



DECLASSIFIED¹

AS/Mon(2015)38

8 December 2015

amondoc38_2015

or. French

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Fact-finding visit on the follow-up of the implementation of Resolution 2052 (2015) on the post-monitoring dialogue with Monaco (12 October 2015): Concluding remarks

Note prepared by Mr Jordi XUCLÀ, Spain, Alliance of Liberals and Democrats for Europe, former PACE rapporteur on the post-monitoring dialogue with Monaco

I. Introduction

1. On 23 April 2015, the Parliamentary Assembly decided to conclude the post-monitoring dialogue with Monaco. In its [Resolution 2052 \(2015\)](#), the Assembly noted the progress made while calling on the Monegasque authorities to honour the final commitments they had made when the Principality joined the Council of Europe in 2004.

2. At its meeting on 28 May 2015, the Monitoring Committee asked me, in my capacity as former Council of Europe Parliamentary Assembly (PACE) rapporteur on the post-monitoring dialogue with Monaco, and on behalf of the Monitoring Committee, to travel to Monaco to assess the implementation of PACE Resolution 2052 (2015).

3. During this visit, which I carried out on 12 October 2015, I was able to speak, *inter alia*, to the President of the National Council, Mr Nouvion; the Minister of State, H.E Mr Roger; the Government Counsellor for External Relations and Co-operation, Mr Tonelli; the Head of the Monaco delegation to PACE, Mr Allavena; representatives of the political groups in the National Council; the Legal Affairs Delegate to the Government, Mr Anselmi; and representatives of the social and business world. The programme of the visit is appended. I would like to thank the Monaco delegation to PACE and all the Monegasque authorities for the excellent reception I received, the quality of our discussions and the constructive dialogue we held.

II. Recent legislative developments concerning the implementation of Resolution 2052 (2015)

4. I was informed that since the adoption of Resolution 2052 (2015), and in accordance with the commitments entered into, the National Council had adopted on 17 June 2015 Act No. 1415 on the organisation and operation of the National Council.² On 30 November 2015, the National Council also considered and adopted its revised Rules of Procedure, which, unless the Supreme Court decides otherwise, should come into force in January 2016.

5. As far as the awaited ratification of the Convention on Cybercrime (ETS No.185) is concerned, the National Council has decided to consider it in conjunction with the draft laws No. 934 on combating technological crime³ and No. 944 on various measures relating to the preservation of national security,⁴ in

¹ Document declassified by the Monitoring Committee at its meeting on 9 December 2015.

² [Act No 1415](#) – Act amending Act No. 771 of 25 July 1964 on the organisation and operation of the National Council.

³ [Draft Act No. 934](#) tabled with the Bureau of the National Council on 27 February 2015.

⁴ [Draft Act No. 944](#) tabled on 27 November 2015.

view of the interdependence of the two instruments. The examination of draft law No. 944 will begin in January 2016. The adoption of these two instruments could be scheduled for the National Council's 2016 spring session. I urge the authorities and the National Council to continue their work in this direction so that the instruments of ratification of the Convention on Cybercrime can be deposited as soon as possible.

III. Creation of a working group on the revised European Social Charter

6. With regard to the ratification of Protocols 1 and 12 to the European Convention on Human Rights (ETS Nos. 9 and 177) and the revised European Social Charter (ETS No. 163), the Assembly noted in April 2015 that "despite the fact that no suitable legal solution has yet been found to honour these commitments, the Monegasque authorities remain open to further exploring all possibilities, especially for the European Social Charter, that could pave the way to the ratification of these instruments" (para. 11 of Resolution 2052 (2015)). The Assembly also noted that "so far no suitable mechanism has been found and that, at the present time, none of the reservations explored by the Monegasque authorities and the Council of Europe experts would fully safeguard the particularities of Monaco" (para. 8.1.2).

7. As far as Monaco's commitment to ratifying the revised European Social Charter is concerned, hopes arose in March 2015 with the government's preparation of a draft Ratification Act containing a non-direct applicability clause, which would have made the application of the Charter conditional upon the existence of an Act or future Act ensuring that the application of the Charter cannot jeopardise the specific features of Monaco, especially in the areas of employment and housing. However, that attempt was not completed on time. I accordingly applauded the proposal by the Minister of State to set up a working group on this question to continue the discussions, a proposal welcomed in Resolution 2052 (2015) by the Parliamentary Assembly, which suggested involving Council of Europe experts.

8. The various meetings I had during this visit, especially with representatives of the social and business world, confirmed the concerns, and indeed fears, raised by the discussions on the revised European Social Charter. This appears to me to be largely related to the lack of information on the provisions of the Charter, its "à la carte" ratification arrangements and its monitoring mechanisms. It is therefore crucial, in the first instance, to be able to begin in-depth and dispassionate discussions at a technical level in a calm atmosphere, and I called on all the political and socio-economic players to take steps along these lines.

9. During my meetings, the Minister of State Mr Roger informed me that the authorities were endeavouring to set up a working group to carry out an in-depth review of the situation regarding the revised European Social Charter. I welcome this approach and am convinced that this technical working group, operating under the Monaco Government's guidance, will be able to engage a constructive dialogue similar to the fruitful meetings held in December 2014 by the Legal Affairs Directorate and the jurisconsults of the Council of Europe on the ratification of Protocols 1 and 12 to the European Convention on Human Rights, which enabled points of view and solutions to be compared and resulted in the conclusions adopted in Resolution 2052 (2015).

10. I also noted that the Speaker of the National Council, Mr Nouvion, believes it would be useful to have a study available on the situation of the small Council of Europe member states regarding the European Social Charter in order to have access to elements of comparative law. He also suggested that the National Council should be represented within the working group as an observer.

IV. Conclusions

11. After discussions with the authorities, all the parties present agreed on setting up a working group that would operate under the government's auspices and be made up of:

- 11.1. a representative/representatives of the government
- 11.2. an expert/experts on the revised European Social Charter appointed by the Council of Europe
- 11.3. a representative/representatives of the Parliamentary Assembly
- 11.4. a representative of the National Council Secretariat

12. This working group should carry out an in-depth review of the situation from the point of view of the revised European Social Charter and, in particular, determine the compatibility of the Charter's provisions with the specific features of Monaco and the national priority given in the areas of employment and housing to its citizens, who are a minority in their own country – a fact borne in mind by the Council of Europe.

13. I now invite the government to set up this working group as soon as possible and enable it to begin its work. Following the discussions I had with the government, the working group's initial conclusions should be presented in mid-2016, which would be an important element in the context of the full implementation of PACE Resolution 2052 (2015). In this connection I welcome the authorities' proposal to travel to Strasbourg in early 2016 to hold the group's first meeting. For my part, I indicated my readiness to continue to support their efforts and thus pursue the dialogue under way, if that is the desire.

14. The Assembly will continue to monitor developments concerning the full implementation of Resolution 2052 (2015). As regards the aspects of the revised European Social Charter, the Assembly, in particular its Sub-Committee on the European Social Charter, and the European Committee of Social Rights remain at the full disposal of the Monegasque authorities for any expertise desired.

15. The Monitoring Committee, for its part, will continue to monitor legislative and institutional developments, especially through the periodical reports it draws up for all Council of Europe member states not subject to a monitoring or post-monitoring procedure, in accordance with Resolution 2018 (2014) on the progress of the Assembly's monitoring procedure (October 2013-September 2014).

Appendix – Programme of visit

Monday, 12 October 2015

- 09:00-09:45 Meeting with Mr Christophe GLASSER, Deputy Secretary General of Monaco's Trade Union Association (USM)
- 10:00-10:45 Meeting with Philippe ORTELLI, President of the Federation of Monegasque Companies (FEDEM), accompanied by Mr Philippe CLERISSI, Member of the National Council
- 11:00-12:00 Meeting with Mr Laurent ANSELMINI, Chief Legal Advisor to the Government, and Mr Frédéric PARDO, Chief Legal Administrator, Human Rights and Fundamental Freedoms Section, Department of Legal Affairs
- 12:00-12:45 Meeting with H.E. Mr Michel ROGER, Minister of State, and Mr Gilles TONELLI, Minister of Foreign Affairs and Cooperation
- 13:00-14:30 Working lunch at the National Council
- Mr Laurent NOUVION, Speaker of the National Council
 - Mr Christophe STEINER, Deputy Speaker
 - Mr Jean-Charles ALLAVENA, Chairperson of the Committee on External Relations
 - Ms Elodie KHENG, Counsellor for Budget and Economic Affairs
 - Ms Mariam TAVASSOLI ZEA, International Affairs Advisor
- 15:00-15:45 Press briefing
- 16:00-16:45 Meeting with Mr Albert CROESI, Delegate of the « Cellule de Veille pour la Priorité Nationale »
- 17:00-17:30 Meeting with political groups
- Mr Alain FICINI, Horizon Monaco.
 - Mr Jean-François ROBILLON, Union Monégasque.
 - Mr Éric ELENA and Mr Etienne RUZIC, Renaissance.