UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1914
2 March 2009

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-fourth session

SUMMARY RECORD OF THE 1914th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 23 February 2009, at 3 p.m.

Chairperson: Ms. DAH

CONTENTS

GE.09-40748 (E) 260209 020309

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Initial, second and third periodic reports of Turkey (CERD/C/TUR/3)

1. At the invitation of the Chairperson, the members of the delegation of Turkey took places at the Committee table.

2. Mr. GÖĞÜS (Turkey), summarizing and also elaborating on the information given in his delegation's written replies, said that, since 2001, Turkey had pursued a comprehensive and active reform process in order to improve the promotion and protection of human rights. The purpose of the first phase of reform had been to align the domestic legal framework with international principles and standards; the purpose of the second had been to put the new legal framework into practice.

3. During the first phase, the Constitution had been amended on three separate occasions and eight reform packages had been adopted in less than three years. Following the amendment of article 90 of the Constitution in 2004, international agreements on fundamental rights and freedoms prevailed in the event of conflict with the provisions of national laws. Constitutional amendments had been consolidated with the adoption of laws aimed at strengthening democracy, promoting and protecting respect for human rights and fundamental freedoms, and consolidating the rule of law and the independence of the judiciary. The human rights reforms introduced in Turkey had received wide appreciation and support from the international community.

4. His Government's resolve to continue the reform process had been confirmed through: rapid enactment of existing bills and the submission of new bills to parliament; acceleration of the ratification processes for international human rights conventions signed by Turkey; the appointment of an Ombudsman and establishment of an independent national human rights institution. Turkey practised close and constructive cooperation with international human rights bodies, carefully examining all reports and recommendations produced by intergovernmental and non-governmental organizations and giving them due consideration in the reform process.

5. The second phase of the reform process had included training for government officials charged with implementing the new legislation. The introduction of training programmes on human rights issues for all police officers, judges and prosecutors had given rise to a change of attitudes and the programmes had consequently been expanded to include students, civil society and the general public.

6. Turkey had set up national monitoring mechanisms and consulted with representatives of civil society in order to ensure full implementation of the new legislation. A sound human rights regime was promoted through education at all levels in society and a culture of respect for human rights encouraged through bilateral programmes and joint projects with the Council of Europe and the European Union. Turkey had acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 2002.

7. Turkey fully upheld the principle that all human beings were born equal in dignity and rights. Any doctrine or practice of racial superiority was legally and morally unacceptable. Despite the progress achieved in the elimination of institutionalized forms of racial discrimination, the international community still experienced new waves of stereotyping, exclusion and racist violence. Turkey was fully committed to the fight against racial discrimination as defined in the Convention and had accordingly incorporated effective measures into legislation concerning its prohibition.

8. Turkey's Constitution was based on the equality of all individuals, irrespective of language, race, colour, gender, political opinion, philosophical belief, religion, sect or any such consideration. Individuals, families, groups or classes could not be granted any privilege. In Turkey, all individuals were equal before the law, enjoyed the same rights and had the same obligations. Acts of discrimination were prohibited and punished. The Constitution granted the judiciary wide discretion when judging cases of inequality.

9. All Turkish citizens were considered to be an integral part of the national identity and culture. The concept of citizenship, defined in article 66 of the Constitution, did not comprise a reference to ethnic, linguistic or religious origin. A citizen's racial or ethnic background was not taken into consideration, since the common identity of nationhood was defined on the basis of territory rather than blood ties.

10. The Turkish nation was not a collection of communities or groups but of individual citizens, and therefore no official censuses or data collection based on ethnic or linguistic considerations were carried out. Similarly, the Constitution did not distinguish between the rights of Turkish citizens and foreigners. The fundamental rights and freedoms of foreigners could only be limited in accordance with international law. Basic social rights were guaranteed without any reference to citizenship and the principle of equality was enshrined in various laws regulating specific areas of political, social and economic activity. Acts of discrimination were prohibited and punished by law.

11. Turkey had recognized the jurisdiction of the European Court of Human Rights since 1990 and, although it had been the subject of the highest number of judgements, it had not been found to be in violation of article 14 of the European Convention on Human Rights in relation to complaints filed on grounds of racial discrimination.

12. The new Criminal Code, which had entered into force on 1 June 2005, contained several provisions criminalizing acts of discrimination based on race and acts of genocide and crimes against humanity, in accordance with international instruments. The Code also set limits on freedom of expression with a view to preventing incitement to social, racial, religious or regional enmity or hatred. An act would be considered an offence if it was perpetrated in a manner that endangered public safety in practical terms. In giving a verdict in such a case, a judge should explicitly cite the specific elements on which the judgement was based. The delivery of speeches and expression of views could be prohibited if they constituted a "clear and present danger" to society. Some 8,500 judges and public prosecutors had received training in recent years in order to ensure that the new Criminal Code was uniformly applied.

13. As any doctrine or practice of racial superiority was legally and morally unacceptable, the establishment of associations advocating supremacy of a certain race was prohibited. Persons who established prohibited associations or executives of such associations were liable to a minimum of one to three years' imprisonment and a fine. In such cases, the association in question would be closed down.

14. The Civil Code stated that if an association's objectives were not compatible with legislation and public morals, a court could order it to be disbanded. In cases where political parties, associations or organizations had been established or functioned on the basis of ideas or doctrines of superiority of one race or ethnic origin, or attempted to justify or promote racial hatred or discrimination, the necessary action was taken by the authorities in line with the provisions of the relevant legislation.

15. Under the Turkish constitutional system, the word "minorities" encompassed only groups of persons defined and recognized on the basis of multilateral or bilateral instruments to which Turkey was a party. "Minority rights" were regulated in accordance with the Treaty of Lausanne of 1923. According to the Treaty, Turkish citizens belonging to non-Muslim minorities fell within the scope of the term "minority". Turkish legislation contained the term "non-Muslim minority". Turkish citizens belonging to such minorities enjoyed and exercised the same rights and freedoms as the rest of the population. Additionally, they benefited from their minority status in accordance with the Treaty. His Government did not collect, keep or use data on the ethnic composition of the population or on the socio-economic status of members of different ethnic groups.

16. As to the education system, all children who were Turkish citizens, regardless of their gender, religion, ethnic or racial origin or language, had equal rights to education. There were no discriminatory practices against any segment of Turkish society with regard to access to education. Any limitations that existed affecting access to education stemmed from Turkey's socio-economic difficulties as a developing country.

17. The term "minority" was not used to denote Muslim Turkish citizens. All Turkish citizens, whether from a non-Muslim minority or of Kurdish origin, benefited from a unified national education system. Citizens belonging to non-Muslim minorities, including Armenian, Greek and Jewish minorities, had their own primary and secondary schools in which the languages of instruction were the minority languages. Only Turkish language and culture courses were held in Turkish. The curricula of the minority schools included courses to teach minority children their respective mother tongue and culture.

18. Article 42 of the Constitution stated that no language other than Turkish should be taught as the mother tongue to Turkish citizens at any institutions of training or education, and that the provisions of international treaties should be respected. According to resolutions of the Council of Ministers, German, French, English, Spanish, Italian, Japanese, Russian, Chinese and Dutch could be taught in formal education in Turkey, and Arabic and Jewish could be taught in public education facilities. Since 2002, private courses in the different languages and dialects traditionally used by Turkish citizens had been permitted. Following a Ministry of Education

regulation on education in different languages and dialects traditionally used by Turkish citizens in their daily lives issued in 2003, some private schools had opened; however, they had been closed by their owners due to lack of interest and non-attendance.

19. Broadcasting in different languages and dialects traditionally used by Turkish citizens had started with the amendment of the law on broadcasting, and the Radio and Television Supreme Council had issued a regulation on broadcasting in different languages and dialects traditionally used by Turkish citizens in their daily lives by public and private radio and television corporations in 2004. Radio and television broadcasts were conducted in Bosnian, Kirmanchi, Zaza, Circassian and Arabic for a maximum of 60 minutes a day. In order to further facilitate broadcasting in languages and dialects other than Turkish, the law on radio and television had been amended in June 2008 and, as of 1 January 2009, a new multilingual State-run television channel, TRT-6, had started to broadcast in Kurdish, Kirmanchi and Zaza, while broadcasts in the Sorani dialect would follow. Broadcasting in Arabic and Persian was planned for 2009. Preparations were also under way to amend the legal framework to enable the Radio and Television Supreme Council to allow private television and radio companies to broadcast in languages other than Turkish.

20. The property rights of non-Muslim minorities had been strengthened in recent years. Non-Muslim places of worship were administered through their own associations or foundations. The property rights for places of worship remained with the natural or legal persons that had founded them. The law had made advances in respect of the international activities of non-Muslim community foundations, and permitted the receipt of financial and material donations, the registration of property and representation in the Foundation Council.

21. Turkey was on a major migration route, with ever-increasing numbers of illegal immigrants trying to cross its territory. Given the magnitude of the problem, solutions were beyond the means of a single country. Providing shelter, food and medical treatment, as well as bearing the costs of returning high numbers of illegal immigrants, put a heavy financial burden on Turkey's already strained resources. Nearly 700,000 illegal migrants had been apprehended in Turkey within the period 1995-2007; the majority of them had been nationals of Afghanistan, Pakistan, Iraq and Palestine. Of the 9,045 asylum-seekers registered in 2009, 3,555 had been granted refugee status.

22. The children of refugees and asylum-seekers had the same rights as the children of Turkish citizens with regard to compulsory education and were obliged to attend public schools. Governors were tasked with ensuring that primary or secondary school-age children, whose parents were asylum-seekers or refugee applicants, were enrolled in public schools. The Ministry of the Interior issued special identity cards for those children to facilitate their enrolment in educational institutions.

23. Delays were sometimes experienced in processing the cases of illegal immigrants awaiting expulsion due to their lack of valid identity papers and problems relating to verification. Under those circumstances, they resided in centres similar to those existing in other European countries while awaiting deportation.

24. In response to the high numbers of internally displaced persons (IDPs) created since 1984 as a result of terrorism, the Government, which attached great importance to avoiding any discriminatory practices, had initiated measures to encourage families to return to their former places of residence through the "Return to village and rehabilitation project". The project also sought to improve the economic and social conditions of families who did not wish to return and to ease their adjustment to urban life. In response to the judgement of the European Court of Human Rights in the case of Doğan and Others v. Turkey, a law compensating villagers who had been evacuated from their homes for security reasons had been enacted in 2004.

25. As indicated in the reply to question 16 of the list of issues, the domestic mechanism had been applied and some 97,000 compensation applications had been granted. In cooperation with UNDP, the Government had also implemented a project designed to develop an IDP programme, also outlined in the reply to question 16.

26. The situation of Turkish citizens of Roma origin had improved within the framework of the reform process in Turkey, as described in the reply to question 10.

27. In addition to the information provided on human rights education in the replies to questions 5 and 7, he said that extensive human rights training programmes were in place for the police. Over 350,000 police officers and senior officials had participated in human rights education courses between 2000 and 2007. The curricula of the police and gendarmerie training establishments were reviewed in accordance with Council of Europe guidelines, and were designed to raise awareness of the prevention of discrimination. The first year of training for police officers included general courses on human rights and specific courses on the status of minorities.

28. Details of the national human rights monitoring mechanisms had been provided in the reply to question 21. In order to strengthen those mechanisms, efforts were under way to establish a national human rights institution in line with the Paris Principles.

29. Finally, in regard to international activities, Turkey was a co-sponsor of the United Nations Alliance of Civilizations, which had been adopted by a large number of countries. The Group of Friends of the Alliance included some 79 countries and 13 international organizations. Turkey would host the second forum of the Alliance in April 2009 in Istanbul. It was also actively involved in the Organization for Security and Co-operation in Europe in the field of promoting tolerance and non-discrimination.

30. Mr. THORNBERRY, Country Rapporteur, commended the State party for having submitted its written replies (document without a symbol, available in English only) in sufficient time to allow the Committee to study them prior to the meeting. Turkey was a complex and important society, bridging East and West, and North and South. The Committee took note of its significant role in the Alliance of Civilizations.

31. The State party had made two declarations and one reservation to its ratification of the Convention in 2002, including the specification that the Convention was ratified exclusively with

regard to the national territory. While the Committee had not developed particular theory regarding jurisdiction, it had addressed issues of occupied territories in the past, and was always guided by developments in international law. Irrespective of specific arguments concerning the status of the entity in Northern Cyprus, there were still military bases in Cyprus, some of which remained in areas belonging to non-Turkish communities. The Committee would therefore be interested in the ongoing negotiations regarding that territory.

32. While the State party had ratified most of the major United Nations human rights instruments pertinent to the Convention, it had not ratified the UNESCO Convention against Discrimination in Education, ILO Convention No. 107 on Indigenous and Tribal Populations or ILO Convention No. 169 on Indigenous and Tribal Peoples. It would be useful to learn whether the Government had taken a position on the Convention on the Rights of Persons with Disabilities. He noted that, in its ratification of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto, the State party had assumed obligations to provide protection to refugees originating from Europe only, although non-European asylum-seekers could apply for temporary asylum under a 1994 regulation. While he understood that the Government planned to lift that geographic limitation by 2012, there appeared to be no reference to that plan in the relevant government documents. The delegation should therefore comment on plans to lift the limitation. The State party had not ratified the European instruments on minority rights, including the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. He requested confirmation whether the State party had not yet ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which related to discrimination.

33. While he understood that the Treaty of Lausanne of 1923 applied in practice to Armenians, Greeks and Jews, in view of the lack of definition of the term “non-Muslim” he asked how the State party had defined such a narrow scope. It would be interesting to have additional information on exactly which groups the Treaty encompassed and which it excluded. The State party did not recognize many minority groups, or at least act on any such recognition; hence its reservations to article 27 of the International Covenant on Civil and Political Rights and article 30 of the Convention on the Rights of the Child. However, according to a long-established principle of international law, the existence of minorities was a question of fact, not of law, thus giving the term “minority” an autonomous meaning. International supervisory bodies acted on that meaning, even in the absence of a definition of the term “minority” in domestic legislation. Indeed, it was a significantly broader meaning than that established in the Treaty of Lausanne. The need to respect that principle of international law had been elucidated in the Committee’s general recommendations VIII and XXIV. The State party should pay particular heed to paragraph 3 of the latter recommendation in that respect.

34. In the light of the written reply to questions 1 and 8 of the list of issues, it would be useful to have the delegation’s comments on the lack of a specific reference to ethnicity or ethnic origin in the Constitution, and its implications.

35. While several groups, such as Kurds, made up a significant proportion of the population, they appeared not to be adequately accounted for in Turkish data. Qualitative or quantitative

disaggregated data were necessary in order to target discrimination, as it was only by measuring the extent of the problem that efforts could be focused efficiently. One approach, while not perfect, was to register the numbers of language-speakers. He asked whether the State party had abandoned its practice of collecting data on language-speakers.

36. In the light of the State party's emphasis on equality, non-discrimination and unity, he recalled that the Committee's approach to equality was not one of uniformity of treatment irrespective of circumstances. Non-discrimination and equality were nuanced terms; it rarely sufficed to articulate a programme of formal equality before the law. The Committee looked beyond de jure equality, taking circumstances including ethnic and related characteristics into account, in order to examine de facto equality. He suggested that the State party should maintain the flexible approach to the republican principles that it had taken in recent years, as demonstrated by the adjustments it had made in the various harmonization packages (report, para. 79). Adjustment in the field of ethnicity and non-discrimination could be an important aspect in the modernization of the State party. Indeed, it could be a solution to resolving, rather than aggravating, some difficult issues.

37. Turning to article 1 of the Convention, he requested additional information on special measures. While some domestic legislation made reference to combating racial discrimination, there appeared to be no definition of that term that was in conformity with article 1 of the Convention. It would be useful to know whether the State party had considered introducing specific legislation to remedy that situation.

38. The Committee would appreciate further details of the reasons for the current impasse with regard to the appointment of an Ombudsman.

39. He asked whether any provision had been introduced for reversal of the burden of proof in discrimination cases, apart from that already established in the Labour Law.

40. In the light of reports detailing the poor conditions affecting the minority groups specified under the Treaty of Lausanne, particularly in terms of property, representation and financial problems, he asked whether the Government planned to take measures to improve the levels of protection of those groups.

41. With reference to article 2 of the Convention, it would be useful to have additional data on the effectiveness of the existing anti-discrimination provisions. He asked whether the full range of appropriate legal instruments was in place. He enquired whether there was a general policy aimed towards the elimination of racial discrimination, or whether it consisted of limited interventions in some areas. In that regard, he recalled that article 2 made reference to acts of the State administration and to those of persons, groups of persons and institutions.

42. Turning to article 3, and taking note of Turkey's stated opposition to segregation or apartheid, he stressed that racial discrimination could manifest itself in many fields, for example, access to health or education, and he referred the delegation to the Committee's general recommendation XIX in that regard. As to article 4, he expressed concern that article 216 (1) of

the Criminal Code prohibited incitement of hatred in a manner that constituted a danger to public order and wondered how that provision was interpreted. He wondered if ethnic origin was included in the term "race" and whether the Code's provisions were sufficiently broad to prevent discrimination against regional and religious groups.

43. It was regrettable that the Criminal Code still did not contain a specific provision prohibiting racial discrimination and that the definition of discrimination in the Code was narrower than that contained in the Convention. The situation regarding public statements of a racist nature seemed to amount to a patchwork of provisions: Law No. 3984 on the Establishment of Radio and Television Enterprises and their Broadcasts prohibited the incitement of racial hatred yet Law No. 5187 on the press did not. He wondered whether the authorities prosecuted anti-minority broadcasts and statements pursuant to article 216 of the Criminal Code with the same vigour with which they prosecuted insulting Turkish identity.

44. With regard to article 5, which was very wide-ranging, he wondered whether enough was being done to give ethnic minorities the skills (e.g. proficiency in the Turkish language) to succeed in society and to provide them with the resources needed to preserve their culture and language. While minorities had the right to operate private schools, such schools were expensive; it was important that the public school system offer programmes to meet the cultural and linguistic needs of minorities. He regretted the lack of disaggregated statistics on access to education, which might reveal disparities in literacy rates among regions and ethnic groups.

45. He expressed concern at the high dropout rates among Roma children, and also the dropout rate for girls, in spite of the State party's efforts to encourage girls to attend school. He requested clarification on the situation of minorities under the Treaty of Lausanne with regard to the public education system and wondered whether non-Muslim minorities received adequate public funding for the teaching of their languages. He enquired whether Law No. 5580 on Private Educational Institutions applied to children of religious minorities and whether those children could enrol only in schools intended for their community.

46. In the context of article 6, he noted that there was still no equality body to ensure equal enjoyment of human rights by all and wondered whether there were sufficient remedies to address the problem of racial discrimination under domestic law, to what extent legal aid was available in cases involving racial discrimination and whether the State party's institutional mechanisms were adequate in relation to the scale of the problem. As to article 7, he welcomed the State party's efforts to increase awareness of human rights issues but said there should be more specific focus on the provisions of the Convention.

47. Urban development projects must not have a disruptive effect on ethnic groups, who should participate in decision-taking, approve relevant projects and be compensated for any negative effects resulting from them. Norms relating to the urban environment, housing, etc. should not contain any disparaging references to specific groups; the notion of public interest did not mean that the majority could deny the rights of the minority.

48. Mr. AVTONOMOV, referring to the State party's declaration that it would implement the provisions of the Convention only with respect to the States parties with which it had diplomatic

relations, stressed that the terms of the Convention were binding and wondered whether it would refuse to address cases of racial discrimination involving citizens of such States. He welcomed the removal of discriminatory connotations from the definition of "gypsy" but, drawing the attention of the delegation to the Committee's general recommendation XXVII on discrimination against Roma, requested further information on policies relating to the Roma. He also requested information on any measures adopted to enable non-Treaty of Lausanne minorities, for example the Kurds, to preserve their culture and language and in particular their right to education in their language.

49. Mr. SICILIANOS said that while significant progress had been made in strengthening the legal framework for the prevention of racial discrimination, the State party should adopt comprehensive legislation prohibiting racial discrimination. More must likewise be done to prevent racial discrimination in practice. For example, the institutions of non-Treaty of Lausanne religious minorities were denied legal personality, which caused them problems with regard to administrative matters, property rights and training activities. He had information, for example, that the Roma orthodox seminary had been closed, which posed problems for the selection of a new patriarch. The new Law on Foundations 2008 did not address all minority religious-group property issues and he requested further information in that regard and on the role and authority of the General Directorate for Foundations. Recalling the decisions of the European Court of Human Rights involving property rights in such cases as Fener Rum Erkek Lisesi Vakfi v. Turkey (January 2007) and Fener Rum Patrikliği (ecumenical Patriarchate) v. Turkey (July 2008), he enquired when the Court's decisions would be implemented.

50. He expressed concern that non-Muslim minorities faced problems in the area of education, for example with regard to teacher training and availability of textbooks. He was also concerned at reports of violations of the rights of the Kurdish minority: persecution of political leaders, closure of associations, limits on freedom of expression, and ban on names containing the letters q, w or x, which did not exist in Turkish. Attacks and threats against non-Muslim minorities, for example the killing of the Armenian-minority journalist Hrant Dink and an attack on the Greek journalist Andreas Rompopoulos, continued. In that context he requested information on the role and authority of the Minority Issues Assessment Board.

51. The right to freedom of association was not respected in the case of minorities and their role in public life was limited. Parties and associations promoting minority rights were frequently closed. Article 216 of the Criminal Code was often used against such groups and other human rights defenders. He asked what the State party was doing to implement the recommendations of the Special Representative of the Secretary-General on the situation of human rights defenders (E/CN.4/2005/101/Add.3).

52. He requested more information on the situation of the Roma minority, inter alia with regard to access to employment, education and housing and harassment of itinerant groups, and on the situation of refugees. He expressed concern at reports of the deportation or forcible return of persons recognized as refugees or asylum-seekers by UNHCR and stressed the importance of the principle of "non-refoulement". With regard to the State party's declaration that the Convention applied exclusively to the national territory where the Constitution and legal and administrative order of Turkey were applied, he expressed concern about Northern Cyprus, which was under Turkish military occupation. He recalled that it was the position of the

Committee, as well as the International Court of Justice, for example, that the Convention was applicable in occupied territories. He wondered whether the State party would consider revisiting its declaration in that respect.

53. Mr. DIACONU said that while some progress had been made, more must be done to bring legislation into conformity with the Convention and create appropriate institutions with a view to full implementation of the Convention in practice. The State party must adopt legislation specifically prohibiting racial discrimination, in accordance with article 2 (1) (d) of the Convention. While it distinguished between Muslim and non-Muslim minorities on the basis of the Treaty of Lausanne, that Treaty was in fact outdated. The Convention was concerned with discrimination based on race, colour, descent or ethnic origin. It was incumbent on the State party to adopt legislation prohibiting discrimination on those grounds.

54. With regard to article 4 of the Convention, he welcomed the fact that Turkish legislation prevented the incitement of racial discrimination by organizations, but said that it was also important to prohibit racist actions by individuals. While articles 3 and 122 of the Criminal Code prohibited discrimination, they must be implemented by prosecutors and the courts, and should likewise be amended to include discrimination based on national origin and ethnicity, and the scope of article 122 should be expanded to include discrimination in the areas of culture and education.

55. The Committee was interested in the situation of all minority groups, whether Muslim or non-Muslim, and he regretted the lack of disaggregated statistical data relating to such groups. Even if, like other countries, Turkey did not officially gather data on ethnic groups, such information should be available in the context of social research, for example. Despite the report's assertion to the contrary (para. 73), the Committee had received extensive information on discrimination against the Roma, as well as against the Kurdish minority. There had been numerous decisions of the European Court of Human Rights in that regard and he would welcome information on follow-up of those decisions by the State party. While there were representatives of minorities in parliament and local government, incitement to racial hatred, for example on television, seemed to go unpunished. He requested the delegation to provide information on that point. He also requested the delegation to explain why the Constitutional Court had found the Ombudsman Law to be in violation of the Constitution.

56. Mr. PROSPER said he hoped that further work would be carried out on anti-discrimination legislation, and that the State party would consider updating its current legislative and constitutional framework for minority rights, which dated from 1923. He would welcome information on any reforms being considered. Particular attention should be paid to the definitions used; in that connection, he would appreciate clarification of the term "non-Muslim", particularly as it applied to Kurds, in view of the apparent focus on religious rather than ethnic or cultural considerations. While a person's religion could change, their ethnic and cultural background did not. It was necessary to provide specific protection for the rights and cultural practices of ethnic groups in order to guarantee their equality.

57. Mr. de GOUTTES welcomed the existence in the State party of criminal legislation to combat racial discrimination, but said that insufficient information had been provided on how the legislation was applied in practice. For example, no statistics had been provided on complaints of

racial discrimination, and how such complaints had been dealt with. The absence of complaints was not necessarily a positive indication. He welcomed the State party's work in the Alliance of Civilizations Initiative and said that he would appreciate information on the results achieved so far. It would also be useful to have more information on the criminalization and punishment of "honour crimes".

58. Noting that collection of personal data relating to racial origin constituted an offence, he asked whether there had been any prosecutions in that connection. The lack of official censuses or data collection covering ethnic origin or language used was to be regretted. Noting that freedom of thought and opinion was protected under article 25 of the Constitution, he said that he would welcome information from the State party on reports received of restrictions on freedom of expression regarding sensitive issues such as Kurdish identity or the Armenian genocide, and on prosecutions under article 301 of the Criminal Code for denigration of Turkish identity. In the light of paragraph 127 of the report, which described the secular system of the State party, freedom of religious belief, multi-faith tolerance and cultural pluralism, he asked whether children of Turkish nationals belonging to non-Muslim minorities could attend regular State schools, or whether they were obliged to enrol in private "minority schools".

59. The State party had said in paragraph 26 of the report that no violation of article 14 of the European Convention on Human Rights had been found by the European Court of Human Rights against Turkey on the grounds of racial discrimination. However, reports had been received of the Court's rulings against Turkey for violations of other articles of that Convention, where the victims were of Kurdish origin and where the violated rights related to their ethnic origin. He would be grateful for information on that matter.

60. He requested additional information on practical examples of complaints of racial discrimination examined by the Human Rights Presidency, Human Rights Boards and Human Rights Inquiry Commission to supplement the written reply to question 21 of the list of issues. He would also like to know why the Constitutional Court had declared the Ombudsman Law to be unconstitutional, as indicated in the written reply to question 23.

61. Mr. PETER welcomed the positive steps described in the delegation's statement, such as the amendment to article 90 of the Constitution, whereby international agreements had primacy over national legislation in the area of fundamental rights and freedoms, and the human rights training given to members of the judiciary. More information was required in several areas, however; for example, it was necessary to know the exact numbers of non-Muslim minorities in order to be able to ensure their protection. In his view, the geographical limitation declared by Turkey in its ratification of the 1951 Convention relating to the Status of Refugees and the Protocol thereto, as a result of which Europeans were considered to be refugees and persons of other nationalities were considered illegal immigrants, amounted to racial discrimination. He would be interested to know the reasons for that differential treatment.

62. In its statement, the delegation had linked the issue of internally displaced persons to that of terrorism. He would be grateful for clarification of what was meant by "terrorism", and whether the term extended to groups fighting for self-determination. He had been interested to note the criminalization of honour killings and the establishment of a commission for their

investigation, as described in paragraphs 60 and 61 of the report. However, given that the concept of honour killings was socially and culturally entrenched, punitive measures were perhaps insufficient to bring about a change in attitudes, and he asked if other types of measures were being taken to raise social awareness of the problem.

63. Mr. LINDGREN ALVES noted that most of the criticism being directed at Turkey came from European Committee members, and wondered if that was linked to the fact that Turkey was a candidate for membership of the European Union. His country, Brazil, was similar to Turkey in that its population was based on diversity. He therefore understood Turkey's statement that every Turkish citizen was considered an integral part of the Turkish national identity and culture, and also its position with regard to minorities. His perspective was not a European one, but one of the Alliance of Civilizations.

64. While it was true that there was insufficient legislation in some of the areas of concern to the Committee, the report contained information on an important, modern body of law that reflected a fully democratic, secular State with effective institutions and exceptionally firm measures to enhance the status of women. Turkey's broad definition of equality in its Constitution, where "philosophical belief, religion and sect" were included as possible grounds of discrimination, was to be commended. While "ethnic origin" was not specifically mentioned in that definition, in his view it was covered by the ground of "race". The definition of discrimination contained in the Criminal Code was even more comprehensive.

65. He asked whether it was true that the Constitutional Court had recently rejected as unconstitutional draft legislation approved in parliament that would have enabled female university students to wear the veil. If it were true, that would provide evidence of the independence of the judiciary in Turkey. He would be interested to know whether in its work with the European Commission against Racism and Intolerance Turkey had been criticized for not defining or not recognizing specifically as minorities all the national groups that existed within its territory.

66. Mr. AMIR said that he shared the views expressed by Mr. Lindgren Alves. Referring to article 5 (d) (ii) of the Convention concerning the enjoyment of the civil right to leave any country, including one's own, and to return to one's country, he requested clarification of the inclusion of 2,192 "illegal immigrants" of Turkish origin in the table of illegal immigrants apprehended in 2008, disaggregated by nationality, which was appended to the written replies.

67. Mr. LAHIRI welcomed the far-reaching constitutional and legislative reform brought about since 2001 in Turkey, which was a modern, secular State. He joined other members in questioning how Turkey's refusal to collect quantitative or qualitative data on ethnic minorities was compatible with its obligations under the Convention. There were certain discrepancies that could not be addressed, or eliminated, without a census of the ethnic composition of the population and the socio-economic status of members of different ethnic groups. Estimates of the Kurdish population, for example, varied between 4 per cent of the total population and the Kurds' own estimate of 25 per cent, and figures available to the Committee showed that there was economic deprivation in south-east and eastern Turkey, regions inhabited by Kurds. He did not agree that collection of such data would be incompatible with the Constitution.

The meeting rose at 6.05 p.m.