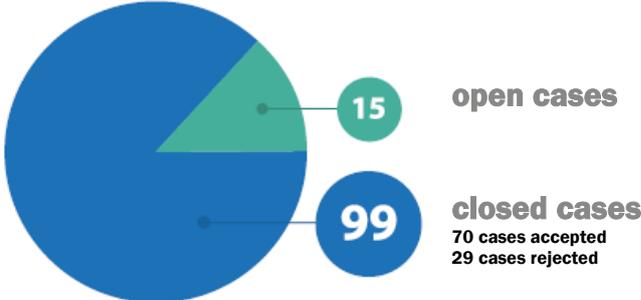


+3%

Number of grievances referred

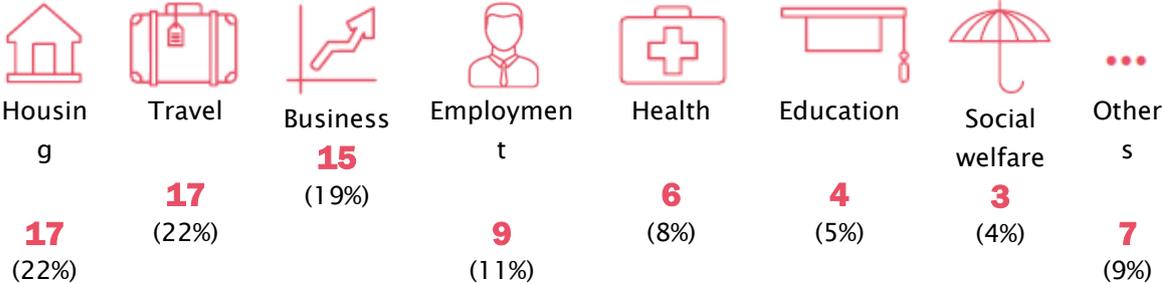
114 CASES HANDLED



85 CASES ACCEPTED

78 (92%) cases concern protection of public service users' rights

7 (8%) cases concern combating discrimination



6 out of 7 cases concern employment discrimination

Case outcomes

70%
of accepted cases were settled amicably

75%
of general recommendations have been (or are being) implemented (12 out of 16)

"As a civil servant, I know how hard it can be to drive change in the public sector. So I'm pleased to see that the Government has taken the High Commissioner's recommendation on board."

"I have a better understanding of the law thanks to the explanations and advice I received. Some laws are impossible for laypeople to understand."

"I was able to state the facts and make my feelings known openly. The team looked at my case objectively and helped me deal with my situation."

"With your help, my case turned out better than I'd expected. The changes made will benefit everyone."

"It's refreshing to have someone in the public service who listens to you here in Monaco. I want to thank Prince Albert II for setting up the High Commissioner to help Monegasque citizens and people of other nationalities."

* Anonymised, verbatim excerpts of testimonials from people who have referred a case to the High Commissioner (translated from the original French)

How to refer a case to the High Commissioner



Using the online referral form

www.hautcommissariat.mc



By post

Les Jardins d'Apolline - Bloc A
1 Promenade Honoré II
98000, Monaco

All cases must be referred to the High Commissioner in writing. In your referral, you must explain your situation and the reasons for your grievance. Please contact the organisation in question to try to resolve the matter yourself before referring it to the High Commissioner.

Referral to the High Commissioner does not affect the statutory appeal deadlines. Where necessary, you will be asked to submit a parallel application for reconsideration or legal appeal to protect your rights.

The High Commissioner provides a free, amicable and confidential service.

For information:



+377 97 77 39 20



contact@hautcommissariat.mc



HIGH COMMISSIONER
FOR THE PROTECTION OF RIGHTS,
LIBERTIES AND FOR MEDIATION
PRINCIPALITY OF MONACO



Annual Report 2015-2016

Executive Summary

HIGH COMMISSIONER

FOR THE PROTECTION OF RIGHTS,
LIBERTIES AND FOR MEDIATION

PRINCIPALITY OF MONACO



Status

The High Commissioner is an independent, public, institutional mediation body created at the behest of H.S.H. Prince Albert II.

It offers a flexible, non-confrontational service to help ensure that Monaco's public services respect people's rights.

Remit

The High Commissioner intervenes in cases referred directly by individuals.

It helps resolve grievances between members of the public and the Monegasque authorities, working to prevent and correct mistakes, injustices, inaction and malfunctions in public service.

Its remit also includes combating all forms of discrimination (in employment, housing and access to goods and services), while respecting the specific features of Monaco's applicable priority schemes.

Values

The High Commissioner fulfils its duties with independence, impartiality, transparency and equity in mind at all times.

It seeks to listen to needs and build close relationships in all aspects of its work. Its staff meet the highest standards of integrity, diligence and empathy.

Powers

The High Commissioner has a graduated range of dispute resolution powers. It favours amicable resolution as the quickest and easiest way to settle a dispute.

Where necessary, it issues individual or general recommendations to address specific problems or suggest changes to the law or practices – all in the common interest.

Examples of cases settled amicably

◀ Recovery of a deposit ▶

Mrs H. contacted the High Commissioner after several unsuccessful attempts to recover a deposit she had paid when signing a lease on an apartment in a state-owned building, despite the final inspection not revealing any particular damage when she vacated the premises. The High Commissioner helped Mrs H. recover her deposit. It also secured assurances from the department in question that, in future, it would refund deposits within a reasonable period once tenants have vacated their apartments, on the basis that the 8-month timeframe in this case was incompatible with the principles of good governance.

◀ Compensation for material loss ▶

During a tourist trip in Monaco, Mr B. was stopped by a police officer and his car was seized to create a roadblock to stop a group of criminals who were trying to escape. The fleeing vehicle collided with his car, causing significant damage. Back in his home country, Mr B. contacted the Monegasque authorities via his consulate in the Principality to recover the repair costs. Despite numerous attempts over a period of several years, his efforts were unsuccessful. The High Commissioner helped establish dialogue between the parties, via the intermediary. Because no specific guarantee fund existed, the Government agreed to compensate Mr B. for the repair work on his car. The High Commissioner also suggested the parties sign a memorandum of understanding setting out the terms of their agreement. The document was signed in the High Commissioner's offices, bringing the case to a close.

◀ Refusal to acknowledge receipt ▶

Estate agent Mr S. contacted the High Commissioner after the authorities repeatedly refused to acknowledge receipt of his declaration of intent to act as a real estate trader. The authorities claimed that it was unable to take the applicant's case any further at this stage because the Government was rethinking its policy around this type of activity. The High Commissioner contacted the authorities on behalf of Mr S., reminding them of their duty to abide by the law and asking that they issue the statutory acknowledgement of receipt as required, pointing out that, as the law currently stands, the authorities are not permitted to assess the feasibility of such applications and to reject declarations issued by Monegasque citizens. Mr S. had attended the correct office, during public opening hours, to submit his application and had been entitled to receive a receipt. The High Commissioner reminded the department that, by refusing to acknowledge his declaration, it was failing to meet its user service duties. Following this intervention, the department quickly issued Mr S. with the receipt to which he was entitled by law. This meant he was formally approved to carry out real estate trading activities and was therefore able to complete the property transaction as planned.

General recommendations issued in 2015-2016

› Progress in public service and good governance

National Housing Aid (ANL)

From 1 January 2017, all income in a foreign currency is converted into euros at the annual spot rate for the year in which it is received (rather than the rate on the date that the case is processed, as was previously the case). This is a fairer and more consistent way to calculate ANL allowances and other means-tested benefits.

Right to Buy (“habitation-capitalisation”) Contract (CHC)

Following the next State Housing Commission meeting, any household that wants to transfer a CHC from their current apartment to a newly allocated home will no longer face the prospect of ongoing rent payments while their new CHC is being drawn up.

Parental leave

Unmarried female civil servants who want to take time off work to raise a child, and who find themselves without benefit cover because they have stopped working and cannot switch to their spouse’s cover, will now retain their eligibility for health and family benefits from the State Medical Benefits Office. This is a special, temporary measure pending implementation of civil service reforms, which are expected to roll out this entitlement to all civil servants.

Management of tenant complaints

The High Commissioner had previously recommended that the State Property Authority set up an internal complaints department to make the case handling process smoother and faster. In 2016, the authority took its first step in this direction by hiring a customer service officer to filter tenant complaints and track cases effectively, working in tandem with property management companies.

Occupation of public space

The authorities are currently looking again at their policy on granting public land occupation permits. The High Commissioner recommended introducing a harmonised contractual framework that better reflects the needs of the business community and gives operators a fairer, more predictable system. In a break with previous practice, the authorities now give advance notice if they intend not to renew temporary occupation agreements, explaining the reasons for their decisions.

Child welfare investigations

In cases where the Public Prosecution Department orders a child welfare investigation after receiving a report, the parents in question will now be notified automatically if the department finds no reason to be concerned about the child’s welfare and does not intend to pursue the case further.

Support for deaf or hearing-impaired people

In 2017, a specialist educator at the Department of Social Welfare and Social Services will undergo intensive sign language training to help improve communication with deaf and hearing-impaired people in their dealings with social services. For each meeting, a set of written minutes will be produced and issued to the relevant parties in the interest of mutual understanding.

› Recommendations implemented or ongoing

Welfare

In the interest of transparency and public information, the High Commissioner recommended that the Social Protection Unit publish statutory texts detailing benefits not yet formally enshrined in law, to give claimants a better understanding of their entitlement. The Ministry of Health and Social Affairs had already begun this work in-house, and is now pursuing the matter further.

Unemployment benefit

Monaco's public institutions are excluded from France's UNEDIC scheme and therefore have to pay unemployment benefits directly to staff affected by involuntary loss of employment. Because the current system operates on unwritten procedures, the High Commissioner recommended formalising and publishing the rules to help staff understand their entitlement. The Princess Grace Hospital Centre and the Monaco Scientific Centre are currently working on this matter.

Education: information for separated parents

The High Commissioner understands that separated parents tend not to talk to each other, and that the parent without usual custody of the child can miss out on information about his or her education. It therefore recommended creating a new best practice guide for Monaco's schools, to improve communication with separated parents and enable both parties to exercise their parental rights and duties. This work is currently ongoing.

Education: accident management

The High Commissioner noticed that schools have a diverse range of accident management procedures, and that both parents and schools are unaware of the insurance mechanisms that apply when an accident happens. It therefore recommended introducing a harmonised accident reporting procedure and informing parents, at the start of the school year, about: (i) the cover offered by the Government's public liability insurance policy, and (ii) the benefits of taking out additional private insurance to cover their children at school. This work is currently ongoing.

Police ethics

Efforts are currently being made to raise awareness about ethics in police training programmes. The High Commissioner also recommended producing a police ethics code to give members of the public greater peace of mind over police conduct and to provide police officers with guidance in specific situations such as conflicts of interest. The Ministry of Interior and the Public Prosecution Department had already begun working on this matter, and the process is ongoing.

Public car parks

There are often long waiting lists for people wishing to obtain a public parking pass. The High Commissioner issued two recommendations to address this problem. First, it suggested expanding the pass allocation criteria – which currently look exclusively at the applicant's status and how long they have been waiting – to make them more personal in nature (age, disability, pregnancy, etc.). Second, it recommended changes to the application form, to allow users to apply for a space in a neighbourhood rather than a specific car park, in order to speed up the application handling process. Monaco Parkings will include these changes in its IT system upgrade work.

› Recommendations rejected

Rent-controlled housing of private tenure

The Government has long had a policy of leasing rent-controlled housing of private tenure at discounted rent levels that fall well below standard indices. However, this provision only applies to new occupants and excludes existing tenants whose property (and initial lease with a private landlord) is taken over by the Government. In such cases, the original rent level stated in the lease continues to apply. The High Commissioner took the view that it was unfair to treat people in new and long-standing Government-owned housing differently, and recommended extending the rent control scheme to those tenants currently exempt from the system (at the very least when they renew their lease). The Government rejected this recommendation, arguing that the fairness principle did not apply to the management of Government-owned property and that there was no reason to extend the preferential rent scheme to all tenants. The High Commissioner maintains that this position is a matter of concern that should be addressed.

Denizens

The High Commissioner is concerned about the severe impact that forced expulsion measures can have on people who have family, employment and emotional ties with the Principality. It therefore recommended creating a new legal system to protect denizens against removal and expulsion for anyone born in Monaco and having spent their lives here, other than in specific and compelling circumstances. The Government rejected its recommendation to pursue this matter at the present time, arguing that it only affected a handful of cases.

Deduction of rent arrears from wages

The High Commissioner recommended that, where the State Property Authority deducts rent arrears from wages with the tenant's consent as part of an agreed debt repayment plan, the amount withheld should not exceed the statutory portion subject to seizure. The Government rejected this recommendation, arguing that the cap on seizures did not apply to deductions agreed by the employee. However, the High Commissioner takes the view that this is an inaccurate interpretation of the law and is questionable on human and social grounds.

Proposals to build better relationships between government and members of the public

Progress on 2014-2015 proposals

In its first annual report, the High Commissioner called on the public sector to take a number of simple steps to make government processes fairer and more transparent, and to improve user information and communication. These recommendations included new internal procedures to acknowledge receipt of written requests and complaints from public service users, and to inform them of the procedures for appealing a negative decision (see Annual Report 2014–2015, p.47 onwards). The High Commissioner regrets the fact that, more than a year after the first report was published, these measures have not yet been put in place, despite the proposals being welcomed by the Government. It therefore calls on the Government to issue a circular to all departments to enforce these measures quickly, thereby giving members of the public a clearer picture of how their case is progressing and enabling them to exercise their rights.

Proposals for 2015-2016

In its second report, the High Commissioner issues a more general call for the Government to develop an “administrative code of practice”, building on the principles and values of public service and setting user quality standards. In its view, this would give civil servants and government officials a better understanding of what “good governance” entails. In the coming year, the High Commissioner will work with the Government to draw up the proposed standards and produce a formal evaluation grid to help it assess the cases it receives, move towards a more objective case examination procedure, and make the process clearer and more transparent for everyone involved.