



Office for Democratic Institutions and Human Rights

# PRINCIPALITY OF MONACO

PARLIAMENTARY ELECTIONS

10 February 2013

OSCE/ODIHR Election Expert Team  
Final Report



Warsaw  
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**PRINCIPALITY OF MONACO**  
**PARLIAMENTARY ELECTIONS**  
**10 February 2013**

**OSCE/ODIHR Election Expert Team Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Permanent Representative of the Principality of Monaco to the OSCE, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Expert Team (EET) on 31 January 2013 for the 10 February parliamentary elections. The OSCE/ODIHR EET assessed several aspects of the electoral process, including the legal framework, election administration, media environment, electoral campaign, and campaign finance.

Monaco is a hereditary and constitutional monarchy with executive power vested in the supreme authority of the prince, who is the head of state. Legislative power is exercised jointly by the prince and a unicameral parliament, the 24-member National Council. The parliament is elected every five years under a mixed electoral system using open candidate lists in a single nationwide constituency.

Parliamentary elections are primarily regulated by the Constitution and the Law on National and Local Elections. Overall, the legal framework provided an adequate framework for democratic elections, although few areas would benefit from improvement, particularly in respect of the rights to vote and be elected without unreasonable restrictions. Legislation provides for a possibility to cast a proxy vote that, while aiming at enfranchisement, challenges OSCE commitments related to the secrecy of the vote.

Voter registration is passive and 6,825 voters were registered for these elections. While all Monegasque citizens who are at least 18 years old are eligible to vote, a number of citizens are denied voting rights including those in pre-trial detention or with a criminal conviction, irrespective of the gravity of the crime. Denial of the right to vote of those in pre-trial detention is contrary to the principle of presumption of innocence, while the blanket denial of voting rights of citizens with criminal convictions lacks proportionality. These restrictions go against OSCE commitments.

Candidate registration was inclusive and all nominated candidates were registered. Voters could choose from three lists and a total of 72 candidates. However, the requirement of five years of citizenship to stand as a candidate, as well as the inability to stand individually as an independent candidate, both challenge the right of citizens to stand for office without discrimination as provided by paragraph 7.5 of the 1990 OSCE Copenhagen Document.

Elections were organized by the City Hall in a professional manner with voting taking place in a single polling station. While some of the technical preparations were conducted with a limited level of transparency, the election administration enjoyed widespread confidence and none of the electoral contestants expressed concerns about the administration of these elections.

These elections were contested by two strong alliances: Union Monegasque (UM) with majority of seats in the outgoing parliament, and Horizon Monaco (HM) as the main opposition. The campaign was vibrant and competitive, although at times antagonistic and negative in tone. While campaigning

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in French.

took place in an open atmosphere with equitable conditions for the candidates, some legal provisions challenge the freedom of expression.

New campaign finance regulations were implemented for the first time in these elections. While electoral contestants are obliged to limit and disclose their expenses, there are no requirements concerning campaign finance contributions. The timing, review, and disclosure of campaign finance reports would benefit from further strengthening.

Media is independent and pluralistic, although limited by the size of its population. Media reported actively on the electoral campaign, interviewed candidates and published editorials on election-related issues, but there were no face-to-face debates between the main candidates. The public broadcaster covered campaign activities in line with the law, but UM and HM criticized the strict parameters imposed on the recording of campaign spots.

The complaints and appeals system generally provides for effective and timely redress, although procedures to cover the electoral campaign are lacking. There were no complaints or appeals during these elections.

Although the OSCE/ODIHR EET was given full access to all stages of the electoral process, the legal framework does not include provisions for citizen and international election observation. This is at odds with paragraph 8 of the 1990 OSCE Copenhagen Document.

According to standard practice, the OSCE/ODIHR EET did not undertake a comprehensive and systematic observation of election day. However, team members visited the polling station on election day. Election day was organized professionally and transparently. Election officials worked in a collegial, impartial, and inclusive manner. Due to a large number of voters processed in one polling station, occasional queues and overcrowding were observed. The presence of candidates at the entrance of the polling station, distributing ballots, could have led to a perceived pressure on voters. The count was widely observed by the public, increasing transparency and public confidence in the process.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Permanent Representative of the Principality of Monaco to the OSCE to observe the 10 February 2013 parliamentary elections, and based on the recommendations of the Needs Assessment Mission conducted from 15 to 17 December 2012, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Expert Team (EET) on 31 January 2013.<sup>2</sup> The OSCE/ODIHR EET was headed by Konrad Olszewski and comprised four election experts drawn from as many OSCE participating States.

The OSCE/ODIHR EET did not include long-term or short-term observers and did not undertake a comprehensive and systematic observation of election day proceedings. The OSCE/ODIHR EET assessed several aspects of the electoral process, including the legal framework, election administration, media environment, electoral campaign, and campaign finance regulations.

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<sup>2</sup> All OSCE/ODIHR reports on Monaco are available at <http://www.osce.org/odihr/elections/Monaco>.

The OSCE/ODIHR EET wishes to thank the authorities of Monaco for the invitation to observe the elections, as well as the Ministry of Foreign Affairs, Ministry of Interior, National Council, and the City Hall for their support and co-operation during the mission.

### III. POLITICAL BACKGROUND

Monaco is a hereditary and constitutional monarchy with executive power vested in the supreme authority of the prince, currently Prince Albert II, who is the head of state. The government, led by the Minister of State and assisted by the government council, is directly appointed by the prince. Legislative power is jointly exercised by the prince and the unicameral parliament, the 24-member National Council. Legislation can only be initiated by the prince and while the parliament has the exclusive power to pass laws, the prince retains a power of veto. The executive branch is not accountable to the parliament.

On 24 July 2012, the Minister of State called parliamentary elections for 10 February 2013. Since 1998, politics in Monaco has been dominated by two political associations, the Union for Monaco (UfM) and Horizon Monaco (HM). In the last parliamentary elections held on 3 February 2008, the UfM won 21 seats and HM won 3 seats. A third list of candidates, the *Monaco Ensemble* that ran at the time did not win any seats. Of the 24 members of the outgoing parliament, 6 were women.

Political activities are based on political associations that affiliate members who share the same political values, perceiving themselves as political parties.<sup>3</sup> Before the 2013 elections, two strong alliances were formed. The first, HM, was composed of the political associations of *Rassemblement Enjeux pour Monaco*, *Union pour la Principauté*, and *Synergie Monégasque*, as well as some independent candidates. The second, Union Monegasque (UM), was established by core members of the UfM, joined by *Union Nationale pour l'Avenir de Monaco* and some independent candidates. In addition, two months before the elections, a group of employees of the *Société des Bains de Mer*, the largest employer in the country that holds the Monte Carlo Casino and other businesses, established a list, '*Renaissance*'. The primary goal of Renaissance was to assure at least one seat in the parliament to represent the interests of casino employees.

Both major alliances strongly defend the current institutional and constitutional framework. They do, however, have different views on how state savings should be invested and how foreign relations should be conducted. According to most OSCE/ODIHR EET interlocutors, voters decide mostly on the basis of candidates' personalities and not on political agendas, as they personally know many candidates.

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<sup>3</sup> There is no specific legislation on political parties in Monaco and the Law on Associations and Federations of Associations governs all associations, political and non-political. When associations are established under this law, they acquire legal personality.

## IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

### A. ELECTORAL SYSTEM

The 24-seat parliament is elected every five years under a mixed electoral system from a single nationwide constituency.<sup>4</sup> Members of parliament (MPs) are elected from open candidate lists, each consisting of a minimum of 13 and a maximum of 24 candidates. Candidate lists are presented on separate ballots. While voters can choose only one ballot with one list, they can modify a ballot paper by deleting candidates and adding candidates from other lists. The seats are allocated in two stages. First, the 16 candidates who receive the largest amount of votes are elected under a majoritarian system. In case of a tie, the older candidate is elected. The remaining eight seats are then distributed proportionally among the lists that received at least five per cent of the valid vote and are allocated to candidates with the largest number of votes on that list.

Many OSCE/ODIHR EET interlocutors noted that the electoral system encourages political parties to form broad alliances, with the winning candidate list tending to enjoy a strong parliamentary majority.<sup>5</sup> All political associations met with by the OSCE/ODIHR EET supported the electoral system as a means to provide an effective parliamentary check on government powers.

### B. LEGAL FRAMEWORK

Parliamentary elections are primarily regulated by the 1962 Constitution (last amended in 2002) and the 1968 Law on National and Local Elections (electoral law, last amended in 2012). The legal framework is supplemented by the Law on the Finances of Election Campaigns and the Law on Associations and Federations of Associations, as well as governmental decrees regulating proxy voting and media campaigning. Overall, the legal framework for parliamentary elections provided an adequate framework for democratic elections, although a few areas would benefit from improvement, particularly in respect of the rights to vote and to be elected without unreasonable restrictions.

The 2002 Constitutional reform lowered the voting age from 21 to 18, abolished a minimum five-year term of citizenship for obtaining voting rights, and modified the electoral system. The electoral law has also undergone a number of substantial changes in the last years. The most recent amendments in 2012 extended the election campaign period from one to two weeks. In 2006, the option of proxy voting was introduced for voters unable to exercise their voting rights on election day because of a disability, professional obligations, or residency abroad. Voters are entitled to grant a proxy vote to a specially designated voter by filing in an application form and sending it to the City Hall. A voter must indicate a clear reason for requesting a proxy vote.<sup>6</sup> While the aim of the law is to enfranchise voters, it challenges the secrecy of the vote as provided for by

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<sup>4</sup> The electoral system was modified in 2002 by increasing the number of parliamentary seats from 18 to 24 and introducing the component of proportional representation.

<sup>5</sup> Since 2002, the winning candidate list has always gained 20 or more of the 24 parliamentary seats.

<sup>6</sup> One voter can receive a maximum of two proxy votes. The deadline for submitting applications for proxy voting was 1 February. There were some 230 applications for proxy voting.

paragraphs 7.3 and 7.4 of the 1990 OSCE Copenhagen Document, as well as other international standards.<sup>7</sup>

*Consideration should be given to exploring alternative voting methods for voters unable to vote in person on election day so as to bring legislation more fully in line with OSCE commitments and other international standards for democratic elections.*

Monaco became a member of the Council of Europe in 2004 and has since signed and ratified a number of Council of Europe treaties, including the Convention for the Protection of Human Rights and Fundamental Freedoms. It has not, however, ratified Protocol I to the Convention, which guarantees the right to regular and free legislative elections. Monaco ratified the UN International Covenant on Civil and Political Rights (ICCPR) in 1997, and signed, but did not ratify, the UN Convention on the Rights of Persons with Disabilities. Monaco ratified the UN Convention on the Elimination of All Forms of Discrimination against Women in 2005.

Although the electoral law does not provide for any gender quotas on the candidate lists, multiple provisions ensure equal rights of men and women within the family and women are fairly well represented in all professions.<sup>8</sup> In addition, the law governing transmission of citizenship was recently amended to provide for equality of treatment between men and women who are Monegasque by birth; both may transfer citizenship acquired by naturalization to their children. Many OSCE/ODIHR EET interlocutors commented favourably on this change.

## V. ELECTION ADMINISTRATION

The administration of elections is centralized, due to Monaco's small territory and population. A two-tiered structure is responsible for the conduct of parliamentary elections, comprising the City Hall and a single polling station, traditionally located in the *Salle du Canton*.

City Hall is responsible for the overall conduct of elections and the mayor takes all decisions related to their preparation. The mayor chairs a working group, comprising city council members and city hall employees, who are responsible for various aspects of logistical preparations of elections. The group has no formal membership and its meetings are not open to electoral contestants, media or observers. In preparation for these elections, the group met three times. There were also several working meetings in smaller, thematic groups such as on voter registration and logistical preparations that were held privately. All key decisions related to the administering of the electoral process were posted on the door of the City Hall and published in the official journal.

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<sup>7</sup> Paragraph 7.3 and 7.4 of the 1990 OSCE Copenhagen Document state that the participating States will: "guarantee universal and equal suffrage to adult citizens" and will "ensure that votes are cast by secret ballot or by equivalent free voting procedure". See also Article 25 of the 1966 International Covenant on Civil and Political Rights (ICCPR), paragraphs 20-22 of the 1996 UN Human Right Committee General Comment on Article 25 of the ICCPR, and Article 3 of the Convention for Protection of Human Rights and Fundamental Freedoms, Protocol 1.

<sup>8</sup> See the Human Rights Council – Universal Periodic Review of the United Nations Human Rights, Office for the High Commissioner for Human Rights, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>.

*Steps could be taken to further enhance the transparency of the City Hall's work, including the announcement and conduct of regular and open meetings.*

The Ministry of Interior supports the City Hall in preparation of elections by providing necessary legal interpretations and advice as well as by ensuring the overall security of the electoral process. The OSCE/ODIHR EET was informed that there was no necessity for any legal clarification during preparations for the 2013 elections.

The electoral law is vague on the establishment of the polling station, as well as on the composition of its commission. The polling and counting is supervised directly by the mayor. In these elections, the mayor was assisted by some 40 poll workers, who were at the same time City Council members or City Hall employees. There was no formal training for poll workers. Poll workers do not have to be citizens. Representatives of electoral contestants are authorized to be present at the polling station to monitor the vote and the counting is open to the general public, thereby enhancing the transparency of election day procedures.

Electoral contestants were financially and logistically responsible for printing ballot papers for their candidate list and delivering them to polling stations for election day. Ballot papers could also be distributed to voters in advance of election day. There is no uniform ballot paper or criteria for producing ballot papers, except for its size. City Hall was responsible for providing envelopes for voters to insert their marked ballots into before they were cast. As a means to deter potential fraud, the colour and format of the envelopes were kept confidential until election day.

Elections were organized in a professional manner. While some of the technical preparations were conducted with a limited level of transparency, the election administration enjoyed widespread confidence and none of the electoral contestants expressed any concerns about the administration of these elections.

## **VI. VOTER REGISTRATION**

While all citizens who are at least 18 years old on election day are eligible to vote, including those permanently residing abroad, extensive restrictions on voting rights exist in law. Citizens deemed mentally incompetent, as well as those in pre-trial detention or with a criminal conviction, irrespective of the gravity of the crime, are denied the right to vote.<sup>9</sup> Denial of the right to vote to those in pre-trial detention is contrary to the principle of the presumption of innocence as enshrined in paragraph 5.19 of the 1990 OSCE Copenhagen Document.<sup>10</sup> The blanket denial of voting rights of citizens with criminal convictions lacks proportionality and is contrary to paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document and other international standards.<sup>11</sup>

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<sup>9</sup> This includes for bankruptcy by a court decision, as well as for minor offences such as drunkenness.

<sup>10</sup> Paragraph 5.19 of the 1990 OSCE Copenhagen Document states that: "everyone will be presumed innocent until proved guilty according to law."

<sup>11</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens," while Paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." Paragraph 14 of the 1996 UN Human Rights Committee General Comment on Article 25 of the ICCPR states that grounds for the deprivation of voting rights should be "objective and reasonable."



The denial of voting rights based on mental disability without an individual court decision is contrary to good practice.<sup>12</sup>

***The blanket withdrawal of voting rights of citizens in pre-trial detention or prison, irrespective of the gravity of the crime committed, should be removed from the law. Consideration should also be given to introduce individual court decisions for any denial of voting rights based on mental disability. Any restrictions on voter rights should be proportional and clearly outlined in the law.***

While Monaco has a population of some 36,000 people, the majority of residents are foreign citizens and only 6,825 voters were eligible to vote in these elections.<sup>13</sup> Voter registration is passive and all citizens reaching voting age are automatically added to the register that is permanently maintained and reviewed by the City Hall. In the event that a voter is taken off the voter register for legally grounded reasons, s/he is notified by the mayor and has the right to appeal this decision. After the voter register is finalized, City Hall mailed voting cards to all registered voters, printed a complete voter list that was available for public scrutiny at the City Hall, and provided an electronic version of the voter list to electoral contestants, as provided by the law. All OSCE/ODIHR EET interlocutors expressed confidence in the accuracy of the voter lists.

## VII. CANDIDATE REGISTRATION

The right to be a candidate is granted to any citizen included in the voter register who has reached 25 years of age and has been a citizen for at least 5 years. The law identifies a broad range of governmental and non-governmental positions as incompatible with candidacy. This includes Crown, state and government advisers, members of the Supreme Court and members of the Royal Family, diplomatic or consular officials, judges, as well as voters who by virtue of dual nationality hold elected office in another country. The requirement of five years of citizenship to stand as a candidate is disproportionate with the principle of equality enshrined in paragraph 7.3 of the 1990 OSCE Copenhagen Document.

***Consideration could be given to guaranteeing all Monegasque citizens, regardless of the length of time that they have held their citizenship, the right to stand and to be elected.***

Legislation does not allow for individual independent candidates, but only for groups of independent candidates, as each list must contain at least 13 candidates. This is not fully in line with paragraph 7.5 of the 1990 OSCE Copenhagen Document, which provides that “participating States will [...] respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”.

***In line with OSCE commitments, legislation should be revised to enable individual candidates to run independently.***

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<sup>12</sup> In *Alajos Kiss v. Hungary*, the European Court of Human Rights concluded that an indiscriminate removal of voting rights, without an individualized judicial evaluation and solely based on a mental disability necessitating partial guardianship cannot be considered compatible with the legitimate grounds for restricting the right to vote.

<sup>13</sup> As of 31 December 2012, the total population of Monaco was 8,389: 3,622 men and 4,767 women.

Candidate registration procedures were inclusive and all nominated candidates were registered. In addition, voters were able to choose from three lists and a total of 72 candidates.<sup>14</sup> Nominations had to be submitted at least 15 days before election day to the City Hall, who checked candidate eligibility and issued a receipt of the registration within 24 hours. A refusal of registration could have been appealed to the court of first instance within 48 hours. The decision of this court is final.

There are no legal requirements to promote women candidates and none of the political associations imposed any internal rules to ensure gender balance in the composition of their lists. Although the open list system provides greater possibilities for women to be elected irrespective of their place on the list, women remain underrepresented with a total of 15 of 72 candidates.<sup>15</sup>

*Consideration could be given to introduce special measures to promote women candidates. This could include a minimum number of candidates from each gender on candidate lists.*

## VIII. ELECTION CAMPAIGN

Campaigning took place in an open atmosphere with equitable conditions overall for the candidates. The campaign was vibrant and competitive, although campaigning tended to be antagonistic and negative in tone. On several occasions, anonymous letters posted from abroad and containing negative campaigning against some candidates were received by voters.

The main forms of campaigning consisted of personal contacts with voters, small gatherings, and leaflets posted to voters. Prior to election day, each list of candidates organized a large rally in a sports hall provided for free by the state. When more than one electoral contestant wished to organize a rally on the same day, the decision was made by drawing lots. Each of the three rallies was attended by some 700 to 1,000 voters, which represents more than 10 per cent of the electorate.

A pre-election period, as defined by the law, started 130 days before election day (3 October 2012 for these elections) and the official campaign started two weeks prior to election day. The law imposes a campaign silence period starting 24 hours before election day. During the official campaign period, posters of all three lists of candidates were displayed at 29 free locations identified by the City Hall. It is forbidden to deface posters or to display them in other locations.<sup>16</sup> The OSCE/ODIHR EET observed several posters of the Renaissance list removed during the last days of the campaign. During the official campaign period, electoral contestants also aired video spots on television and the internet. All three candidate lists used the internet and social networking websites to reach out to voters. There were no face-to-face debates between the main candidates. Although permitted by law, opinion polls were not conducted.

Alliances of political associations ran unified campaigns and their individual names or logos were not visible on campaign materials. In addition, candidates did not run their own individual campaigns

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<sup>14</sup> In 2008, three lists were registered but one did not have the maximum allowed number of candidates.

<sup>15</sup> The UM and HM each nominated seven women candidates, and Renaissance one woman candidate.

<sup>16</sup> According to Articles 31 and 75 of the electoral law, defacing or displaying posters outside the allowed locations can be punishable with up to one year in prison, or in case it was planned and committed by a team of individuals, by 10 to 20 years. The same penalties are foreseen for those organizing electoral meetings on election day or the day before it.

in addition to those run by their alliance, despite the open list system where voters could cast a preference for individual candidates.

According to national legislation, it is prohibited to campaign on behalf of a candidate or a list of candidates without obtaining their agreement. Violations can be punished by imprisonment of up to three years.<sup>17</sup> While authorities could not confirm to the OSCE/ODIHR EET whether a person campaigning for or against a candidate without consent would be prosecuted, such provisions challenge the principle of freedom of expression, as provided by paragraph 9.1 of the 1990 OSCE Copenhagen Document.<sup>18</sup> Also, the European Court of Human Rights has ruled that freedom of expression is violated when third parties are not allowed to spend money in order to express their views. According to the ruling, “it is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely”.<sup>19</sup>

***Consideration should be given to amending the legislation to ensure that everyone has the right to freely impart and receive views and information during the election campaign.***

Campaign topics included international issues such as the relationship with France and the European Union. In the last days of the campaign, the Council of Europe’s Commission for Democracy through Law (Venice Commission) assessment of the role of the National Council became a prominent campaign topic. The Monitoring Committee of the Parliamentary Assembly of the Council of Europe requested the Venice Commission to prepare an opinion on the Constitution of Monaco, notably “on the compatibility with democratic standards of the provisions on the National Council, taking into account Monaco’s peculiarities.” This was considered by many OSCE/ODIHR EET interlocutors as an unwelcome interference into internal governing matters. Both UM and HM stressed the importance of keeping and protecting the current constitutional system.

Issues impacting women voters did not feature in the campaign with the exception of the electoral platform of Renaissance that proposed to legalize *in vitro* fertilization and to decriminalize abortion. No specific measures were in place to encourage women to vote.

## **IX. CAMPAIGN FINANCE**

In 2012, the parliament passed new campaign finance legislation that was applied for the first time during these elections. While the legislation addressed some recommendations of an evaluation report of the Council of Europe’s Group of States against Corruption (GRECO), a number of areas would benefit from further attention.<sup>20</sup> In particular, while electoral contestants are obliged to limit and disclose their campaign expenses, there are no regulations concerning campaign finance contributions.

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<sup>17</sup> Article 28 of the Law on Election Campaign Financing.

<sup>18</sup> Paragraph 9.1 of the 1990 OSCE Copenhagen Document committed OSCE participating States to ensure that “everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards.”

<sup>19</sup> See paragraph 42 of *Bowman v. The United Kingdom*, 24839/94, European Court of Human Rights, 1998.

<sup>20</sup> The GRECO Evaluation Report on Monaco, 20-23 March 2012 is available at:  
[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2011\)5\\_Monaco\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2011)5_Monaco_One_EN.pdf).

Political associations do not receive funding from the state budget. According to OSCE/ODIHR EET interlocutors, the main sources of campaign financing in these elections were candidates' own assets and donations from individuals and legal entities. However, there is no obligation to disclose the source, amount, or type of campaign contribution. Foreign donations are not prohibited and bank loans are not regulated. Donors can also provide goods or services for free or with a discount to electoral contestants.

***Consideration could be given to enhancing the transparency of campaign finance contributions. Disclosure could include the source, amount, and type of contribution. In particular, donations exceeding an agreed amount could be made public.***

Under the new regulations, campaign expenditures for these elections were limited to EUR 400,000 for expenses incurred within the 130 days before the elections. While electoral contestants informed the OSCE/ODIHR EET that they spent higher amounts in previous elections, they agreed that the new limit was sufficient to run an effective campaign.

Campaign expenditures are centrally managed by a representative of the candidate list, who keeps a record of all election-related transactions and prepares a campaign expenditure report that should be submitted within two months of the publication of the final election results. However, there is no standard reporting template and no requirement to keep a special bank account for this purpose.

***Consideration could be given to introducing a standard reporting template for campaign financing and obliging electoral contestants to conduct all campaign-related transactions through a special bank account.***

A temporary Audit Commission is appointed after each election to review campaign expenditure reports, but has no authority to review campaign contributions. The commission is to audit reports and publish a summary of its findings within an additional two months. Voters may request a full version of the reports only within 15 days of the summary being published. Authorities could not confirm to the OSCE/ODIHR EET whether full versions of the reports would be made available after this date or if foreigners and legal entities that donated would have access to the reports.

***Electoral contestants could be obliged to report on their campaign finance contributions as well as their expenditures. All reports could be made publicly available on a permanent basis. In addition, consideration could be given to introducing a pre-election interim report to inform voters of the financing of candidate campaigns, so that voters can take that information into account when deciding for whom to cast their vote.***

Candidate lists that polled at least five per cent of the vote were entitled to receive a reimbursement of campaign expenses up to EUR 80,000. In case of proven irregularities, the court could reduce the amount a list receives. For serious violations of campaign finance laws, candidates could be barred from standing from one to six years, based on a court decision and depending on the gravity of an offence; in these cases, the elections can be annulled and repeated without these candidates.

## X. MEDIA

### A. LEGAL FRAMEWORK

Freedom of expression is guaranteed by the Constitution as well as by a range of regional and international conventions ratified by Monaco including the ICCPR and the Council of Europe Convention for Protection of Human Rights and Fundamental Freedoms. While these rights are generally respected, the penal code prohibits insult and defamation against the royal family, provisions that the media carefully respect.<sup>21</sup>

***Consideration should be given to decriminalizing insult and defamation in order to bring the legal provisions in line with international good practice on freedom of expression.***

While there is no specific legislation regulating the role of the media during elections, on 8 August 2012 a decree was issued to provide guidance for public media coverage of the campaign, highlighting the need for diversity, equality, and objectivity. Under this decree, a Co-ordination Committee was established and tasked with supporting the production and allocation of campaign spots.<sup>22</sup> Each electoral contestant was entitled to an equal amount of free airtime in special blocks broadcast during the official campaign, three times a week at five different periods. The order of appearance of the spots was decided by lottery. Although not prohibited by law, there were no paid campaign advertisements in any media outlet.

The Co-ordination Committee provided all electoral contestants with a television studio and the necessary equipment to record a spot, allowing each of them a maximum of two hours of studio time. Electoral contestants were required to use at least 50 per cent of recordings filmed in studio and a maximum of 50 per cent of previously recorded material, including pictures and footage from campaign meetings. It was prohibited to use the national anthem or images of the Royal Palace, the Palace of Justice, and the national flag. The campaign spots were uploaded on the websites of both Monaco Channel and the government, allowing constant access during the campaign, including for voters living abroad.<sup>23</sup>

The representatives of UM and HM criticized the strict parameters regulating the recording of campaign spots, especially the limited timeframe. Conversely, Renaissance considered such rules a positive deterrent against complex and costly productions. The Co-ordination Committee generally fulfilled its role in facilitating free media coverage for electoral contestants. However, there are currently no mechanisms for the Co-Ordination Committee to receive and act upon complaints regarding media coverage of the campaign.

***Clear procedures could be established to outline how the Co-ordination Committee should receive and act upon possible complaints about unfair or unlawful media coverage during the campaign.***

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<sup>21</sup> The Penal Code provides for six months to five years imprisonment for defamation or insult of royal family.

<sup>22</sup> The committee included three members. It was also assisted by the Director of the Press Centre and the Technical Adviser to the Ministry of State for Communications.

<sup>23</sup> Monaco Channel is an online channel, available at: [www.monacochannel.mc](http://www.monacochannel.mc). The official government website is available at: [www.gouv.mc](http://www.gouv.mc).

While there is no code of ethics, journalists adopt a self-regulation system that proved to be efficient. Media generally informed voters about the voting procedures.

## B. MEDIA ENVIRONMENT

The media landscape in Monaco is limited by the size of its population. While the OSCE/ODIHR EET was informed that the Monegasque media market is independent and pluralistic, media are not required to disclose details on their ownership.

There are two national TV channels: the public broadcaster *Monaco Info* and the private *Téle Monte Carlo (TMC)*.<sup>24</sup> *Monaco Info* is the only public TV channel financed from the state budget. It also offers internet users across the world the opportunity to view news directly from Monaco on a daily basis. Its news and editorial programmes are produced by the Press Centre, the government service attached to the Ministry of State. *Monaco Info* is tasked with broadcasting parliamentary sessions and information on government activities, as well as entertainment programmes. *Téle Monte Carlo* is a general entertainment channel broadcasting a variety of programmes, many of them imported.

In addition, citizens receive several radio channels broadcasting from Monaco and neighboring France and Italy. There is one daily newspaper, as well as one weekly and three monthly magazines that cover national news.<sup>25</sup> The internet is increasingly becoming a key source of information, with a number of news sites available online. Foreign media are widely accessible but their coverage of Monegasque events and political affairs is limited.

*Monaco Info* covered campaign activities using a format strictly regulated by the law. The press reported actively on the campaign, interviewed candidates, and published editorials on election-related issues. Privately owned *Radio Monaco* had planned to organize a debate among representatives of the two main lists, HM and UM, but the leaders of the two lists did not reach an agreement on its format.<sup>26</sup> However, *Radio Monaco* did transmit seven-minute interviews with leaders of the three candidate lists in the last three days of the campaign (one per day). In general, however, the OSCE/ODIHR EET noted a lack of analytical and critical reporting on elections and the campaign.

The antagonistic campaign climate was particularly reflected in the print media. For example, 1,000 copies of the 17 January edition of the French weekly *Petit Niçois* were confiscated before being widely distributed in Nice and Monaco after the Tribunal of Nice condemned the editor (*Edition d'Azur*) for violating the privacy of the HM leader, Mr. Nouvion.<sup>27</sup> The newspaper contained an interview with Mr. Robillon, the outgoing parliamentary speaker and leading UM candidate, and an article with sensitive details on the private life of Mr. Nouvion. Despite attempts by UM to distance itself from the article, this episode coloured the campaign.

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<sup>24</sup> Inaugurated in 1954, TMC is the oldest private channel in Europe.

<sup>25</sup> *Journal de Monaco, Monaco Hebdo, La Gazette de Monaco, L'Observateur de Monaco* and *Monte-Carlo In*.

<sup>26</sup> UM candidate Mr. Robillon proposed to organize a debate among three candidates per list claiming he did not consider himself as the leader of UM as this list was composed by different political associations and civil society. Conversely, HM leader Mr. Nouvion proposed a face-to-face debate between himself and Mr. Robillon.

<sup>27</sup> On the basis of Article 22 of the Civil Code and Article 22 of the Constitution, *Edition d'Azur* was required to withdraw the copies of *Le Petit Niçois* already distributed and deliver to the court the confidential papers it had published in the article. In addition, it was ordered to pay EUR 800 for each day of delay, EUR 4,000 of punitive damages to HM, and EUR 1,200 compensation to Mr. Nouvion.

The campaign was also active on the internet and social networks with all electoral contestants updating their Twitter and Facebook profiles on a daily basis. On 25 January, a negative post published on a blog of a prominent HM representative following an arson attack on the house of the Counselor for Social Affairs and Health, contributed to a deterioration of the campaign atmosphere.<sup>28</sup> Otherwise, the interaction between internet users was somewhat limited except for the last days of campaign and the day after elections.<sup>29</sup>

## **XI. COMPLAINTS AND APPEALS**

The Constitution delegates judicial authority to the courts and tribunals and guarantees the independence of the judiciary. The highest judicial authority is the Supreme Court, which rules upon constitutionality and sits as the highest court of appeals. The complaints and appeals process is regulated by the electoral law, stipulating procedures and timelines for filing a complaint on voter registration, candidate registration, and the election results. Complaints regarding the media regulation and campaign finance are additionally regulated by respective legislation on these issues. The electoral law, however, does not provide explicit procedure and timelines for complaints regarding the election campaign.

*Legal provisions should be introduced to guarantee effective remedy of complaints regarding the election campaign.*

Each voter or electoral contestant has the right to submit a complaint. All grievances can be filed with the court of first instance. Decisions of this court could be appealed to the court of appeals and then referred to the court of revision, as a last instance. Deadlines for adjudicating appeals may last up to one month, which could limit electoral stakeholders' rights to effective remedy. However, the law also provides for the consideration of a case as an "urgent matter" to ensure that disputes are settled before election day. Every voter has the right to contest the validity of elections, but the law does not clearly state the grounds upon which the election results may be annulled.

*The electoral law should clearly specify reasons for annulment of elections.*

There were no complaints or appeals during these elections on any stage of the electoral process. In past elections, there were only a few electoral disputes in 1998 and 2003 regarding the validity of ballots counted as invalid.

## **XII. ELECTION OBSERVATION**

The legal framework does not include legal provisions for citizen and international observation of elections that would permit effective access to all stages of the process. This is not in line with

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<sup>28</sup> Mr. Valeri reportedly filed a complaint with the French authorities, while the Monegasque Government condemned the incident. At the time of reporting, there is no indication whether the arson attack was connected with his political work.

<sup>29</sup> On 8 February 2013, HM published a post alarming that several of its supporters had received anonymous letters sent from France by an unknown Christian group with attacks against Mr. Nouvion that were similar to the *Le Petit Niçois* article. This post was widely commented on by internet users who mostly voiced disapproval.

paragraph 8 of the 1990 OSCE Copenhagen Document.<sup>30</sup> Nonetheless, the OSCE/ODIHR EET was granted full access to all stages of the electoral process and all the authorities involved in election preparations were co-operative and provided information as requested.<sup>31</sup>

***In order to fully comply with Paragraph 8 of the 1990 Copenhagen Document, consideration should be given to amending the election law to explicitly provide full access to all stages of the electoral process to international observers.***

In line with a 2007 government decree, all citizens may submit a request to the City Hall to access the polling station on election day. The OSCE/ODIHR EET was informed that no citizen observer groups had submitted requests to observe the elections. All registered candidate lists had the right to appoint representatives to the polling station and the counting process is open to the general public.

### **XIII. ELECTION DAY**

Election day proceedings in the single polling station were organized professionally and transparently. Election officials worked in a collegial, impartial, and inclusive manner. The polling station was accessible to voters with disabilities but no special arrangements were in place for visually impaired people to guarantee their vote in secret. Due to a large number of voters processed in one polling station (above 5,000), occasional queues and overcrowding were observed.

In line with established practice, the representatives of candidate lists – mostly candidates – campaigned at the entrance of the polling station and gave ballots to voters. It was not possible to enter the polling station without passing between the lines of candidates from all three lists. While this was not considered as election campaigning as defined by the law, such a practice should be carefully implemented to avoid any pressure on voters.

Voters could receive ballots in front of the polling station from candidates or collect them from inside the polling station. However, they were not obliged to take more than one ballot and this could have compromised the secrecy of vote as provided for by paragraph 7.4 of the 1990 OSCE Copenhagen Document.

***Consideration should be given to amending the electoral law to ensure that all voting is conducted in a secret manner. For example, blank ballots could be provided inside polling booths or voters could be required to take more than one ballot.***

The OSCE/ODIHR EET noted a lack of voter education during the campaign and on election day, with no information materials made available to voters at the entrance or inside the polling station. Due to the layout of the polling station, voters often marked their ballot before having any contact with election officials, limiting the possibility to receive advice. In addition, a number of

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<sup>30</sup> Paragraph 8 of the 1990 OSCE Copenhagen Document provides that “the participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other [O]SCE participating State...”

<sup>31</sup> In addition to the OSCE/ODIHR EET, these elections were observed by a six-member delegation of the Parliamentary Assembly of the Council of Europe.



OSCE/ODIHR EET interlocutors expressed concern that the system of voting is quite complex and that voters may not always understand it correctly.

*To enhance voter understanding of procedures, voter information could be made available at the polling location.*

After the closure of polls, ballot boxes were opened by the mayor and envelopes were counted by poll workers. The counting of ballots was conducted simultaneously at 20 tables with four people at each table, usually two public servants (one appointed as a president of the table) and two voters nominated by representatives of candidate lists. The information from each ballot was immediately reflected in special checklists prepared for this purpose. All invalid and contested ballots were transferred to the mayor for his consideration and decision. The counting of votes was conducted transparently and efficiently. The process was widely observed, which considerably increased the level of public confidence in the integrity of the count.

#### **XIV. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties, and civil society with a view to supporting efforts to conduct elections fully in line with OSCE commitments and other international standards for democratic elections. The OSCE/ODIHR stands ready to assist the authorities of Monaco to further improve the electoral process and in following-up on the recommendations contained in this report.

##### **A. PRIORITY RECOMMENDATIONS**

1. In order to fully comply with Paragraph 8 of the 1990 Copenhagen Document, consideration should be given to amending the election law to explicitly provide full access to all stages of the electoral process to international observers.
2. Consideration should be given to exploring alternative voting methods for voters unable to vote in person on election day so as to bring legislation more fully in line with OSCE commitments and other international standards for democratic elections.
3. The blanket withdrawal of voting rights of citizens in pre-trial detention or prison, irrespective of the gravity of the crime committed, should be removed from the law. Consideration should also be given to introduce individual court decisions for any denial of voting rights based on mental disability. Any restrictions on voter rights should be proportional and clearly outlined in the law.
4. Consideration could be given to guaranteeing all Monegasque citizens, regardless of the length of time that they have held their citizenship, the right to stand and to be elected.
5. Steps could be taken to further enhance the transparency of the City Hall's work, including the announcement and conduct of regular and open meetings.

6. In line with OSCE commitments, legislation should be revised to enable individual candidates to run independently.

## **B. OTHER RECOMMENDATIONS**

### **Gender Issues**

7. Consideration could be given to introduce special measures to promote women candidates. This could include a minimum number of candidates from each gender on candidate lists.

### **Campaign and Campaign Finance**

8. Consideration should be given to amending the legislation to ensure that everyone has the right to freely impart and receive views and information during the election campaign.
9. Consideration could be given to enhancing the transparency of campaign finance contributions. Disclosure could include the source, amount, and type of contribution. In particular, donations exceeding an agreed amount could be made public.
10. Consideration could be given to introducing a standard reporting template for campaign financing and obliging electoral contestants to conduct all campaign-related transactions through a special bank account.
11. Electoral contestants could be obliged to report on their campaign finance contributions as well as their expenditures. All reports could be made publicly available on a permanent basis. In addition, consideration could be given to introducing a pre-election interim report to inform voters of the financing of candidate campaigns, so that voters can take that information into account when deciding for whom to cast their vote.

### **Media**

12. Consideration should be given to decriminalizing insult and defamation in order to bring the legal provisions in line with international good practice on freedom of expression.
13. Clear procedures could be established to outline how the Co-ordination Committee should receive and act upon possible complaints about unfair or unlawful media coverage during the campaign.

### **Complaints and Appeals**

14. Legal provisions should be introduced to guarantee effective remedy of complaints regarding the election campaign.
15. The electoral law should clearly specify reasons for annulment of elections.

## **Election Day**

16. Consideration should be given to amending the electoral law to ensure that all voting is conducted in a secret manner. For example, blank ballots could be provided inside polling booths or voters could be required to take more than one ballot.
  
17. To enhance voter understanding of procedures, voter information could be made available at the polling location.

**ANNEX: FINAL RESULTS<sup>32</sup>**

Registered Voters	6,825
Voters Voted	5,088
Turnout	74.55%
Invalid ballots	159
Blank Ballots	63

Seats won in the parliament:

Horizon Monaco: 20 seats  
Union Monegasque: 3 seats  
Renaissance: 1 seat

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<sup>32</sup> Data according to final results published by the City Hall available at:  
<http://www.monaco-mairie.mc/annonces/elections-nationales-2013/les-resultats>.

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).