

Report

Doc. 10128 – 8 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

(Rapporteur: Mr SLUTSKY, Russian Federation,
Socialist Group)

I. Draft opinion

1. The Principality of Monaco applied for membership of the Council of Europe on 15 October 1998. In its Resolution (98) 30 of 10 November 1998, the Committee of Ministers asked the Parliamentary Assembly to prepare an opinion on this application, in accordance with Statutory Resolution (51) 30.

2. The Bureau of the Assembly asked two eminent lawyers, Mr Pastor Ridruejo and Mr Ress, judges at the European Court of Human Rights, to assess the conformity of the legal structure in Monaco with Council of Europe fundamental principles. In the course of the examination of Monaco's application for membership, the Parliamentary Assembly has maintained ongoing dialogue with the Monégasque authorities, focusing in particular on the conclusions and recommendations put forward by the eminent lawyers.

3. The Assembly welcomes the major constitutional and legislative changes implemented by Monaco in response to the recommendations of the eminent lawyers and rapporteurs. These are primarily the constitutional amendments adopted on 28 March 2002, concerning, in particular, the enlarged powers of the National Council (the parliament) in respect of introduction of laws, the right to amend legislation, decisions on budgetary matters and the ratification of certain international instruments, as well as matters relating to the acquisition of Monégasque nationality and the enjoyment of civil rights.

4. The Assembly stresses the importance of the reform of the electoral law, adopted on 28 March 2002, which strengthens the representative nature and authority of the National Council, on the one hand, by introducing an element of proportional representation in the parliamentary elections, ensuring a pluralist composition of the parliament, and, on the other, by reinforcing its democratic basis by lowering the voting age from 21 to 18 and granting the right to vote to naturalised Monégasque citizens.

5. The Assembly notes that the amended electoral law was in force for the parliamentary elections held in Monaco on 9 February 2003. In accordance with established practice whereby observation of elections in an applicant country is part of the application examination

procedure, these elections were observed by an ad hoc committee of the Bureau of the Assembly. They concluded that, given the specific nature of the situation in Monaco, the organisation and conduct of the elections were broadly in compliance with the standards of the Council of Europe.

6. The Assembly notes that Monaco has official relations at diplomatic or consular level with almost all Council of Europe member states. It acceded to the United Nations on 28 May 1993 and is a participating state in the Organisation for Security and Co-operation in Europe. None the less, with regard to Monaco's sovereignty, the Assembly is mindful of the opinion of the eminent lawyers who commented that "the exercise of Monaco's sovereignty was seen to be significantly limited by the treaties with France". Regarding this, the Assembly welcomes the fact that, on 24 October 2002, Monaco and France signed a treaty confirming their friendship and co-operation which replaces the 1918 treaty while upholding the principle of sovereign equality between states, in accordance with the United Nations Charter, and also that the ratification procedure is in hand.

7. With regard to the Franco-Monégasque Convention of 1930, the Assembly is obliged to note that certain provisions in the said convention stipulate that senior Monégasque government and civil service posts are reserved for French public servants on secondment, thereby depriving Monégasque nationals from gaining access to these posts. This runs counter to the principle of non-discrimination and it would seem necessary that the situation be brought into line with European standards. The Assembly notes that on 19 June 2003 the two states began discussions on revising the 1930 convention and sincerely hopes that this will be an opportunity to secure full enjoyment by the citizens of Monaco of the political and civic rights enshrined in the European Convention on Human Rights. It is aware that this is the wish of the Monégasque authorities, and is confident that France, for its part, will want to take advantage of the discussions currently under way to reach a solution compatible with European standards. The Assembly considers that the final decision on the application for membership by Monaco should not be taken until the Joint Committee has noted that this opportunity has been used for this purpose.

8. Monaco has acceded to the following Council of Europe conventions: the European Cultural Convention (ETS No. 18), the Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104), the European Convention on the Protection of the Archaeological Heritage (ETS No. 66) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141).

9. The Assembly acknowledges the particular situation of a country such as Monaco where the indigenous population is numerically smaller than the total number of people working and/or living there. It notes, in this connection, that the social security system is accessible to all people working in Monaco. It stresses in this context the importance of the European Social Charter

(ETS No. 35), the flexibility of which enables it to take account of the specific nature of parties, and it welcomes the intention of the Monégasque authorities to accede to it.

10. The Assembly expects the Monégasque authorities to accept the commitments required by the Organisation for Economic Co-operation and Development (OECD) under its policy against harmful tax practices, as defined in the 2000 progress report and modified in the 2001 progress report, in order for a state to be taken off the OECD's list of unco-operative tax havens.

11. The Assembly recommends the Monégasque authorities to further broaden, within five years of its accession, the powers of the National Council, particularly as regards supervision of government action, the annual presentation of the governmental programme, the right of legislative initiative, and the budgetary debate.

12. The Assembly takes note of the letters from the Monaco authorities and observes that Monaco is committed to honouring the following undertakings:

i. in respect of conventions:

a. to sign, upon accession, the European Convention on Human Rights (ECHR) and Protocols Nos. 1, 4, 6, 7, 12 and 13;

b. to ratify, at the earliest opportunity and at the latest within one year, the ECHR and Protocols Nos. 1, 4, 6, 7, 12 and 13;

c. to examine on an ongoing basis the compatibility of all legislation with the ECHR and its relevant protocols;

d. to sign and ratify, within one year of accession, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126);

e. to become party, within one year of accession, to the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 2), its additional protocol of 6 November 1952 (ETS No. 10) and its sixth additional protocol (ETS No. 162);

f. to sign, upon accession, the European Social Charter (ETS No. 35) and to ratify it within two years;

g. to sign and ratify, within two years of accession, the following conventions:

– the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30);

– the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) and its protocols;

– the European Convention on the Suppression of Terrorism (ETS No. 90);

– the Criminal Law Convention on Corruption (ETS No. 173);

h. to sign and ratify, within three years of accession, the Convention on Cybercrime (ETS No. 185);

ii. in respect of domestic legislation:

– to pass, within one year of accession where this has not already been done, the following laws in conformity with the standards of the Council of Europe:

– the law on stating reasons for negative administrative acts and on judicial review;

– the law on nationality;

– the law on the freedom of the media;

– the law on freedom of assembly and freedom of association;

– amendments to civil law, incorporating the principle of equality between women and men, including as parents or spouses;

iii. in respect of the monitoring of commitments:

– to co-operate fully in the implementation of Assembly Resolution 1115 (1997) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee) and the monitoring procedure set up in accordance with the declaration of the Committee of Ministers of 10 November 1994.

13. In the light of these undertakings, the Assembly believes that Monaco is capable of and is intent on complying with the provisions of Article 3 of the Statute setting forth the required conditions for acceding to the Council of Europe: "Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I."

14. In order to ensure compliance with these undertakings, the Assembly decides, in application of its Resolution 1115 (1997), to start the monitoring procedure with respect to Monaco six months following the date of accession with a view to assessing Monaco's progress in fulfilling:

– the commitments listed in paragraph 12 above; and

– the recommendations in paragraphs 10 and 11 above.

15. In the light of the above commitments, the Assembly recommends that the Committee of Ministers:

i. invite Monaco to become a member of the Council of Europe as soon as the Assembly and the Committee

of Ministers have noted in their Joint Committee that the consultations between Monaco and France on the revision of the 1930 convention have opened the possibility of implementing, in the near future, the principle of non-discrimination, by allowing Monégasque citizens to be appointed to the senior Monégasque governmental and public posts that are currently reserved for French nationals;

ii. allocate to Monaco two seats in the Parliamentary Assembly.

16. In the meantime, the Assembly asks the Bureau to grant Special Guest status to the National Council of Monaco, allocating them two seats, if the National Council asks for this status.

II. Explanatory memorandum, by Mr Slutsky

A. Introduction

1. The first contacts between the Principality of Monaco and the Council of Europe date back to the 1950s when the Monégasque authorities showed an interest in the Organisation's activities relating to the protection of industrial property.

2. Since the 1990s, Monaco has established systematic co-operation with the Council of Europe and has acceded to the European Cultural Convention, the Convention on the Conservation of European Wildlife and Natural Habitats and the European Convention on the Protection of the Archaeological Heritage (revised). In 2002, it acceded to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

3. The Principality of Monaco filed its application for membership of the Council of Europe on 15 October 1998. The Committee of Ministers transmitted it to the Assembly for opinion on 10 November 1998.

4. In accordance with normal procedure, the Bureau of the Assembly asked two eminent lawyers, MM. Antonio Pastor Ridruejo and Georg Ress, judges at the European Court of Human Rights, to assess the conformity of the legal order of the Principality of Monaco with the fundamental principles of the Council of Europe. The two judges visited Monaco from 24 to 26 March 1999. The Bureau of the Assembly authorised the publication of their report on 21 June 1999 (Doc. AS/Bur/Monaco (1999) 1 rev. 2).

5. In accordance with the customary practice and under its terms of reference, the Political Affairs Committee was asked to prepare the draft opinion for the Committee of Ministers on Monaco's accession to the Council of Europe. The Committee on Legal Affairs and Human Rights has also been asked to draft an opinion.

6. In the course of the drafting of this report, the rapporteurs made several visits to Monaco. The reports on these visits can be found under the following references:

– memorandum by Ms Ojuland and Lord Kirkhill presented following their fact-finding visit to Monaco, 3 to 5 October 1999 (AS/Pol (2000) 26 rev.);

– memorandum by Ms Ojuland and Lord Kirkhill presented following their second fact-finding visit to Monaco, 19 and 20 March 2001 (AS/Pol (2001) 15);

– memorandum by MM. Švec and Manzella presented following their visit to Monaco, 10 and 11 June 2002 (AS/Pol (2002) 10 rev.);

– memorandum by MM. Slutsky and Manzella presented following their visit to Monaco, 2 and 3 June 2003 (AS/Pol (2003) 12).

7. In accordance with established practice, whereby observation of elections in an applicant country is part of the application examination procedure, an ad hoc committee of the Bureau of the Assembly observed the parliamentary elections held in Monaco on 9 February 2003 (see Doc. 9741).

8. The rapporteur does not claim that the present report will provide an exhaustive survey of the functioning of the Monégasque institutions. However, on the basis of the detailed analysis carried out by the eminent lawyers and his predecessors, he has sought to consider the main reforms and legislative changes introduced by the Monégasque authorities in response to the observations of the eminent layers and the rapporteurs and designed to satisfy the requirements of the Assembly.

9. The rapporteur would like to pay tribute to Ms Kristiina Ojuland and Mr Juraj Švec, his predecessors as rapporteur, for the work they have accomplished to make this accession possible. He is also extremely grateful for the exemplary co-operation enjoyed with Mr Andrea Manzella, and that of his predecessors with Lord Kirkhill, the rapporteurs from the Committee on Legal Affairs and Human Rights.

10. The rapporteur would also like to thank the Monégasque authorities for their excellent co-operation and their openness throughout the accession process, and for their hospitality during the visits to Monaco made by his predecessors and himself.

B. Presentation of Monaco

11. The Principality of Monaco, situated on the French Riviera and surrounded by the *département* of Alpes-Maritimes but open to the sea, covers an area of 1.95 square kilometres (including 0.4 kilometres reclaimed by filling in the sea bed behind an embankment).

12. In March 1990, according to the latest population census, the Principality of Monaco had 29 972 inhabitants including 5 070 nationals (16.92%), 12 047 French (40.19%), 5 000 Italians (16.68%) and 7 855 (26.21%) people of other nationalities or undeclared. In March 1999, according to figures provided by the municipality of Monaco, the number of Monégasques had risen to 6 912. The numerical insufficiency of the local working population has prompted enterprises to resort to external recruitment of the workforce needed

for the principality's economic development. As a result, over 25 000 people (French and others) are employed in Monaco while residing outside the country.

13. The Grimaldi family has reigned in Monaco since 1297. During protracted struggles up to the end of the fifteenth century, Monaco was able to retain its independence on terms of guardianship, protection or alliance with France (1489-1523), then with Spain (1524-1640) and again with France (since 1641). After provisional union with the French Republic in 1793, Monaco came under the protection of Sardinia from 1814 to 1861.

14. The Treaty of 2 February 1861 between Prince Charles III of Monaco and Napoleon III established relations with France on new foundations: according to the secret clauses of the treaty, the Prince bound himself and his descendants to relinquish none of his sovereign rights except to France; any protectorate he might accept could only be French. The specific nature of relations with France was confirmed by the Franco-Monégasque treaties of 1918 and 1930.

15. Monaco is part of the euro zone. With an annual turnover of some €9 billion, Monaco's economy is based chiefly on trade, tourism, banking and finance, industry, building and public works and services (shipping, chartered accountants' and consultants' offices, insurance companies, transport firms, etc.). With over 39 000 jobs for a resident population of some 30 000 habitants, unemployment is virtually non-existent.

16. The principality has an annual budget of over €624 million. Whereas gaming accounted for the bulk of state resources up until the second world war, the proceeds from this now account for only approximately 4%. Today, levies on business transactions form the main source of state revenue, the chief component being value added tax (VAT).

17. The absence of personal income tax (which stems from a measure introduced in 1869) is one of the factors that gives Monaco a reputation as a "tax haven". This has attracted the wealthy and high income earners, which seems to have boosted investment in various sectors, particularly financial, in Monaco. However, this tax exception concerns only businesses and persons effectively and genuinely located on the territory of the principality. Among foreign residents, only French nationals pay taxes in France on what they earn in Monaco.

C. Functioning and reform of Monaco's institutions

18. Monaco has viable and tried and tested political institutions, and a long tradition in the field of respect for human rights. It would therefore be unwarranted, if not insulting, to prescribe foreign institutional models for the Monégasques.

19. However, following a detailed analysis of the functioning of democracy in Monaco in the light of the fundamental principles of the Council of Europe, the eminent lawyers and the Assembly rapporteurs identified a number of areas in which reform was necessary

if Monaco were to comply with current European standards.

i. Parliamentary democracy and the role of the National Council

20. In their report, the eminent lawyers concluded that parliamentary democracy needed to be improved and that the National Council (the parliament) should be given broader powers, in particular with regard to the appointment of the Minister for State (head of government) and/or members of the government, the introduction of the concept of government accountability before the National Council, granting the National Council the authority to initiate laws and amend draft legislation tabled by the government, and the possibility for the National Council to overcome a refusal by the Prince to promulgate a law.

21. In their contacts with representatives of the various institutions and political forces in Monaco, it was made clear to the Assembly rapporteurs that the proposal to amend the procedure for appointing the Minister for State and to make the latter accountable to parliament could jeopardise the institutional balance of the principality and had no support among political quarters. Accordingly, the rapporteurs have not made this a formal requirement.

22. In contrast, the rapporteurs insisted on the fundamental need to increase the powers of the National Council in respect of initiating laws and amending draft legislation. They also felt it was essential to increase the number of members of the National Council and for there to be a guarantee that the different political tendencies in Monaco were represented there.

23. Following the rapporteurs' recommendations, on 28 March 2002, the Monégasque authorities adopted amendments to the constitution, reinforcing the powers of the National Council in respect of initiating legislation (Article 67 amended), determining the budget (Article 71 amended) and ratifying certain international treaties and agreements (Article 14 amended). In addition, the number of seats on the National Council was increased from eighteen to twenty-four (Article 53 amended), one third of which are filled in line with a proportional representation system as provided for in the amended electoral law (see below).

ii. Electoral system

24. Members of the National Council are elected for five years by direct universal suffrage. The former electoral law, dating from 1968, provided for a majority list system conducted in two rounds. As a result, representatives of the minority could be elected, but there was no guarantee that this would be the case. By way of example, all members of the National Council elected in 1998 were from the same list. This was incompatible with the principle of political pluralism by which the Assembly sets such great store.

25. On the insistence of the Assembly rapporteurs, the Monégasque electoral law was amended on 28 February 2002 and a mixed voting system, including an element of proportional representation, was introduced.

As a result of this reform, the National Council which emerged from the elections held on 9 February 2003, comprised twenty-four members, of whom twenty-one were elected on the "Union for Monaco" list, which had been the opposition and had had no seats in the National Council elected in 1998, and only three members (now forming the new opposition) representing the previous majority.

26. A further consequence of the reform of the electoral law was a broadening of the electoral base: voting age was lowered from 21 to 18 and the previous five-year waiting period before naturalised Monégasques could vote was abolished. This latter move was in direct response to the observations of the eminent lawyers who said that the provision imposing a waiting period before naturalised nationals could vote was incompatible with the European Convention on Human Rights.

27. The Ad hoc Committee of the Bureau of the Assembly which observed the parliamentary elections in Monaco on 9 February 2003 concluded that the new electoral law had been successfully implemented and that the organisation and conduct of the elections had been in compliance with the standards of the Council of Europe.

iii. Local democracy

28. Monaco is made up of just one municipality whose borders coincide with those of the state. Consequently, the state is as close to the population as the municipality. There are a number of specific characteristics pertaining to the allocation of public functions between the national and municipal levels.

29. For example, numerous services which traditionally fall to the responsibility of the local authorities in other states have remained at the national level. Similarly, the fact that there is no direct taxation means that the municipality's own resources are severely limited.

30. None the less, the municipality is administered separately from the state. The municipal council, comprising fifteen members, is elected for four years by universal suffrage. It appoints the mayor and his/her deputies. Only nationals are entitled to vote in the municipal elections.

31. In the view of the Congress of Local and Regional Authorities of the Council of Europe – a view shared by the eminent lawyers – the existence of a Monégasque municipal structure is fundamentally consistent with the Council of Europe's principles of local democracy. However, they considered that certain reforms would be desirable, for example increasing the municipality's financial resources, enshrining the principle of local self-government in law and enabling foreign residents (three quarters of the population) to be more closely involved in the administration of local public life.

32. The Monégasque authorities have acted upon some of these proposals. The revision of the constitution strengthened the financial autonomy of the municipal-

ity and reduced the level of state supervision. In addition, the participation of foreigners in local public life has been improved through their membership of a range of institutions, such as the Economic and Social Council, which have a consultative role.

D. Rule of law

33. Following a detailed analysis of the Monégasque judicial system, the eminent lawyers concluded in their report that the system in place afforded the necessary safeguards ensuring compliance with the rule of law. Judicial independence was guaranteed by the constitution.

E. Human rights

34. In the view of the eminent lawyers, the freedoms and fundamental rights guaranteed in the Monaco Constitution (Part III, Articles 17-32) corresponded to all the rights set out in the European Convention on Human Rights (ECHR): the legal order of the Principality of Monaco is generally capable of guaranteeing respect for human rights.

35. Capital punishment is explicitly proscribed in the constitution (Article 20).

36. However, certain rights are reserved by the constitution for Monégasques alone, although, in practice, some of these rights are extended to all residents and frontier workers. Ratification by Monaco of the ECHR will extend the guarantees secured by the Convention to everyone under the jurisdiction of Monaco.

37. The eminent lawyers also noted that a number of amendments should be made to the legislation of Monaco in order to ensure compatibility with the ECHR. These amendments should:

- provide for a judicial remedy against expulsion (Article 13 of the ECHR);

- provide for a judicial remedy against rejection of an application for naturalisation or restoration of nationality (Article 13 of the ECHR);

- establish by law the obligation to state grounds for administrative acts (Article 6 of the ECHR);

- guarantee respect for the rights of individuals, in particular their privacy with regard to the collection and processing of personal data, including in connection with video-surveillance, by implementing the law on the processing of personal data and setting up the supervisory board provided for therein (Articles 8 and 10 of the ECHR);

- abolish the five-year waiting period from acquisition of nationality by naturalisation or other means until conferment of the right to take part in national and local elections (Article 3 of the Protocol No. 1 to the ECHR).

38. In their contacts with the rapporteurs, the government and the National Council agreed to amend the constitution and legislation so as to ensure that all resi-

dents could enjoy the freedom of association, to oblige the administration to state the grounds for its decisions and to enable such decisions to be subject to judicial review, on the understanding that decisions on matters falling under sovereign discretion would not be affected.

39. The reform of the constitution has abolished the five-year waiting period between naturalisation and the full exercise of civil rights.

40. The Monégasque authorities were also receptive to the rapporteurs' observations concerning the need to modernise the press law (dating from 1910) in order to set out more clearly the rights and obligations of the media, and to introduce the necessary amendments to the Civil Code to guarantee compliance with the principle of equality between spouses.

41. All the reforms in the field of domestic legislation relating to the matters raised by the eminent lawyers and the rapporteurs are currently being drafted. According to the information provided by Mr Stéphane Valeri, Speaker of the National Council, in his letter of 4 July 2003, the National Council would "as soon as possible, and in any event by the end of 2003, debate and vote on the legal texts concerning the freedom of association, equality between men and women in personal relationships and as regards children, and the freedom of the media. It will also vote on the draft law on providing grounds for negative administrative decisions once the latter has been submitted to it by the government".

F. Council of Europe conventions

42. On their last visit to Monaco, your rapporteur and Mr Manzella were assured by the Minister for State, Mr Patrick Leclercq, that the Monégasque authorities were prepared to sign the Council of Europe's key documents, once Monaco had joined the Organisation.

43. These concern firstly the treaties that form the Council of Europe's mandatory *acquis*: the European Convention on Human Rights and its Protocols Nos. 1, 4, 6, 7, 12 and 13, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the General Agreement on Privileges and Immunities and its protocols.

44. The second category concerns the instruments referred to in the eminent lawyers' report, namely the European Convention on Mutual Assistance in Criminal Matters and the European Outline Convention on Transfrontier Co-operation and its protocols.

45. Finally, since the events of 11 September 2001 certain treaties have become particularly important and have been accepted by most member states. These include the European Convention on the Suppression of Terrorism, the Criminal Law Convention on Corruption and the Convention on Cybercrime.

46. The rapporteurs were told that the National Council intends to ratify these conventions in the near future.

European Social Charter

47. Despite initial reluctance, the Monégasque authorities have acknowledged the importance of the European Social Charter and stated their readiness to sign it. The rapporteurs have repeatedly stated that all the recent Assembly opinions on potential Council of Europe accessions have stressed the need to sign and ratify the Charter. This has applied to a certain number of so-called "micro-states".

48. The application of the Charter's main provisions will contribute to Monaco's current reform process aimed at bringing it into line with European standards. This statement of minimum social and economic rights applicable to all the Council of Europe countries now constitutes, together with the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, one of the pillars of the Council of Europe's *acquis*.

49. Detailed examination of the Revised European Social Charter, particularly Article A of Part III, shows that countries do not have to accept all of its provisions. It is therefore possible to take account of the specific circumstances of a small country like Monaco while ensuring that it accepts a sufficient number of provisions to enable it to sign and ratify the Charter within two years.

50. The arrangements for implementing the Charter offer a certain flexibility, so that full regard can be paid to Monaco's particular circumstances while ensuring its compatibility with the country's social legislation.

G. Relations with France and the problem of sovereignty

51. As noted earlier, Monaco has long had particularly close ties with France, its big neighbour. The two countries have been linked since 1918 by a treaty governing their relations, which substantially restricts Monaco's exercise of its sovereignty with regard to external relations and the succession to the crown.

52. Then in 1930 the two countries concluded a "treaty on access by Monégasques to certain public appointments in France and on the recruitment of certain civil servants of the principality", under which a number of government, civil service and judicial posts are reserved for seconded French civil servants and judges.

53. The eminent lawyers devoted a large part of their report to the problem of Monaco's sovereignty and its relations with France. They concluded that, from the standpoint of international relations, Monaco is a sovereign and independent state and recognised as such by the entire international community. It maintains diplomatic and consular relations with numerous states, concludes international treaties and is a member of several international organisations, including the United Nations and the OSCE.

54. However, the report considers that the "exercise of this sovereignty is significantly limited by the treaties with France. This is acknowledged in Article 1 of the present constitution, (...), in the following terms:

"The Principality of Monaco is a sovereign and independent state within the framework of the general principles of international law and particular conventions with France."

55. The authors of the report, like the Assembly rapporteurs after them, are well aware that this problem does not simply concern the Monégasque authorities and that it would therefore be inappropriate to require Monaco to settle it unilaterally as a precondition for accession. Nevertheless they consider it desirable for the 1918 treaty to be modified in accordance with the firmly established principle of international law recognising the sovereign equality of all states, and for the change to take place before accession.

56. The political scope of the 1918 treaty must of course be seen in its historical context (the end of the first world war). Today, consultations between French and Monégasque representatives are confined to major issues and are conducted on the basis of equality. The Monégasque Minister for State (government) receives no instructions from France and formulates foreign policy with full autonomy.

57. Nevertheless as long as the 1918 treaty remains in force the French authorities will be entitled to request the application of its provisions.

58. The rapporteurs have therefore discussed the problem in detail with their Monégasque and French opposite numbers. They acknowledge that this is a bilateral issue, but would draw attention to the eminent lawyers' view that certain provisions of the 1918 treaty are "damaging not only to the sovereignty of the principality, but also to the international image of France" (AS/Bur/Monaco (1999) 1 rev. 2, paragraphs 20 and 163).

59. The Monégasque and French authorities have set in hand the revision of the 1918 treaty. On 24 October 2002 they signed a treaty to modify and confirm the friendly and co-operative relationship between France and Monaco. Once in force it will replace the 1918 treaty, in accordance with the principle of equality between states as laid down in the United Nations Charter. The French Government submitted the treaty to the French National Assembly for ratification on 16 July 2003.

60. The eminent lawyers thought that the 1930 convention limited the Prince's power freely to appoint the Minister for State and several other senior officials, whatever their nationality (Monégasque, French or other), and that this raised doubts about Monaco's internal sovereignty in the conduct of affairs of state and the administration of justice.

61. It should also be borne in mind that by reserving senior Monégasque Government and civil service posts for seconded French officials, the 1930 convention makes the citizens of Monaco ineligible for them. This conflicts with the principle of non-discrimination and the situation must be brought into line with European standards.

62. Your rapporteur is fully aware of this problem. He and Mr Manzella have raised it frequently in their discussions with senior Monégasque officials and their French counterparts.

63. He welcomes the discussions on the revision of the 1930 convention that started on 19 June 2003 as a positive and extremely important development. Even before this date the Monégasque authorities had made it clear that they saw changes to the arrangements for appointing the Minister for State and other senior officials as one of their priorities. It appears that by agreeing to enter into negotiations, France has indirectly acknowledged the legitimacy of this objective.

64. Obviously, revision of the 1930 convention will not be completed in a few weeks but will require long and sometimes difficult negotiations. It must be recognised that the appointment of French officials to posts in Monaco is only one element of the revision process and that the latter will raise a wide range of issues. It is also clear that the two parties do not share the same priorities and will look for an overall solution. It would also be unrealistic to expect both sides to commit themselves from the start to a specific outcome.

65. However, the rapporteur's contacts with the two parties leave grounds for optimism about the results of the negotiations. The French and Monégasque representatives are keen to maintain co-operation between the two countries and are determined to respond to modern-day realities by eliminating all sorts of anachronisms inherited from a past era.

66. The rapporteur therefore invites his colleagues to show confidence in the two countries' ability to modify the 1930 convention along the lines sought by the Assembly and not to wait for the formal completion of negotiations before inviting Monaco to join the Council of Europe. In the end the two parties will be the first to benefit from relations, including joint treaties, that reflect modern European standards. In this regard, the revision of the 1918 treaty, now at the ratification stage, as well as the opening of discussions on the 1930 convention offer a reassuring precedent.

H. Conclusions

67. Its geographical situation, history, culture and traditions all make the Principality of Monaco part of European civilisation, whose fundamental values, which are also those of the Council of Europe, it shares.

68. Monaco is committed to protecting human rights and individual liberties and is rooted in the rule of law.

69. Since they first lodged Monaco's candidature with the Council of Europe, the country's authorities have not ceased to co-operate with the Parliamentary Assembly. They have remained in permanent contact with its rapporteurs and in a relatively short space of time have instituted a vast programme of constitutional and legal reforms to bring the country's laws and institutions into line with Council standards. The reform of Monaco's domestic legislation will continue to be monitored after its accession, and this will be followed.

once the monitoring procedure is closed, by a post-monitoring dialogue.

70. Internationally, Monaco is a sovereign and independent state that forms part of the international community and is a member of the United Nations, the OSCE and certain other international organisations. In conjunction with France, the Monégasque authorities are currently revising the last treaty that formally limits the country's sovereignty. As part of its monitoring procedure the Assembly will continue to pay close attention to this revision process in so far as necessary to determine whether the outcome, in terms of Monaco's sovereignty, is compatible with Council of Europe standards.

71. The rapporteur therefore considers it possible and appropriate to recommend that the Committee of Ministers invite Monaco to accede to the Council of Europe.

APPENDIX I

Letter dated 11 December 2003 from Mr Peter Schieder, President of the Parliamentary Assembly, to Sovereign Prince Rainier III; to Mr Stéphane Valéri, President of the National Council, Principality of Monaco; and to His Excellency Mr Patrick Leclercq, Minister for State, Hôtel du Gouvernement, Principality of Monaco

(Translation)

Sir,

I have the pleasure to enclose a list of the commitments which the Principality of Monaco will be required to honour when it joins the Council of Europe, or within specified times of joining.

This list contains the commitments approved by the Political Affairs Committee on 4 November 2003, which already incorporate the amendments proposed by the Committee on Legal Affairs and Human Rights.

In accordance with established practice, once I have received written assurances from the supreme authorities in the Principality of Monaco that they are resolved to honour these commitments, the draft opinion prepared by the Political Affairs Committee will be circulated as a public Assembly document. The Bureau of the Assembly will then be able to fix a date for the Assembly's debate on your country's accession. That debate will very probably take place during the January 2004 part-session (26-30 January).

Congratulating you on this important step towards your country's becoming a full member of our Organisation, I remain, Sir, ...

Signed:

Peter Schieder,

President of the Parliamentary Assembly

APPENDIX II

Letter dated 7 January to Mr Schieder, President of the Parliamentary Assembly, from Mr Stéphane Valéri, President of the National Council, Principality of Monaco

(Translation)

Mr President,

I am in receipt of your letter of 11 December 2003, in which you transmit the list of commitments the Principality of Monaco must accept upon acceding to the Council of Europe or within a specified time-limit following its accession.

Let me begin, on behalf of the National Council and on my own behalf, by expressing my satisfaction at seeing the accession process concerning our country on the point of reaching a favourable conclusion.

As you know, the elected representatives who form the present majority in our parliament have never wavered in their unqualified support of Monaco's application for membership, submitted to the Secretary General of the Council of Europe by His Serene Highness the Sovereign Prince.

As I stated in my letter of 13 October 2003 to the Secretary General of the Parliamentary Assembly, the National Council wishes this accession to proceed without any need to modify the present institutional framework. It is in this context, and having regard to the powers vested in it, that the Assembly over which I preside is able to confirm that the following commitments will be honoured following accession to the Council of Europe:

1. As regards international law

The National Council will pass all the laws authorising the ratification of the conventions and protocols listed in the appendix to your letter which fall within its remit under Article 14 of the constitution, each time the government deems it possible and appropriate for Monaco to enter into such commitments and subject to any limits placed thereon (in particular when signature of, or accession to, these legal instruments is accompanied by reservations).

2. As regards domestic legislation

The National Council will pass the law requiring the statement of reasons for negative administrative acts and introducing the possibility of legal recourse against such acts as soon as possible following the tabling of the bill by the government.

The laws on freedom of the media (freedom of information) and freedom of association are currently being examined by the appropriate National Council committee. They will be enacted at the spring session of the legislature.

The law on citizenship (equality between men and women in the transmission to children of citizenship acquired by naturalisation) was passed on 9 December 2003 and promulgated on 22 December 2003. And the law introducing equality between men and women in civil law (equality within the couple in respect of children) was passed on 16 December 2003 and promulgated on 29 December 2003.

Finally, it appears that freedom of assembly is already effective in the principality, so no law on this subject is in preparation as there is no apparent need for one.

3. As regards monitoring of commitments

The National Council will co-operate fully, within the powers vested in it by the constitution, with the two processes for monitoring the honouring of commitments set up by the Council of Europe and mentioned in the document appended to your letter.

In the hope that Monaco's accession process can be completed very swiftly, I remain, Sir, yours, etc.

Signed:

Stéphane Valéri,

President of the National Council, Principality of Monaco

APPENDIX III

Letter dated 7 January 2004 to Mr Peter Schieder, President of the Parliamentary Assembly of the Council of Europe, from His Excellency Mr Patrick Leclercq, Minister for State, Hôtel du Gouvernement, Principality of Monaco

(Translation)

Dear President,

In your letter of 11 December 2003, you forwarded to me the "list of commitments to be fulfilled by Monaco following its accession to the Council of Europe". Your letter states that this list, which requires a response from the Monaco authorities – which as far as the Monégasque Government is concerned is the purpose of this letter – is a part of our application procedure representing an important step in the principality's full accession to the Council of Europe.

I would like to underline the fact that since 15 October 1998 when Monaco submitted its application for membership, the Monégasque authorities have shown firm and constant commitment to co-operating with the bodies of the Council of Europe and the various groups of judges, experts and rapporteurs who have visited the principality to familiarise themselves with the institutional and legislative situation and whose recommendations have been acted upon by the authorities with the introduction of significant reforms.

In this same spirit of co-operation, the Government of Monaco wishes to take this opportunity to inform you of how it intends to honour the commitments requested of it.

1. As regards conventions:

A. The Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols

The Principality of Monaco undertakes to sign the ECHR upon accession to the Council of Europe. It undertakes to ratify the Convention and Protocols Nos. 1, 4, 6, 7 and 13. This will be done within the timeframe laid down. In order to ensure the compatibility of Monégasque legislation with the ECHR and its protocols, the government will submit to the National Council the necessary bills aimed at defining arrangements for:

- police custody;
- pre-trial detention;
- the provision of grounds for negative administrative decisions (bill currently being finalised);
- expulsion of foreigners and suppression of forced exile.

With regard to Protocol No. 12, which it notes has not yet entered into force, the principality is unable at this stage to give an undertaking to sign or ratify it, in view of the particular situation of its population and the resulting legal priorities, particularly as regards housing and employment; this was acknowledged by the rapporteurs responsible for dealing with Monaco's request for accession.

B. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

The principality will sign and ratify this convention within one year as laid down. The Monaco authorities will take the necessary steps to ensure that the committee specified in Article 1 of the convention can undertake in the principality the visits with which it has been tasked.

C. General Agreement on Privileges and Immunities, its Protocol of 6 November 1952 and its Sixth Protocol

The principality will become party to the agreement and its protocols within one year as laid down. Because of the customs and tax agreements linking the principality to France it will make a reservation along the lines of the one made by the French authorities.

D. The Revised European Social Charter

The principality will sign and ratify this charter within the prescribed time-limit of two years, and will be bound by the required number of obligatory and optional articles. The articles in question will be chosen following a further examination by representatives of the government in liaison with those of the charter committee.

Clearly, the principality cannot *ex officio* be required to be bound by subsequent commitments beyond those relating to the articles thus chosen.

E. The European Convention on Mutual Assistance in Criminal Matters

The principality will sign this convention with the exception of the additional protocols. When ratifying it, it will make a number of reservations, particularly in respect of Article 5, as several other states parties have done.

It naturally expects that at the time of ratification, the Council of Europe member states will themselves have signed this convention.

F. The European Outline Convention on Transfrontier Co-operation

The principality will sign and ratify this convention and its protocols within the prescribed time-limit, whereupon it will make a declaration stating that Monaco comprises a single municipality whose territorial boundaries coincide with those of the state. This will accordingly give rise to a specific distribution of powers between national and municipal levels.

G. The European Convention on the Suppression of Terrorism

The principality will sign and ratify this convention within the prescribed time-limit.

H. The Criminal Law Convention on Corruption

The principality will sign this convention within the time-limit laid down. It will also ratify the convention subject to approval by the National Council of:

- a law incorporating into the Criminal Code certain offences concerning corruption of members of the Assembly or foreign and international civil servants and judges;
- a law on the liability of legal entities, currently being drafted.

I. The Convention on Cybercrime

The principality is not in a position, at this stage, to give an undertaking to sign and ratify this convention, which is a very complex text covering many areas and which so far the majority of Council of Europe member states have not yet ratified, thereby ruling out its implementation in the short term.

Generally speaking, the government is surprised that the principality is being asked to sign certain conventions upon accession which have not yet been signed by states which are already members.

None the less, it would stress that it has just embarked, as a matter of priority and in order to harmonise its legislation with the ECHR, upon a revision of its Criminal Code and Code of Criminal Procedure, and that other legislative reform work will subsequently be undertaken in order to bring its domestic legislation into line with the other European conventions to which the principality will be acceding. This will be carried out as quickly as possible.

2. As regards domestic legislation

The Principality of Monaco, during the session of the National Council which has just ended, amended its legislation with regard to:

- the principle of equality between men and women;
- transmission of nationality by women.

Two other bills have been submitted to the National Council on:

- the freedom of the media (currently under consideration; a vote will be taken during the spring session);
- the freedom of association (freedom of assembly is already guaranteed).

The bill on the provision of grounds for negative administrative acts is currently being finalised and will shortly be submitted to the National Council.

3. As regards monitoring of commitments

The government will co-operate fully, at a suitable juncture and wherever necessary, by adopting appropriate measures, in the implementation of Parliamentary Assembly Resolution 1115 (1997) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee), and in the monitoring procedure set up in application of the declaration of the Committee of Ministers of 10 November 1994.

The Monégasque Government has, moreover, noted in paragraph 7 of the draft opinion of the Political Affairs Committee the link made between admission of the principality and developments anticipated as a result of the negotiations begun with France. It points out that the objectives of these negotiations were publicly stated and are:

- free access by Monégasque citizens to all public posts in their own country;
- freedom of choice for the appointment to posts made by the Prince.

The fact that negotiations are under way with France – two meetings have already been held and a third is due to take place in the coming weeks – presupposes recognition by France of Monaco's aspirations along with compliance with the principle of non-discrimination referred to in the draft opinion. With regard to the bilateral negotiations in course, the government is unable at this stage to provide any further information other than to say that it does not consider that placing such negotiations – taking place between two sovereign states – under the supervision of a third party would be conducive to helping matters progress appropriately. The Government of Monaco, furthermore, finds it difficult to understand such a request which concerns one of the founding members of the Council of Europe.

In paragraph 10 of the above-mentioned draft opinion, reference is also made to the relationship between the principality and the Organisation for Economic Co-operation and Development (OECD).

The government would point out that the principality, as it has publicly stated, has no wish to disassociate itself from developments aimed at harmonising practices within the international community, where indeed it is the whole international community that is concerned. In order to be fair and to balance its effects, an arrangement must be worldwide in scope and each individual country must be assessed by the same yardstick. It has to be pointed out that certain European countries in the vicinity of the principality are not bound by the commitments required by the OECD under its policy against harmful tax practices; this is also the case of countries further afield which nevertheless are fully involved in international financial transactions. In any event, the principality does not share the OECD's current conclusions which fail to take into account Monaco's special circumstances, which had, none the less, been explained and presented in detail. It would observe that Monaco's dialogue with the OECD is continuing.

The government noted that paragraph 11 of the draft opinion submitted by the Political Affairs Committee contains a recommendation that the authorities "further broaden, within five years of its accession, the powers of the National Council", with various areas being specified. It wishes to point out that the constitution was revised on 28 March 2002 in order to give the National Council major powers as regards initiating and amending legislation, and external relations. There has also been a reform lowering the voting age and a new electoral law was passed guaranteeing pluralism. All these provisions took into account the observations and recommendations of the successive rapporteurs of the two committees responsible for processing the principality's accession application.

Moreover, these are described in the draft opinion as "major constitutional and legislative changes". A further reform of the constitution in this sector, which would be necessitated by implementation of the above recommendation, cannot be contemplated; moreover, it is not wished for by the National Council itself as its President has stated in a

letter addressed to the Secretary General of the Parliamentary Assembly.

The government cannot but restate its desire to see a greater understanding of the profoundly damaging consequences to which the principality would be exposed by seeking to have it make institutional changes going beyond those it has approved. It would be unjustified, indeed unhelpful, to prescribe foreign institutional models for the principality.

It should also be recalled that the judges of the European Court of Human Rights concluded that the Monégasque legal system, even at the time its application was first submitted, was in conformity with the founding principles of the Council of Europe.

These are the positions I feel it is useful to bring to your attention in addition to the clarifications you requested from me, on behalf of the Monégasque Government, concerning the principality's commitments.

The observations have been approved by His Highness the Sovereign Prince. Accordingly, this letter is also to be regarded as the Prince's response to the letter you had forwarded to him.

Signed:
Patrick Leclercq,
Minister For State

APPENDIX IV

Letter dated 8 January 2004 to Mr Peter Schieder, President of the Parliamentary Assembly of the Council of Europe, from His Excellency Mr Patrick Leclercq, Minister for State, Principality of Monaco.

(Translation)

Dear President,

In a letter I sent to you yesterday, I notified you of the reply from the Monégasque Government to your letter of 11 December 2003 containing the "list of commitments to be fulfilled by Monaco following its accession to the Council of Europe".

I feel it necessary to explain to you why I thought I should, in all honesty, inform you that the principality did not consider that it was in a position at this stage to give an undertaking to sign and ratify Protocol No. 12 to the ECHR and the Convention on Cybercrime.

With regard to Protocol No. 12, we note that its purpose is to prohibit all forms of discrimination, of whatever nature, relating to rights granted by legislation in general and not just the ECHR.

Because of its very general nature, and the absence of any case-law interpretation given that at present the text has not entered into force, we are concerned that this protocol could challenge the priorities granted by law to Monégasque nationals, primarily with regard to employment, the right to exercise a profession and housing.

This preferential system, which moreover gives rise to no discrimination amongst foreigners residing in the principality, is in our view necessary in order to protect a national community representing one fifth of the population. Without this protection, members of this community, the majority of whom are not wealthy, would run a genuine risk of being obliged to move away from their own country, leaving their

place for foreigners on higher incomes. As regards employment, it would be just as anomalous in a situation where almost 30 000 workers travel daily into Monaco to contribute to the principality's economy, if Monégasque citizens themselves were obliged to seek employment outside the country.

Monaco could therefore consider signing Protocol No. 12 only if it could be given a guarantee equivalent to the one set forth in Article 1.2 of the United Nations Convention of 21 December 1965 on the elimination of all forms of racial discrimination, ratified by the principality on 27 September 1995, which states: "This convention shall not apply to distinctions, exclusions, restrictions or preferences made by a state party to this convention between citizens and non-citizens." The principality had, furthermore, made the following reservation to this provision, intended solely to clarify its position: "Monaco reserves the right to apply its own legal provisions concerning the admission of foreigners to the labour market of the principality."

With regard to the Convention on Cybercrime, the principality wishes to stress the fact that this does not cause any problem in principle. Monaco's current stance is a result of the convention's complex and technical nature, and the fact that the majority of countries which are advanced in electronic communications have not yet ratified it.

However, the principality is willing to continue the deliberations and studies on this matter on which it has already embarked in order to achieve, as quickly as possible, the objectives of this convention which it shares.

As in my letter of 7 January, the observations contained in this letter have been approved by His Highness the Sovereign Prince. Accordingly, this supplements the Prince's reply to the letter you had forwarded to him.

Signed:
Patrick Leclercq,
Minister For State

APPENDIX V

Letter dated 6 April 2004 to Mr Peter Schieder, President of the Parliamentary Assembly of the Council of Europe, from His Excellency Mr Patrick Leclercq, Minister for State, Principality of Monaco.

(Translation)

Dear President,

I beg to recall my letters of 6 and 7 January and the subsequent exchange of views, which threw some useful light on the implications of the commitments to be accepted by Monaco. I have the honour to convey to you the Monégasque authorities' assurance of their readiness to honour those which are expected of them, as stated in the appendix to your letter of 11 December 2003.

They do so bearing in mind the following points of our exchanges:

- regarding Protocol No. 12 to the European Convention on Human Rights, signature would take place one year after the instrument is put into effect, and ratification within five years of signature;

- the Parliamentary Assembly makes it clear that the Council of Europe will, owing to the peculiar situation of Monaco's native population which has led the Monégasque authorities to grant special conditions principally benefiting

Monégasque nationals in respect of labour and employment, housing and welfare in particular, take into account the situation and the conditions in its appraisal of the implementation of Protocol No. 12 by the principality;

– regarding the Convention on Cybercrime, in the light of the clarifications obtained as to the meaning of the provisions of Articles 25 and 39, signature and ratification would occur within five years of the Principality of Monaco's accession to the Council of Europe.

I would also advert to the recommendation in paragraph 11 of the draft opinion concerning the powers of the National Council. A constitutional revision for the purpose of conferring substantial new prerogatives on this assembly as regards legislative initiative, amendment and foreign relations was effected on 28 March 2002 to take account, *inter alia*, of recommendations made by the successive rapporteurs of the two committees responsible for investigating the principality's request for membership. These reforms, together with the passage of a new electoral law and the lowering of the age of civic majority to 18, are moreover referred to in the explanatory memorandum by the rapporteur of the Political Affairs Committee as significant constitutional and legislative changes.

The implementation of the recommendation in paragraph 11 would entail another reform to the constitution, one which the Monégasque authorities would not be able to endorse because of the highly prejudicial consequences for the country which would arise from further institutional changes without due regard for its identity; such changes, moreover, are by no means sought by the National Assembly itself, as its President has informed you in a letter dated 7 January.

Finally, concerning the relations between Monaco and the OECD, in keeping Monaco on the list of jurisdictions deemed unco-operative as regards effective exchange of information for taxation purposes, this institution did not acknowledge the actions recently undertaken, all of which go to strengthen co-operation and harmonisation, in particular:

– the development of the anti-laundering apparatus and consolidation of links with the Fatf especially in the framework of the Euro Monetary Agreement taking Fatf standards as references for prevention of laundering;

– ongoing consolidation of the anti-terrorism safeguards;

– prevention of systemic risk in the financial sector, put on record by the signature of various exchanges of letters with France and with its Banking Commission;

– tightening of banking control and security of payments via the Euro Monetary Agreement;

– signature of an agreement with the French Commission for Stock Exchange Transactions specifically dealing with

exchange of information on unlawful insider dealing, and of a similar agreement with Italy's Consob.

In this matter, I would assure you of the Monégasque authorities' determination to guard against the possibility of Monaco's constituting a flaw in a system which should be applicable worldwide. In this respect, the suitability or otherwise of Monaco's inclusion in the OECD list could really be ascertained once its own member states had all resolved on the arrangements for exchange of information in tax matters. It would be unfair for the principality to receive different treatment than the countries which form its natural environment, when the aim is precisely to harmonise practice within the international community. At all events, Monaco intends to carry on dialogue with the OECD as it has been doing for four years and as the talks which Monaco had on 5 April with the Secretary General of this institution testify.

Signed:
Patrick Leclercq,
Minister For State

Reporting committee: Political Affairs Committee.

Reference to committee: Reference No. 2347 of 25 January 1999.

Draft opinion adopted by the committee on 4 November 2003 with 1 vote against and 5 abstentions.

Members of the committee: Jakič (Chairperson), Rogozin, Feric-Vač, Spindelegger (Vice-Chairpersons), Aguiar, I. Aliyev (alternate: Seyidov), de Arístegui, Ateş, Atkinson, Azzolini, Banáš, Berceanu, Bianco (alternate: Provera), Blankenborg, Van der Brande (alternate: Goris), Čekuolis, Davern, Dreyfus-Schmidt (alternate: Loncle), Druviete, Duivesteijn, Durrieu, Elo, Frey, Glesener, Goulet, Gross, Hedrich, Henry, Hörster (alternate: Lintner), Iwiński, Judd (alternate: Tomlinson), Karpov, Kirilov, Klich, Koçi, Kostenko, van der Linden, Lloyd, Loutfi, Magnusson, Margelov, Martínez Casañ, Medeiros Ferreira, Mercan, Mićunović, Mignon (alternate: André), Mihkelson (alternate: Herkel), Muratović, Naudi Mora, Neguta, Němcová, Németh, Oliynyk, Ouzký, Pangalos (alternate: Sfýriou), Petrova-Mitevskia, Pétursdóttir, Pourgourides, Prentice (alternate: Kilclooney), Prica, Prisăcaru, de Puig, Pulicino Orlando, Ranieri, Roth, Severin, Severinsen, Tabajdi, Tekelioğlu, Torosyan, Tritz, Vakilov (alternate: Mollazade), Volpinari, Voulgarakis, Westerberg, Wielowieyski, Wohlwend, Wurm, Yarygina, Zacchera (alternate: de Zulueta), Zhvania, Ziuganov (alternate: Slutsky).

Ex officio: Davis, Eörsi, Einarsson, Russell-Johnston.

N.B. The names of those members present at the meeting are printed in italics.

See 10th Sitting, 27 April 2004 (adoption of the draft opinion, as amended); and Opinion No. 250.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1'
Doc. 10128 – 14 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

tabled by parliamentarians ATKINSON, DAVIS,
VAN DEN BRANDE, LOUÏFI, SEVERINSEN, BINDIG,
OLIYNYK, ELO, AZZOLINI, SEYIDOV, MURATOVIĆ,
MERCAN, SLUTSKY and MANZELLA

In the draft opinion, paragraph 9, after the first sentence, insert the following sentence:

“It considers that, in interpreting the commitments which Monaco is to honour, the Council of Europe should take account of this situation which has led the authorities to introduce preferential schemes, chiefly benefiting Monégasque nationals, in respect of work and employment, housing and social welfare.”

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2'
Doc. 10128 – 14 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

tabled by parliamentarians ATKINSON, DAVIS,
VAN DEN BRANDE, LOUÏFI, SEVERINSEN, BINDIG,
OLIYNYK, ELO, AZZOLINI, SEYIDOV, MURATOVIĆ,
MERCAN, SLUTSKY and MANZELLA

In the draft opinion, sub-paragraphs 12.i.a and 12.i.b, delete the reference to Protocol No. 12.

1. See 10th Sitting, 27 April 2004 (adoption of the amendment).

1. See 10th Sitting, 27 April 2004 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3¹
Doc. 10128 – 14 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

tabled by parliamentarians ATKINSON, DAVIS,
VAN DEN BRANDE, LOUFI, SEVERINSEN, BINDIG,
OLIYNYK, ELO, AZZOLINI, SEYIDOV, MURATOVIĆ,
MERCAN, SLUTSKY and MANZELLA

In the draft opinion, after sub-paragraph 12.i.b,
insert the following sub-paragraph:

“to sign Protocol No. 12 to the ECHR within one
year of its coming into force, and to ratify it within five
years of signing it;”.

1. See 10th Sitting, 27 April 2004 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4¹
Doc. 10128 – 14 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

tabled by parliamentarians ATKINSON, DAVIS,
VAN DEN BRANDE, LOUFI, SEVERINSEN, BINDIG,
OLIYNYK, ELO, AZZOLINI, SEYIDOV, MURATOVIĆ,
MERCAN, SLUTSKY and MANZELLA

In the draft opinion, sub-paragraph 12.i.h, replace
the word “three” with the word: “five”.

1. See 10th Sitting, 27 April 2004 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5¹
Doc. 10128 – 14 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

tabled by Mr MANZELLA, on behalf of the Committee on
Legal Affairs and Human Rights

In the draft opinion, replace sub-paragraph 15.i
with the following sub-paragraph:

“invite Monaco to become a member of the Council
of Europe as soon as the Assembly and the Committee
of Ministers have noted in the Joint Committee that the
consultations between Monaco and France for the revision
of the 1930 convention have come to an acceptable
conclusion in accordance with the principles of the
Council of Europe, granting the citizens of Monaco the
right of access to all appointments in the Monégasque
Government and civil service”.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 6¹
Doc. 10128 – 26 April 2004

**The Principality of Monaco's
application for membership of the
Council of Europe**

tabled by parliamentarians BINDIG, JURGENS,
LINTNER, LETZGUS, DEITTERT and HÖRSTER

In the draft opinion, at the end of sub-paragraph
15.i, add the following words:

“, it being understood that only this common ascer-
tainment in the Joint Committee shall put an end to the
statutory consultation of the Assembly required by
Statutory Resolution (51) 30”.

¹ See 10th Sitting, 27 April 2004 (rejection of the amendment)

¹ See 10th Sitting, 27 April 2004 (rejection of the amendment)