do

19. ECRI recommends that the Monegasque authorities carry out studies jointly with the French authorities and the foreign communities concerned by the issue of undeclared work in order to identify any measures that could make it easier to help persons who suffer racist or discriminatory treatment.

D. LGBTI equality⁴⁰

20. There is no organised community of LGBTI persons nor any organisation representing them in Monaco. ECRI notes with some concern that according to the Rainbow Europe 2021 map,⁴¹ Monaco has only achieved 12% of the criteria indicating that the rights and freedoms of LGBTI persons are protected by law and in practice. Furthermore, ECRI notes with regret that there are no statistics or national studies on the situation of these persons and the discrimination that they may suffer.⁴² Without studies and statistics on the situation of LGBTI persons, the authorities have no means of making an informed assessment as to what measures should be taken. ECRI strongly encourages the Monegasque authorities to commission a study of the problems faced by LGBTI persons and any measures that should be taken to remedy them.
21. With regard to the level of tolerance shown towards LGBTI persons by Monegasque society, the ECRI delegation was pleased to hear, during its visit, several accounts from homosexual or bisexual persons confirming that they had not experienced any intolerance or discrimination in Monaco on the grounds of their sexual orientation in either the public or the private sphere. According to the information provided to ECRI, Monaco is a relatively safe and tolerant environment. However, the legislative framework has not kept pace with changes in Monegasque society in this respect.⁴³
22. In terms of legislation, ECRI notes with interest that since 2011, same-sex couples have been protected by provisions concerning prevention of domestic violence.⁴⁴ In addition, a new law which entered into force on 27 June 2020 allows all couples, whether of the same sex or different sexes, to enter into a civil union contract⁴⁵ called a *contrat de vie commune* (life partnership contract) or CVC. ECRI has been informed that as at 1 June 2021, nine such contracts had been entered into (all categories taken together). This type of contract enables signatories to benefit from a lower tax rate (4% instead of 16%) for inheritance and gifts; while the rate for married couples is 0%.⁴⁶ According to the authorities, persons who have entered into a life partnership contract have recognised rights in relation to illness, inheritance and joint leases. ECRI feels that this is a step forward in terms of LGBTI rights which may be regarded as a **promising practice** in the Principality.
23. ECRI nonetheless finds that improvements are still highly desirable. CVCs do not confer statutory heir status or parental authority or guardianship, nor do they allow family rights to be exercised. In addition, the Principality does not recognise same-sex marriages legally contracted abroad or the legal rights of same-sex couples who have married abroad.⁴⁷ Likewise, if a same-sex couple has children abroad

not have a work permit may result in prosecution at the Criminal Court for the Trial of Misdemeanours. (See also [CEDAW/C/MCO/CO/1-3](#), §§18-26). With regard to the issue of racist or discriminatory treatment, the authorities stress that everyone has the right to bring a case before the courts and petition the competent authorities.

⁴⁰ For terminology, see the definitions in: Council of Europe Commissioner for Human Rights 2011. See also ECRI's [Glossary](#).

⁴¹ ILGA-Europe [Rainbowmap](#); Libération, [30 May 2020](#).

⁴² ILGA-Europe Annual Review [2021](#).

⁴³ See, for example, [Monaco Hebdo, 12 September 2019](#); La Croix, [28 October 2019](#).

⁴⁴ [Law No. 1382 on the prevention and punishment of domestic violence](#).

⁴⁵ [Law No. 1.481 of 17 December 2019 on civil solidarity contracts](#); [Freedom House \(2020\)](#). In its fifth cycle report on Monaco, §63, ECRI noted the draft law of 2013 and recommended that it be passed as soon as possible (§68).

⁴⁶ [Entering into a life partnership contract \(CVC\) in Monaco: a guide](#).

⁴⁷ There is currently no legal recognition in Monaco of same-sex unions formed abroad, by contrast with heterosexual unions; this means that, for example, a person who is legally resident in Monaco cannot have the name of his/her same-sex spouse added to

(by adoption or through medically assisted procreation, for example), they are not recognised under Monegasque law. ECRI therefore considers that improvements still need to be made, particularly in terms of survivors' entitlements to supplementary pensions, inheritance rights and family and parental rights. The situation of same-sex couples who have married abroad and issues concerning descendants of these couples also need to be clarified⁴⁸ On this point, the authorities informed ECRI that, in November 2021, government agencies had confirmed that same-sex couples who have married abroad could enter into a CVC in Monaco and thus benefit from the rights that come with partner status in terms of employment, housing and social security, health and taxation. In ECRI's view, this is a step in the right direction. It also considers, however, that there are still outstanding issues for the couples concerned, in particular with regard to possible unjustified differences between the status afforded by marriage and the status under the CVC.

24. ECRI recommends that the Monegasque authorities review existing legislation with a view to offering new arrangements to same-sex couples. In this context, the authorities should reconsider whether there is an objective and reasonable justification for any differences in the regulation of same-sex couples and opposite-sex couples (including couples who have married abroad) and abolish any such unjustified differences.

25. Transgender and intersex persons are groups of particular concern to ECRI. However, ECRI has not been made aware of any specific issue affecting intersex persons in Monaco. With regard to transgender persons, according to the authorities, first names can be changed and the cost of gender reassignment can be covered. However, there are no specific legal provisions governing access to treatment or legal recognition of changes in gender, and this situation is incompatible with the relevant Council of Europe standards. ECRI encourages the Monegasque authorities to adopt legislation that explicitly regulates designation of gender and first names and to establish clear guidelines concerning gender reassignment procedures and their official recognition, drawing inspiration from relevant Council of Europe principles.⁴⁹

II. HATE SPEECH AND MOTIVATED VIOLENCE

A. Hate speech⁵⁰

Data and public discourse

26. According to information provided by the police and judicial authorities on hate crime, there had only been one recorded case of hate speech since 2015 and that was in 2021, following an incident reported by the Rabbi of Monaco. The case had involved antisemitic hate speech posted on social networks alongside a photo of the synagogue in Monaco. The authorities said that Monaco had suspended statistical data collection owing to the rarity of hate speech in the public sphere.

his/her residence card or arrange for the spouse to benefit from his/her medical and social insurance cover (such as survivors' entitlements to a supplementary pension in the event of death) notwithstanding contributions paid during the course of his/her employment in Monaco.

⁴⁸ Having regard to relevant international standards as described in the case law of the European Court of Human Rights in relation to the cases of [Fedotova and Others v. Russia \(Applications nos. 40792/10, 30538/14 and 43439/14\)](#) and [Orlandi and Others v. Italy \(Application no. 26431/12\)](#), initially, partners who have legally contracted a same-sex marriage abroad could be granted the same rights as couples who have registered a CVC under Monegasque law.

⁴⁹ See, for example, [Resolution 2048 \(2015\)](#) and [Resolution 2191\(2017\)](#) of the Parliamentary Assembly of the Council of Europe, as well as the [relevant case-law of the European Court of Human Rights](#).

⁵⁰ According to ECRI's GPR No. 15 on combating hate speech, "hate speech" shall mean the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatisation or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status.

27. ECRI has also received allegations of identity checks being performed on the basis of ethnic profiling at gatherings for large-scale events (e.g. car rallies) and a few cases of Black persons or persons of Asian origin being subjected to derogatory or insulting racist language and in some cases also being denied access to and subjected to other discriminatory treatment in public places such as clubs or restaurants, although none of the victims lodged a complaint. In this context, ECRI considers that the lack of publicly available data on hate speech and hate crime is a problem. Data of this kind would enable better monitoring and more vigilant action to be taken. ECRI therefore again encourages the Monegasque authorities to resume data collection and make the data publicly available.

Responses to hate speech

28. As pointed out in its GPR No. 15 on combating hate speech, ECRI considers that, to effectively prevent and combat hate speech, action is required in a number of areas, including developing awareness raising, prevention and counter-speech, victim support, self-regulation, the use of regulatory powers and, as a last resort, criminal investigations and sanctions.
29. In the light of the information gathered by ECRI's delegation, victims of hate speech appear to be reluctant to lodge complaints⁵¹ and some are unaware of their rights and where to turn (see §28 above).
30. ECRI recommends that the Monegasque authorities, in co-operation with the High Commissioner and relevant civil society actors, run an information campaign for all sectors of Monegasque society to raise awareness of racist and LGBTI-phobic hate speech, the legal provisions and rights existing in this field and the procedures for reporting or lodging complaints against instances of such speech.
31. As regards awareness-raising initiatives contributing to the prevention of hate speech, ECRI welcomes those taken in schools, such as activities to raise awareness about cyberbullying, the peer mediation project in secondary school classes and the activities carried out by the association Action Innocence in classes from CE2 to 3e (i.e. for children aged roughly 8-14) (see also §10 above). In the field of sport, ECRI welcomes the awareness-raising measures carried out by *Ligue internationale contre le racisme et l'antisémitisme* - LICRA Monaco in 2019, which include **promising practices** such as holding a meeting about racial discrimination with young players from the AS Monaco Academy as part of the FARE (Football Against Racism in Europe)⁵² weeks and screening a documentary during an event organised in partnership with the NGO Peace and Sport.⁵³
32. ECRI likewise commends as **good practice** the inclusion in initial and in-service police training of programmes to raise awareness of human rights and of how to handle victims.⁵⁴ The authorities also reported that the Police Department had strengthened its partnerships with a number of civil society organisations and government departments that could help detect and deal with potential victims of hate speech, racism or xenophobia.⁵⁵ With regard to civil society, ECRI is pleased to learn that, since 2015, the High Commissioner has been in regular contact with civil society associations and groups working on behalf of vulnerable groups in Monaco.⁵⁶ The High Commissioner, however, struggles to find relevant partners, particularly with regard to LGBTI issues and those related to discrimination on grounds of ethnicity. ECRI considers that it would be helpful to encourage the

⁵¹ ECRI, Fifth monitoring cycle report on Monaco, §32.

⁵² AS Monaco, [16 October 2019](#).

⁵³ Hello Monaco, [1 April 2019](#).

⁵⁴ See also ECRI, Fifth monitoring cycle report on Monaco, §§29-30.

⁵⁵ See, in particular, the Victims of Crime Association (AVIP), child protection associations, the Inter-ministerial Delegate for Women's Rights and social, hospital and national education services.

⁵⁶ ECRI, Fifth monitoring cycle report on Monaco, §33.

development of places where people affected by discrimination of this kind can go to talk and be heard, notably within the framework of associations.

33. As regards hate speech in the public sphere and any self-regulatory measures (codes of conduct for political parties, the media, internet service providers and moderators and sports and cultural organisations), the authorities said that elected bodies, political, sports and cultural associations and the media were already aware of the issue, hate speech had not become widespread and rules were in place, for example, in the field of sport (regulations of federations and other high-level bodies). With regard to hate speech or hate-motivated violence in the context of employment, reference should be made to the relevant provisions on harassment.⁵⁷
34. ECRI was informed that, the competent authorities took action when the rare instances of hate-motivated verbal and physical attacks were reported to them. For example, in the case concerning online antisemitic hate speech reported in 2021 (see §28 above), an investigation was carried out (with the co-operation of the French police as the person behind the posts was traced back to France), resulting in charges being pressed and the photos being taken down.
35. With regard to legislation to combat hate speech, Article 16 of Law No. 1.299 (as amended in 2018), prohibits incitement to hatred or violence on the grounds of sex, disability, origin, sexual orientation (but not expressly gender identity or sex characteristics),⁵⁸ actual or assumed belonging or not to a particular ethnic group, nation, race or religion. Article 15 of the same law regards as accomplices those who publicly condone crimes or offences or who, through what they say and publish in various types of media (including electronic media), directly incited such crimes or offences if they were actually committed or there were any attempts to commit them. Article 18 of the same law provides for penalties in the event of incitement to hatred against residents of Monaco or those who are there temporarily.⁵⁹ Article 421 of the Criminal Code, as amended in 2019 (by Law No. 1.478 of 12 November 2019), provides for a heavier fine (from 600 to 1 000 euros) in cases of “non-public insult”⁶⁰ (*injure non publique*) “that was unprovoked” and “non-public defamation” (*diffamation non publique*) (unless the truthfulness of the alleged acts is proven) when the insult or defamation is related to one of these discriminatory grounds.⁶¹ In addition, in 2019, a new provision was inserted into the Criminal Code to punish any incitement to hatred or violence at sporting events (see also §41 below).⁶²
36. The hate speech provisions also apply to online communications as no distinction is made based on the type of media used. With respect to the possibility of deleting or blocking (by court order) online hate content, however, it is problematic that under the provisions of Law No. 1.383 on the digital Principality, it is not for judges but for the Minister of State (i.e. the head of government), in an administrative procedure, to order the deletion of hate speech. The Supreme Court’s review can only take place *a posteriori*.⁶³

⁵⁷ [Law No. 1.457 of 12 December 2017 on harassment and workplace violence \(legimonaco.mc\)](#). The authorities referred to the rules under ordinary law. They did not, however, mention other specific rules or self-regulatory codes.

⁵⁸ [Law No. 1.299 of 15 July 2005 on freedom of public expression](#). See also ECRI, Fifth monitoring cycle report on Monaco, §64.

⁵⁹ See also Articles 35 and 37 of [Law No. 1.299 of 15 July 2005 on freedom of public expression](#).

⁶⁰ According to Article 21 of [Law No. 1.299 of 15 July 2005 on freedom of public expression](#).

⁶¹ [Criminal Code – Article 421 \(legimonaco.mc\)](#). Monegasque law also specifically punishes public defamation and insults related to any of these same discriminatory grounds (Articles 24 and 25 of Law No. 1.299 of 15 July 2005).

⁶² [Criminal Code – Article 163-2 \(legimonaco.mc\)](#).

⁶³ Pursuant to Article 90 B of the [Constitution, the Minister of State’s decision may be challenged before the Supreme Court on the ground of *ultra vires*. In that event, the administrative judge will ensure that the decision is valid and proportionate to the aim pursued.](#)

37. ECRI recommends, as a matter of priority, that the Monegasque authorities step up their efforts to combat online hate speech by giving judicial authorities the power to authorise, approve and order the deletion of hate speech or the blocking of sites that use it, as recommended in §8b) of its General Policy Recommendation No. 15 on combating hate speech, in co-operation with the Monegasque Data Protection Authority (*Commission de Contrôle des Informations Nominatives*, CCIN) and, where appropriate, the relevant bodies in other countries concerned.

B. Hate-motivated violence

38. Monaco did not provide data on hate crimes⁶⁴ to the OSCE/ODIHR⁶⁵ and does not publish statistics on this subject. ECRI was informed that cases of physical violence are very rare in Monaco and that, of those recorded between 2015 and 2021 (one or two per year on average), none had racist or LGBTI-phobic overtones. While noting this situation, ECRI again encourages the authorities to collect and publish statistical data on hate-motivated violence (see also §27 above).
39. During ECRI's visit, civil society representatives confirmed that Monaco appeared to be free of any acts of hate-motivated violence, including any against homosexual, bisexual and transgender persons. Some of those interviewed, however, reported a few cases of physical violence against undeclared foreign workers, including irregular migrants employed in domestic work, which allegedly went unreported to the authorities because the victims feared for their jobs.
40. In its fifth cycle report⁶⁶, ECRI recommended that the authorities bring Monegasque criminal law into line with its GPR No. 7 on national legislation to combat racism and racial discrimination, in particular by ensuring that the law explicitly makes racist motivation an aggravating circumstance for all ordinary offences. In its conclusions adopted a few years later,⁶⁷ ECRI considered that this recommendation had been partially implemented as progress was still awaited in amending Monegasque legislation in the light of §§18.e, f, g, h and 19 of GPR No. 7.⁶⁸ ECRI also welcomed Monaco's ratification of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (in force since 2017). In addition, ECRI took note of Law No. 1.464 of 10 December 2018 introducing harsher penalties under Article 234-2 for "threats" against a person or group of persons.⁶⁹ ECRI is pleased to note that the Criminal Code was subsequently amended in November 2019 (Law No. 1. 478 of 12 November 2019) and that its Articles 238-1 and 239 now provide for aggravating circumstances to be taken into account in cases of "violence" committed on the grounds of the victim's sex, disability, origin, sexual orientation, actual or assumed belonging or not to a particular ethnic group, nation, race or religion.⁷⁰ Under the new Article 236-1-1 of the Criminal Code, similar aggravating circumstances apply to school bullying (see §13 above).
41. In addition, ECRI welcomes Article 163-2-5° of the Criminal Code, established by Law No. 1.478 of 12 November 2019, which lays down penalties of six months' to one year's imprisonment and a fine of between 2 250 and 9 000 euros for inciting

⁶⁴ In the present report, hate crime should be understood as any criminal offence motivated by hate or prejudice on grounds such as "race", colour, language, religion, nationality, national or ethnic origin, sexual orientation or gender identity, whether real or presumed. For further information about the notion of hate crime, see <http://hatecrime.osce.org/what-is-hate-crime>.

⁶⁵ [Monaco | OSCE - ODIHR](#).

⁶⁶ ECRI, Fifth monitoring cycle report on Monaco, §13.

⁶⁷ ECRI, Conclusions on the implementation of the recommendations in respect of Monaco subject to interim follow-up, 2018.

⁶⁸ ECRI, Conclusions on the implementation of the recommendations in respect of Monaco subject to interim follow-up, 2018.

⁶⁹ On the grounds of sex, disability, origin, sexual orientation, actual or assumed belonging or not to a particular ethnic group, nation, race or religion.

⁷⁰ [Criminal Code – Article 238-1 \(legimonaco.mc\)](#); [Criminal Code – Article 239 \(legimonaco.mc\)](#).

spectators, by any means whatsoever, to hatred or violence against referees, sports officials, athletes or any other person or group of persons during a sports event or its public screening in a sports venue or in its immediate vicinity (see §35 above). Although the effectiveness of the new provisions remains to be seen, particularly as matches were suspended during the first 2020 lockdown in response to the Covid-19 pandemic, ECRI considers that including this provision in the Criminal Code is a positive development to be regarded as a **promising practice** in the context of GPR No. 12 on combating racism and racial discrimination in the field of sport (in particular §5).

42. ECRI was informed that the services responsible for education and law enforcement in Monaco were extremely vigilant with regard to violence wherever it occurred, whether in hospitals, schools or social services. As regards victim support, this was provided round the clock by trained police officers. The police worked in co-operation with civil society, and in particular with the Victims of Crime Association (AVIP)⁷¹ and other services liable to be in contact with victims (see §32 above). Victims were handed an AVIP leaflet by the Monegasque police when lodging their complaints. The AVIP⁷² offers help to victims in the form of counselling, advice, personal assistance, psychological support and guidance on a confidential basis and free of charge, as well as working in a broader sense to encourage victims to speak out. ECRI is pleased to learn that a charter ensuring that victims of criminal offences receive affordable legal aid was signed between the Monaco Bar Association and the AVIP⁷³ in May 2021. According to the information provided, no cases of hate-motivated violence have been referred to AVIP as yet. ECRI encourages the authorities to continue working closely with AVIP to raise awareness among potential victims of racist and/or LGBTI-phobic violence of their rights.

III. INTEGRATION AND INCLUSION

A. Migrants

Data

43. Foreign residents far outnumber Monegasque nationals in Monaco: on 31 December 2020, the Principality had approximately 38 350 inhabitants, of whom only about 9 050 were Monegasque (i.e. about 25% of the total population).⁷⁴ More than 130 nationalities are represented among the approximately 29 300 foreign nationals residing in Monaco, including more than 10 000 French, 6 500 Italian and 2 600 British nationals.⁷⁵ The authorities also reported that 22 people had been granted refugee status and were receiving legal and administrative protection under the International Convention relating to the Status of Refugees (hereinafter “Geneva Convention”) adopted on 25 July 1951.⁷⁶ The arrival rate of asylum seekers and refugees had not changed significantly since 2015.⁷⁷ The situation of all these various categories of foreign nationals will be addressed in this chapter.

⁷¹ [Victims of Crime Association, \(avip-monaco.org\)](http://avip-monaco.org).

⁷² AVIP is an association set up under private law in July 2014 that is entirely state funded. It is closely connected to the authorities in terms of its finances, human resources, functions and contact with institutions.

⁷³ Monaco Hebdo, [12 July 2021](#).

⁷⁴ [IMSEE \(2021\)](#).

⁷⁵ [Service Public / Meet the international community](#); see also IMSEE, [Demography Observatory](#). These data do not include “cross-border workers”.

⁷⁶ [See also: Refugee population by country- Monaco | \(worldbank.org\)](#)

⁷⁷ WHO, [Regional Office for Europe \(2018\)](#), p.19.

Legislation, strategies/policies and action plans

44. ECRI notes that Monaco is in the unusual situation of having a population where its own citizens are in the minority and where a system was set up to give priority firstly to Monegasque nationals⁷⁸ and secondly to foreign nationals with closer ties to the Principality, for example those who were born there and/or have lived there continuously for a long time (*les enfants du pays*⁷⁹), over other residents of the Principality and residents of neighbouring areas and cross-border workers. This system thereby creates different legal categories of people with different rights and protections depending on their citizenship and their ties with the country, particularly in terms of employment and housing.⁸⁰ It relies on legislation that drastically limits access to Monegasque nationality and ensures that people with Monegasque citizenship remain in the minority.⁸¹
45. Although Monaco has not developed a proper action plan for the integration of foreigners, it has a Welcome Plan implemented by the Welcome Office (WO), which provides anyone wishing to settle in Monaco, whether in a private or professional capacity, with access to tools, useful contacts and information in French, English, Italian, Spanish and Portuguese.⁸² In view of Monaco's specific circumstances, the explanations provided by the authorities and the information gathered from civil society during the visit, ECRI considers that it is nevertheless important - as it recommended in its previous report⁸³ - to set up a system of indicators to objectively assess the respective situations of nationals and foreigners living or working in Monaco in the areas of education, employment and housing so as to identify what integration measures might be necessary, but also to gauge the impact both on foreigners and nationals of policies giving "national priority" or "national preference" in these areas. ECRI strongly encourages introducing such indicators, publishing them and regularly assessing the results produced.

Legal status

- Asylum applications

46. The authorities indicated that refugees enjoy the rights provided for in the 1951 Geneva Convention relating to the Status of Refugees and that, in accordance with the reservations made by Monaco when it ratified this instrument, their rights have been brought into line with those of foreign residents rather than those of nationals in terms of education, public assistance, work and social assistance. The government's arrangements for receiving refugees include providing medical and social support, regularly assessing their personal circumstances with an individual plan including providing help with finding work, access to apartments in a neighbouring municipality and a daily financial allowance.
47. ECRI notes, however, that at present no text adopted at national level provides a framework for processing asylum applications and that all applications, of which there are very few, are processed by officials working for the Minister of State.

⁷⁸ See Articles 25 and 26 of the [Constitution of the Principality / Government Portal - Monaco](#). Under Article 32 of the [Constitution of the Principality](#), migrants (who are "foreigners" in the terms of the Monegasque Constitution) only enjoy "all public and private rights in the Principality that are not formally reserved to nationals".

⁷⁹ Pursuant to [Law No. 1.506 recognising the *enfants du pays* and their contribution to the development of the Principality of 2 July 2021](#), *enfants du pays* are any persons of foreign nationality born in Monaco or adopted in Monaco before the age of majority, who have continuously resided there since birth or adoption. See also: La Gazette de Monaco, [1 July 2021](#).

⁸⁰ [National Priority - National Council \(conseil-national.mc\)](#).

⁸¹ See in particular ECRI's Second Report on Monaco; Tourbeaux, J. (2019).

⁸² [Government of Monaco, Service Public, Welcome Office](#), News MonteCarlo, [3 October 2012](#). See also: ECRI, Fifth monitoring cycle report on Monaco, §§40-41.

⁸³ ECRI, Fifth monitoring cycle report on Monaco, §§44; 47-48.

Although, following an exchange of letters between France and the Principality of Monaco in 1955, the Monegasque authorities can consult for opinion the independent French body responsible for the application of texts relating to the recognition of refugee and stateless person status and the granting of subsidiary protection (French Office for the Protection of Refugees and Stateless People, OFPRA), it seems that this does not take place systematically and that OFPRA's opinion, when sought, is not binding on the Principality. ECRI therefore considers that legislation on the procedure for processing asylum applications should be introduced even though Monaco does not often receive such applications.⁸⁴

48. ECRI recommends that the Monegasque authorities incorporate into domestic law a procedure for processing asylum applications, specifying in particular the arrangements made by the state for receiving asylum seekers while they await the decision on their application, and the relevant criteria on which the state bases its decision to accept or reject an application, in the light of the applicable international agreements and in particular the 1951 International Convention relating to the Status of Refugees (Geneva Convention).

- **Residence permits**

49. Anyone who is at least 16 years of age and wishes to reside in Monaco for more than three months a year or set up home in the Principality must apply for a residence permit from the Monegasque authorities.⁸⁵ In all cases, applicants must be able to prove that they have suitable accommodation in Monaco either by owning, co-owning, renting or using property provided by their company or by staying with a close relative or with a partner with whom they are living as a couple. Applicants must also be able to prove that they have sufficient financial resources and that they are of "good character" by providing a copy of their criminal records information issued by the authorities of the last two countries in which they have resided in the five years prior to their arrival in Monaco.⁸⁶ Work, residence and business permits in Monaco are awarded and renewed subject to a requirement of "good character" which is not defined by any clear and predictable rule.⁸⁷ ECRI encourages the authorities to clarify the standards in force with a view to improving the assessment of what is required to be of "good character" so that individual and collective interests can be considered when an application is made, taking into account the seriousness of any alleged offences and how long ago they took place.

- **Family reunification**

50. ECRI regrets that the law applicable to entry and residence in Monaco, namely the Convention on Good Neighbourliness of 18 May 1963 and Sovereign Order No. 3.153 of 19 March 1964 on the conditions of entry and residence of foreigners in the Principality, does not provide for family reunification. ECRI considers that any measures aimed at restricting or delaying family reunification may cause unnecessary human suffering and poorer integration outcomes.⁸⁸ Family reunification procedures should be accessible, affordable, proportionate and timely. ECRI encourages the authorities to lay down in law rules allowing lawfully resident foreign nationals to be joined by their spouse and any children.

⁸⁴ See also United Nations, Office of the High Commissioner for Human Rights, [14 November 2016](#).

⁸⁵ [How to apply for a residence permit / Service Public Particuliers](#). Children under the age of 16 can obtain a free "Travel Document for Foreign Minors" for travel abroad. For more information, see: [Service Public Particuliers](#).

⁸⁶ Nationals of non-EEA countries must also obtain a settlement visa. Once an application for a residence permit has been submitted, a temporary card valid for one year may be issued, for which there are no particular length of residence requirements.

⁸⁷ Monaco Hebdo, [9 February 2021](#).

⁸⁸ Council of Europe, Commissioner for Human Rights (2016), pp. 15-19.

- Acquisition of citizenship

51. ECRI notes that with regard to access to citizenship, Monaco has a restrictive policy as can be inferred from the statistics on acquiring Monegasque citizenship.⁸⁹ Overall, taking all categories together, about 150 to 200 people per year obtain Monegasque citizenship (170 in 2020, 210 in 2019 and 158 in 2018). Monegasque citizenship is mainly acquired by descent (or following an adoption procedure), in almost 66% of cases on average (108 in 2020, 126 in 2019 and 99 in 2018) or by marriage (19 cases in 2020, 29 in 2019 and 27 in 2018).⁹⁰ Acquiring citizenship by sovereign naturalisation order under Law No. 1.155 of 18 December 1992 on nationality⁹¹ remains rare and is a discretionary matter (43 cases in 2020, 55 in 2019 and 32 in 2018).⁹²
52. As regards acquiring Monegasque citizenship by marriage, ECRI regrets to note that, following its visit, a new law was adopted in December 2021⁹³ to postpone the transmission of citizenship by marriage until after 20 years of marital union (as opposed to 10 years previously). ECRI considers that people integrate more readily if they secure citizenship of the country in which they live and may enjoy the same rights as other nationals. Naturalisation is also an important factor in improving migrants' well-being⁹⁴ and states should facilitate this process. ECRI encourages the authorities to harmonise legislation on acquiring citizenship with current European standards⁹⁵ to make it easier for foreign nationals living and working in Monaco and foreign minors born or attending school in Monaco to acquire citizenship.

Language and integration courses

53. ECRI is pleased to note that effective measures exist for integrating foreign, migrant and refugee minors, including through free language courses. The French as a Foreign Language (FLE) teaching programme concerns all children from pre-school level to the end of secondary education whose mother tongue is not French. In pre-school education specifically, the scheme is taught by specialised teachers. In addition, a tailor-made scheme was set up to allow the handful of children with refugee status in Monaco to be educated through the school system. Adults with refugee status are offered French language courses funded by the Department of Employment which are run by Alliance Française under the responsibility of DENJS.
54. Foreign qualifications may be officially recognised through the National Education Information Centre, which is part of the European Network of Information Centres and National Academic Recognition Centres (ENIC-NARIC). The centre issues statements of comparability for foreign qualifications.⁹⁶

⁸⁹ IMSEE, [Demography Observatory](#). See also, for example, Tourbeaux, J. (2019), p. 20.

⁹⁰ Since 2012, the law also enables Monegasque women to pass on their nationality to their husbands, and foreign spouses who marry a Monegasque citizen may acquire Monegasque nationality without relinquishing their other nationality. Most Monegasques (95%) marry foreigners, three quarters of whom are French.

⁹¹ Pursuant to Article 15 of the [Constitution, decisions on naturalisation are the prerogative of the Sovereign Prince who, pursuant to Article 6 of Law No 1.155 of 18 December 1992, may grant Monegasque nationality without a 10-year residence requirement to any foreigner "whom the Prince deems worthy of this favour"](#).

⁹² IMSEE, [Demography Observatory](#) 2020, see also Tourbeaux, J. (2019), pp. 15-17.

⁹³ [Law No. 1.512 of 3 December 2021 on the acquisition of nationality by marriage](#).

⁹⁴ Council of Europe, Commissioner for Human Rights (2016).

⁹⁵ For example, Council of Europe's European Convention on Nationality. [Full list \(coe.int\)](#). It should be noted in this respect that Monaco has neither signed nor ratified this Convention.

⁹⁶ European Network of Information Centres - National Academic Recognition Information Centres. See the website: [How to request a declaration of equivalence for a diploma obtained abroad / Service Public Particuliers- \(gouv.mc\)](#).

Participation in public life

55. ECRI regrets to note that, under Article 79 of the Monegasque Constitution, the right to vote and stand for election in Monaco is granted only to Monegasque nationals. This leaves three quarters of the population living in Monaco unable to vote, including in municipal elections. ECRI finds it positive that the Economic, Social and Environmental Council, which plays an advisory role, does include foreign members.⁹⁷ ECRI encourages the authorities to provide more opportunities for foreign residents to participate in public life.⁹⁸ In this respect, measures that could be considered include setting up a council of foreign residents duly elected by non-Monegasque nationals residing in the Principality in order to give foreigners a voice in local public debate, or granting foreign residents the right to vote in municipal elections.

Employment and social welfare and medical benefits

56. ECRI notes that Article 25 of the Constitution grants Monegasques priority access to public and private employment, a form of differential treatment which was included in the reservation Monaco made when it ratified the European Convention on Human Rights.⁹⁹ Recruitment and dismissal are carried out in accordance with the list of priorities prescribed by law, which provides that, when it is not possible to recruit a Monegasque national with the necessary skills for the job, authorisation to employ foreigners is granted in order of priority to: “1. foreigners married to a Monegasque who has kept his/her nationality, from whom they are not legally separated, and foreigners born directly of a Monegasque parent or adopted by one; 2. foreigners cohabiting under a life partnership contract with a Monegasque who has kept his/her nationality; 3. foreigners who have a Monegasque child born directly of a Monegasque parent or adopted by one; 4. foreigners residing in Monaco; 5. foreigners residing in the surrounding communes where they have been authorised to work and having already carried out a professional activity in Monaco”. The order of priority is reversed for economic redundancies (Article 6 of the same law) in order to provide greater protection for Monegasque workers.¹⁰⁰
57. Notwithstanding these legal limitations, because there are few Monegasque nationals,¹⁰¹ the number of foreign employees remains high. In the civil service, French nationals occupied 67.3% of around 4 900 positions at the end of 2020. In the private sector, 98% of some 51 000 positions were filled by foreigners, mainly from France (about 63%), Italy (about 16%) and Portugal (about 7%).¹⁰² Approximately 40 000 cross-border workers come to work in Monaco every day.
58. According to the authorities, because of the large size of the foreign population working in Monaco, the rules on employment priority for Monegasque nationals have no negative effects on foreigners’ ability to obtain a job in the Principality. According to information brought to ECRI’s attention, however, the rules on national priority, which are supposed to apply exclusively in the event of equivalence of skills, could too often be misapplied in a way that might amount to “national preference” practices that involve, for example, subjecting foreign

⁹⁷[Economic, Social and Environmental Council / Government Portal - Monaco.](#)

⁹⁸ [Recommendation CM/Rec\(2018\)4](#) of the Committee of Ministers of the Council of Europe. See also [CommDH\(2009\)10, §48.](#)

⁹⁹ For more details, see §61 of the last ECRI report and Article 5 of [Law No. 629 of 17 July 1957](#) (as revised). [See also: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations.](#)

¹⁰⁰ [Law No. 629 of 17 July 1957 \(legimonaco.mc\)](#) (as amended).

¹⁰¹ ECRI was informed that the vast majority of Monegasque nationals work in the civil service and at the Société des Bains de Mer (SBM), which has some 3 000 employees and of which the state is the main shareholder. More than 1 300 Monegasques work in the civil service, i.e. more than a quarter of the workforce (27.2%).

¹⁰² IMSEE, [Population and employment; Monaco en Chiffres 2021](#); IMSEE, [Focus No. 104](#), February 2021; [Focus No. 105](#), April 2021.

workers to job insecurity or dismissing them in order to replace them with Monegasque nationals. It was said that such practices are facilitated by the fact that, as employers are under no obligation to provide a justification for replacing one contract with another or dismissing staff, it is impossible to prove the discriminatory or arbitrary nature of those practices. In ECRI's view, the fact that Article 6 of Law No. 729¹⁰³ allows employers to dismiss staff without a specific motive poses a serious issue. ECRI's General Policy Recommendation No. 14 on combating racism and racial discrimination in employment calls, *inter alia*, for legislation to combat unfair dismissal and thereby protect workers complaining of racial discrimination or harassment. While noting the safeguards against abuse that have been established by the Labour Court's case law (more particularly as regards unlawful or illegal causes, misapplication of public provisions, intent to harm, undue haste, suddenness and thoughtless behaviour), ECRI must stress that this type of protection cannot be implemented if there is no legal obligation for employers to justify dismissals.

59. ECRI recommends that the Monegasque authorities adopt provisions prohibiting dismissals without prior and valid reason, so as to afford employees greater protection against any unjustified difference in treatment and consequently any discrimination or harassment on grounds such as citizenship or national or ethnic origin, colour, language, religion, sexual orientation, gender identity and sex characteristics.
60. In this context, ECRI is disappointed to note that no independent study has been carried out on the effects of the principle of priority in the employment sector, giving priority to Monegasque nationals in particular.¹⁰⁴ ECRI is convinced that conducting an independent study on the positive or negative impact of the principle of employment priority on certain categories of the population would be helpful for triggering a serious discussion on whether perhaps the two statuses should be more closely aligned in the context of integration policies. ECRI encourages once more the authorities to commission an independent study on the impact of the principle of employment priority giving in particular priority to Monegasque nationals over foreigners.
61. ECRI is pleased to note that all employees, regardless of their citizenship, are covered by a basic social welfare system and enjoy the same rights to health insurance and pensions.¹⁰⁵ However, some social benefits, such as those for the elderly and the special retirement allowance, are only available to Monegasque residents. Some allowances (such as family support allowances) are also only available to state and municipal civil servants.¹⁰⁶
62. Lastly, foreign residents with earnings under a certain threshold may apply for most social benefits provided that they have lived in the Principality for more than five years.¹⁰⁷ In particular, this includes the monthly retirement allowance, residential costs assistance for the elderly and state medical assistance, which covers medical expenses related to pregnancy, illness other than occupational disease or workplace accidents, disability or death.¹⁰⁸ In this connection, the United Nations Committee on Economic, Social and Cultural Rights recommended that the Monegasque authorities reduce this five-year residence requirement or set up an

¹⁰³ L'Observateur de Monaco, [14 July 2020](#); Article 6 of [Law No. 729 of 16 March 1963](#). See also [CommDH\(2009\)10](#), §43.

¹⁰⁴ ECRI, Fifth monitoring cycle report on Monaco, §50.

¹⁰⁵ [A/HRC/40/13](#), §15.

¹⁰⁶ [Aid / Social, health and families / Service Public Particuliers - Monaco \(gouv.mc\)](#).

¹⁰⁷ Law [No. 1.465 du 11 December 2018 on assistance to Monegasque families and social assistance](#).

¹⁰⁸ [How to apply for a monthly retirement allowance / Retired and elderly people / Service Public Particuliers - Monaco \(gouv.mc\)](#); [How to apply for a monthly retirement allowance / Retired and elderly people / Service Public Particuliers - Monaco \(gouv.mc\)](#); [A/HRC/40/13](#), §73.

alternative mechanism.¹⁰⁹ ECRI encourages the authorities to address these legislative shortcomings so as to reduce inequalities in access to social benefits.

63. ECRI welcomes a measure to reduce disparities in the treatment of foreigners which enables foreign women residing in Monaco and working in the public sector to be recognised as “heads of household” (making them eligible for the payment of family allowances).¹¹⁰ ECRI encourages the authorities to continue their efforts to ensure that all women, whether Monegasque or foreign, enjoy the same rights as their male counterparts.
64. As concerns ECRI’s interim follow-up recommendation of the previous cycle to repeal the provisions whereby a majority of the members of the organs of trade unions and their federations need to be Monegasque and French nationals,¹¹¹ ECRI notes that a reform of the founding texts on the formation and functioning of trade unions is under way, which should be completed shortly. ECRI encourages the authorities to pursue and complete these efforts so that no distinction on grounds of citizenship is made between Monegasques and foreigners, or between French and other foreigners, in this context.
65. ECRI also notes that Monaco signed the European Social Charter in 2004,¹¹² but has still not ratified it. ECRI considers that ratifying this instrument would be a significant step towards providing extensive social rights protection in Monaco.¹¹³
66. ECRI strongly recommends that the Monegasque authorities ratify the revised European Social Charter.

Housing¹¹⁴

67. Housing in the Principality is characterised by the limited number of properties and very high rents in the private sector, which is the only sector accessible to everyone, regardless of citizenship.¹¹⁵ The other housing sectors accessible under certain conditions are: the state sector;¹¹⁶ the regulated sector, which includes the rent-controlled sector and the liberalised sector; and property belonging to the *Caisse Autonome des Retraites* (Independent Pensions Fund). ECRI notes that foreigners may rent housing in what is known as the “liberalised” segment¹¹⁷ of the regulated sector if they have been working in Monaco for at least five years (or six months if they have already been domiciled in Monaco for at least five years). The rental conditions for such housing may be freely set by the lessor, under the supervision of the Housing Department for certain types of housing.¹¹⁸
68. In contrast, low-cost housing in the “rent-controlled” segment of the regulated sector is reserved firstly for Monegasque nationals and secondly for *enfants du*

¹⁰⁹ [E/C.12/MCO/CO/2-3](#), §17; [A/HRC/WG.6/31/MCO/2](#), §41; See also: [La sécurité sociale des salariés à Monaco \(cleiss.fr\)](#); [Aid / Social, health and family / Service Public Particuliers- Monaco \(gouv.mc\)](#).

¹¹⁰ ECRI, Fifth monitoring cycle report on Monaco, §58; [CEDAW/C/MCO/CO/1-3, pp. 2-3](#).

¹¹¹ ECRI, Fifth monitoring cycle report on Monaco, §53; ECRI, conclusions on Monaco (adopted 5 December 2018).

¹¹² [Full list \(coe.int\)](#).

¹¹³ ECRI, First report on Monaco, §§1, 5; ECRI, Second rapport on Monaco, §§5, 7, 71.

¹¹⁴ [The various housing sectors / Service Public Particuliers- Monaco \(gouv.mc\)](#).

¹¹⁵ [The various housing sectors / General information / Service Public Particuliers- Monaco \(gouv.mc\)](#).

¹¹⁶ [Only Monegasque nationals are entitled to apply for housing in the state sector, with the state allocating property in order of priority based on the total number of points obtained by applying various objective criteria, which are defined by the Ministerial Decree No. 2019-286 of 22 March 2019 on the conditions for the allocation of state housing. / Journal 8427 / \(gouv.mc\)](#).

¹¹⁷ The buildings in this sector are “older properties”, constructed before September 1947.

¹¹⁸ [The various housing sectors / General information / Housing / Access to Housing / Service Public Particuliers- Monaco \(gouv.mc\)](#).

pays and foreign nationals with close ties to Monaco.¹¹⁹ During the visit, ECRI was informed that the number of properties of this type was steadily decreasing.

69. In view of the continuing pressure on the Monegasque property market, ECRI considers that the authorities should intensify their action in this field, taking care not to create unjustified reasons for differentiating between different groups of foreigners and should analyse the extent to which foreigners forced in practice to live outside Monaco could also benefit from such arrangements.¹²⁰
70. ECRI recommends that the Monegasque authorities take effective housing measures for the benefit of *enfants du pays* and also for that of other foreign nationals suffering from the pressure on the property market.

B. Jehovah's Witnesses

71. According to information gathered by ECRI, in April 2019 the Monegasque authorities refused to issue an acknowledgement of the request for formal recognition submitted by the Monegasque Association for the Worship of Jehovah's Witnesses for the third time despite the Supreme Court's decisions in favour of the religious group, including a ruling dated 18 February 2019 which annulled the government's two previous decisions.¹²¹ Without formal recognition by the government, the Association cannot establish a place of worship in Monaco. ECRI wishes to point out that restrictions on establishing places of worship may amount to discrimination on grounds of religion and constitute a violation of Article 9 of the European Convention on Human Rights.¹²² ECRI strongly encourages the Monegasque authorities to act on the judicial decisions in favour of the Association of Jehovah's Witnesses and notes with satisfaction the information provided by the authorities, according to which the situation was being resolved.

¹¹⁹ The rent-controlled sector is governed by [Law No. 1.235 of 28 December 2000](#). The rental conditions for these properties must be approved by the Housing Department. Article 3 of [Law No. 1.235 of 28 December 2000](#) on the rent-controlled sector (as amended by draft law No. 1006) sets out the order of priority of those registered as "protected persons": 1) persons of Monegasque nationality; 2) foreigners with close family ties (defined by law) with Monegasques; 3) *enfants du pays* who have a Monegasque relative; 4) other *enfants du pays*; 5) other foreigners who have been continuously resident in Monaco for at least forty years.

¹²⁰ See also: ECRI, Fifth monitoring cycle report on Monaco, §§54-55.

¹²¹ [Décision TS 2018-11 \(tribunal-supreme.mc\)](#); [Décision TS 2019 \(Journal Officiel n° 8425\)](#); Goni, P. and Gonzalez G. (2020), pp.187-199.

¹²² *Association for Solidarity with Jehovah Witnesses and Others v. Turkey* (applications nos. 36915/10 and 8606/13), 24 May 2016; *Religious Community of Jehovah's Witnesses of Kryvyi Rih's Ternivsky District v. Ukraine* (application no. 21477/10), 3 September 2019; *Izzettin Doğan and Others v. Turkey* (application no. 62649/10), 26 April 2016.

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Monaco are the following:

- (§7) ECRI recommends that the Monegasque authorities strengthen the High Commissioner's powers of inquiry, in accordance with §21 of ECRI General Policy Recommendation No. 2 on Equality Bodies to combat racism and intolerance at national level, to enable the institution to obtain the information it needs for its inquiries – including information not in the public domain – within a set time frame.
- (§37) ECRI recommends that the Monegasque authorities step up their efforts to combat online hate speech by giving judicial authorities the power to authorise, approve and order the deletion of hate speech or the blocking of sites that use it, as recommended in §8b) of its General Policy Recommendation No. 15 on combating hate speech, in co-operation with the Monegasque Data Protection Authority (*Commission de Contrôle des Informations Nominatives, CCIN*) and, where appropriate, the relevant bodies in other countries concerned.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§6) ECRI strongly recommends that appropriate legislation be passed in order to provide a framework for combating all forms of discrimination and to enable the High Commissioner to play its role as an equality body at national level to the full, taking due account of the recommendations made in ECRI General Policy Recommendation (GPR) No. 2 on Equality Bodies to combat racism and intolerance at national level, in particular in §§ 1, 2, 13, 14, 17, 24 and 36.
2. (§7) ECRI recommends that the Monegasque authorities strengthen the High Commissioner's powers of inquiry as a matter of priority, in accordance with §21 of ECRI GPR No. 2, to enable the institution to obtain the information it needs for its inquiries – including information not in the public domain – within a set time frame.
3. (§19) ECRI recommends that the Monegasque authorities carry out studies jointly with the French authorities and the foreign communities concerned by the issue of undeclared work in order to identify any measures that could make it easier to help persons who suffer racist or discriminatory treatment.
4. (§24) ECRI recommends that the Monegasque authorities review existing legislation with a view to offering new arrangements to same-sex couples. In this context, the authorities should reconsider whether there is an objective and reasonable justification for any differences in the regulation of same-sex couples and opposite-sex couples (including couples who have married abroad) and abolish any such unjustified differences.
5. (§30) ECRI recommends that the Monegasque authorities, working with the High Commissioner and relevant civil society actors, run an information campaign for all sectors of Monegasque society to raise awareness of racist and LGBTI-phobic hate speech, the legal provisions and rights existing in this field and the procedures for reporting or lodging complaints against instances of such speech.
6. (§37) ECRI recommends, as a matter of priority, that the Monegasque authorities step up their efforts to combat online hate speech by giving judicial authorities the power to authorise, approve and order the deletion of hate speech or the blocking of sites that use it, as recommended in §8b) of its General Policy Recommendation No. 15 on combating hate speech, in co-operation with the Monegasque Data Protection Authority (*Commission de Contrôle des Informations Nominatives*, CCIN) and, where appropriate, the relevant bodies in other countries concerned.
7. (§48) ECRI recommends that the Monegasque authorities incorporate into domestic law a procedure for processing asylum applications, specifying in particular the arrangements made by the state for receiving asylum seekers while they await the decision on their application, and the relevant criteria on which the state bases its decision to accept or reject an application, in the light of the applicable international agreements and in particular the 1951 International Convention relating to the Status of Refugees (Geneva Convention).
8. (§59) ECRI recommends that the Monegasque authorities adopt provisions prohibiting dismissals without prior and valid reason, so as to afford employees greater protection against any unjustified difference in treatment and consequently any discrimination or harassment on grounds such as citizenship or national or ethnic origin, colour, language, religion, sexual orientation, gender identity and sex characteristics.

9. (§66) ECRI strongly recommends that the Monegasque authorities ratify the revised European Social Charter.
10. (§70) ECRI recommends that the Monegasque authorities take effective housing measures for the benefit of enfants du pays and also for that of other foreign nationals suffering from the pressure on the property market.

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85. Tourbeaux, J. (2019), L'incidence du système de préférence nationale monégasque sur la construction de l'identité de la population de la principauté de Monaco, <https://hal.archives-ouvertes.fr/hal-02506994/document>.
86. Tribunal Suprême de Monaco, <https://www.tribunal-supreme.mc/>.
87. European Union, Court of Justice (Grand Chamber) (2018), Relu Adrian Coman and Others v Inspectoratul General pentru Imigrări, Case C-673/16, judgment.

APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix (in French only) does not form part of ECRI's analysis and proposals concerning the situation in Monaco

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Monaco on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 9 December 2021, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

Rapport de l'ECRI sur Monaco – points de vue du Gouvernement

I. EGALITE EFFECTIVE ET ACCES AUX DROITS

Education inclusive

- § 10. « L'ECRI se félicite qu'à Monaco l'éducation relative aux droits humains fasse partie intégrante des programmes scolaires, depuis l'enseignement élémentaire jusqu'à la fin du lycée, conformément aux recommandations de la RGP n°10, et qu'elle couvre la sensibilisation aux droits et valeurs, l'éducation multiculturelle, et la tolérance. Dans l'enseignement supérieur, les thèmes relatifs aux droits humains et à la lutte contre les discriminations sont abordés dans certains cours en rapport avec les domaines d'activité liées aux formations. L'ECRI relève avec satisfaction que le rôle positif de l'éducation a été reconnu de manière unanime par tous les interlocuteurs de la délégation de l'ECRI lors de la visite, ce qui constitue un vrai point fort ».

Le Département de l'Intérieur (Direction de l'Education Nationale, de la Jeunesse et des Sports) indique qu'il convient de remplacer « élémentaire » par « préscolaire » en ce qui concerne l'éducation relative aux droits humains.

III. INTÉGRATION ET INCLUSION

Emploi et prestations socio-médicales

- § 58. « [...] d'après les informations portées à la connaissance de l'ECRI, les règles relatives à la priorité nationale, qui sont censées s'appliquer exclusivement en cas d'équivalence de compétences, seraient souvent détournées pour développer des pratiques de « préférence nationale » consistant par exemple à précariser ou licencier des travailleurs étrangers pour les remplacer par des personnes de nationalité monégasque ».

Le Département des Affaires Sociales et de la Santé (Direction du Travail) rappelle, à nouveau, que cette affirmation ne repose sur aucune source. Elle n'a jamais eu à connaître de telles réclamations et souligne que le secteur privé emploie 98% d'étrangers.

- § 58 in fine. « La Recommandation de politique générale de l'ECRI n° 14 sur la lutte contre le racisme et la discrimination raciale dans le monde du travail préconise entre autres l'adoption d'une législation visant à lutter contre les licenciements abusifs et protégeant ainsi les travailleurs se plaignant de discrimination ou de harcèlement racial. Tout en prenant note des garanties contre les abus qui ont été développées par le Tribunal du travail dans sa jurisprudence (plus particulièrement en matière de cause illicite ou illégale, détournement des dispositions d'ordre public, intention de nuire, précipitation, brutalité et légèreté blâmable), l'ECRI se doit de souligner à cet égard que ce type de protection ne peut être mise en œuvre si la législation n'oblige pas l'employeur à motiver le licenciement ».

Ainsi qu'il a été indiqué, les salariés de la Principauté sont déjà protégés contre les licenciements abusifs, même lorsqu'il s'agit d'un licenciement sans motif. Le licenciement fondé sur l'article 6 de la loi n° 729 du 16 mars 1963 n'instaure pas, au profit de l'employeur, un droit discrétionnaire et absolu et les règles d'ordre public relatives aux discriminations prohibées doivent notamment être respectées. Par ailleurs, les faits de harcèlement, qu'ils soient ou non de nature raciale, peuvent faire l'objet de poursuites et de sanctions sur le fondement de la loi n° 1457 du 12 décembre 2017 relative au harcèlement et à la violence au travail.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of "race", ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.

European Commission
against Racism and Intolerance

ECRI
Commission européenne
contre le racisme et l'intolérance

COUNCIL OF EUROPE



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