

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

36th session (Geneva, 1 to 19 May 2006)

Reports of States

Monaco (initial periodic report)

Information submitted to the Committee

The Principality of Monaco submitted its initial report¹ to the Committee in April 2004², as well as written replies to the list of issues in 2005. On the first day of the session, the State party also submitted an updated report to the Committee.

This was Monaco's first submission to the Committee, as the *International Covenant on Economic, Social and Cultural Rights* (the Covenant) was only ratified in 1997. The State made reservations³, at the time, stating that the principle of non-discrimination on the grounds of national origin does not necessarily imply an automatic guarantee to foreigners of the same rights as Monegasque nationals. It also stipulates that the Covenant will not impede the State's provisions regulating the employment of foreign workers or attaching conditions of residence to certain social benefits.

The report itself covered a wide range of issues, providing detailed facts and statistics, especially in relation to employment and social security. However, the report fails to specify the issues that require improvement in Monaco or enumerate the measures that are currently employed to rectify the situation. Nor does the coverage offer any explanation for the possible violations that arise.

Thus, while the report details a system of employer recruitment that specifically stipulates an order of priority based purely on nationality, it does not offer any explanation for this apparent contravention of the Covenant⁴ or any clear link between this regulation and the reservation.

While no NGOs attended the session, an alternative report was submitted in May 2006⁵ criticising Monaco for not explicitly prohibiting corporal punishment in schools.

Themes and Issues

During the course of the questioning, the Committee's concerns highlighted the failure to prevent the discrimination of both women and foreign nationals when exercising their economic, social and cultural rights⁶.

Gender Discrimination

When exploring the possibility of gender discrimination in Monaco, the Committee raised its concerns regarding the separate avenues available for men and women to acquire citizenship after marrying a Monegasque national. The delegation was also questioned regarding the practical realities that still need to be addressed. Although Monaco has legislated the equality of men and women in the civil code, the State still lacks a body or institution with a mandate to monitor gender inequalities. The Committee also pointed out that the issue of gender inequality appears to be a part of a larger context that also prioritises male heirs over daughters in the royal line of succession.

The delegation responded to these questions by saying that, while there are certain inequalities between men and women, there have been several recent legislative changes and proposals that put into effect positive discrimination measures for women on issues ranging from workplace safety to income disparity. They disagreed with the Committee members, arguing that the courts are enough protect gender discrimination

¹ E/1990/5/Add.64 (<http://daccess-ods.un.org/TMP/3643004.html>)

² HR/CESCR/NONE/2005/1 (http://www.ohchr.org/english/bodies/cescr/docs/HR.CESCR.NONE.monaco_En.pdf)

³ ICESCR Art.2.2, 6, 9, 11, 13, 8.1, 8.2

⁴ ICESCR Art.2.2

⁵ Briefing from the Global Initiative to End All Corporal Punishment of Children

[http://www.ohchr.org/English/bodies/cescr/docs/info-ngos/Monaco_briefing_for_CESCR.doc]

⁶ ICESCR Art.2.2

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without a specific institution to monitor the situation. On the question of acquiring nationality for spouses, the delegation commented that the acquisition of nationality is a sensitive issue for any country and that they were currently exploring methods to further the equality between men and women. The Committee suggested that equality could be best achieved by treating both gender's equally.

National Origin Discrimination

When addressing the issues relating to the discrimination of foreign workers, the Committee was particularly concerned with the continuing existence of the reservation to the Covenant, which, among other things, clarifies that Monaco has no obligation to guarantee foreigners the same rights as Monegasque citizens. The Committee reminded the delegation that reservations are intended to be a temporary measure that allows for ratification before domestic laws align with the Covenants.

The State's report and subsequent discussion with the Committee revealed that the effect of this reservation is most evident in the right to work⁷. Monegasque legislation has enacted a priority system of employment which ensures that a citizen of Monaco be employed ahead of a foreigner of equal skill and education.

The reservation also has an effect on the right to social security⁸. Access to social security benefits in Monaco requires residency for five years. This includes free health care. Since over 97 percent of the private sector workforce is employed by foreign labour and the majority of these workers reside in France or Italy, the Committee was concerned about the rights, of these foreign workers, to health.

The delegation responded with the fact that Monaco is the only country with more foreigners living and working within their borders than nationals. The country occupies the space of two square kilometers, yet is home to 120 nationalities. They noted that 30 percent of the children in Monaco's schools come from families who do not reside in the country. Since the Monegasque citizens are a minority in their own country, certain protections must be in place to protect their national identity.

The delegation saw the reservation (or 'interpretive declaration') as the only way to legitimately achieve this outcome. Due to the unusually high level of guest workers in Monaco, the priority system of employment is considered necessary to protect the rights of Monegasque citizens. After a series of questions by the Committee on the matter, it was argued, due to the almost full employment enjoyed by both citizens and guest workers, that this system is appropriate. This argument appeared to adequately answer the Committee's questions.

The delegation also commented that their guest workers' right to health is usually covered by agreements made with the governments of France and Italy. Monaco is also considering lowering the period of residency required before being entitled to certain benefits.

⁷ ICESCR Art.6

⁸ ICESCR Art.9