



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**  
**Seventy-fourth session**

**Summary record of the 1915th meeting**

Held at the Palais Wilson, Geneva, on Tuesday, 24 February 2009, at 10 a.m.

*Chairperson:* Ms. Dah

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** (*continued*)

*Initial and second and third periodic reports of Turkey (CERD/C/TUR/3; HRI/CORE/TUR/2007; list of issues to be taken up and written replies to the list of issues – documents without a symbol, distributed in the meeting room in English only)* (*continued*)

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

2. **Mr. Kemal** said he well understood that Turkey cherished the principle of the indivisibility of its territory and welcomed the fact that Turkey, as a secular State, served as a bridge both between Asia and Europe and between Islam and the West.

3. On the issue of cultural identity, he asked the Turkish delegation whether the authorities might consider allocating more resources to promoting the cultural and linguistic identity of minorities, as defined in the Lausanne Peace Treaty.

4. **Mr. Göğüş** (Turkey) said he was puzzled that almost all the observations made by the Committee members during the previous meeting had dealt with the concept of national minorities and in particular that the suggestion had been made that his country should modify the definition of minorities expressed in the Lausanne Peace Treaty, as certain Committee members considered that definition to be “outdated”. He reminded the Committee that, in Turkey, minority rights were governed by the Lausanne Peace Treaty of 1923, according to which Turkish citizens belonging to non-Muslim minorities were included in the definition of “minorities”. Articles 37 to 45 of the Lausanne Peace Treaty were the basis of Turkish legislation dealing with the rights and obligations of persons belonging to non-Muslim minorities; they were considered as fundamental texts of Turkish domestic law. He drew the Committee’s attention to the fact that, in accordance with the State’s philosophy by which all citizens were equal without discrimination, Turkish citizens belonging to non-Muslim minorities enjoyed exactly the same rights and liberties as the rest of the population and exercised those rights under the same conditions.

5. The fact that some persons claimed to belong to a minority did not establish the existence of a minority group and did not oblige States to officially recognize a group as a minority. There was no internationally accepted definition of the term “minority”, and Turkey did not adhere to the “self-identification” approach advocating the granting of minority status to a group on the basis of the purely subjective perceptions or feelings of its members. Every State had the sovereign right to decide which groups of citizens it viewed as constituting minorities.

6. Turkey was not the only country that had not signed the Council of Europe’s Framework Convention for the Protection of National Minorities; three other European States had also not signed, and four others had signed but not yet ratified. Also, several European States that had signed the Convention had recorded their position that the recognition of national minorities was the exclusive right of sovereign States. Nevertheless, Turkey respected the human rights of all individuals, and all its citizens, whatever their ethnic origin, enjoyed the right to participate on an equal footing in the economic, social, cultural and political life of the country.

7. Regarding the observations that there was no definition of discrimination in Turkish legislation, he noted that Turkey had ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 2002, and that the Convention had come into effect that same year. Since article 90 of the Turkish Constitution stated that international agreements duly put into effect had the force of law in Turkey, the Convention formed part of domestic law. Accordingly, Turkey did have a definition of racial

discrimination, as laid down in article 1 of the Convention, which was binding for all State authorities.

8. While there was no specific act prohibiting racial discrimination in Turkey, several laws and regulations did expressly proscribe it. Article 10 of the Constitution stated that all individuals were equal before the law, irrespective of language, race, colour, gender, political opinion, philosophical belief or religion. The new Turkish Criminal Code, which had entered into force on 1 June 2005, made discrimination a criminal offence and penalized acts of discrimination on the basis of race, language, religion, nationality, colour, gender, political or other opinion, philosophical belief, national or social background, birth, and economic or social status. Article 122 of the Criminal Code also stipulated that a person practising discrimination on grounds of language, race, colour, gender, disability, political opinion, philosophical belief, religion, membership of a sect or similar reasons and who prevented the execution of a service, prevented others from benefiting from a service, employed or did not employ a person on the aforementioned grounds, or prevented a person from undertaking a regular economic activity, would be sentenced to six months' to one year's imprisonment or a judicial fine.

9. Courts in Turkey were increasingly making reference in their rulings to the numerous international human rights treaties signed by Turkey in the past decade.

10. He responded to questions about the meaning of the term "Turk" in article 66 of the Constitution, which stated that everyone bound to the Turkish State through the bond of citizenship was a Turk. The Constitution did not add any racial or ethnic connotation to the term "Turk", and the term was a reflection of the national identity of all Turkish citizens, irrespective of their origins. The idea expressed in article 66 of the Constitution illustrated the fundamental principles of the Republic of Turkey, which did not make any distinction among its citizens on the basis of ethnic origin, religion or race. No legal importance was attached to the racial or ethnic origin of a citizen, given that, when the Republic of Turkey had been founded, the Turkish national identity and national conscience had been defined according to territorial criteria and not on the basis of blood kinship.

11. An amendment to article 301 of the Turkish Criminal Code had been submitted to Parliament in May 2008, involving replacement of the term "Turkishness" by "Turkish nation". The Government took the view that that wording better reflected the notion of national unity. The amendment had entered into force in May 2008.

12. Regarding the lack of statistical data on the ethnic composition of the Turkish population, he said that article 135 of the Criminal Code prohibited the collection and use of personal data, except for purposes of banking, insurance, health care or scientific research. While disaggregated data on ethnicity could indeed be useful in devising special measures for disadvantaged groups, the Turkish Government was of the view that, in a multicultural society such as Turkey, the focus should be on commonalities rather than particularism. Furthermore, since ethnic identity was a sensitive issue, collecting data on ethnicity could be perceived as interfering with the right to privacy. Statistical data were available, however, based on nationality or country of origin of persons living in Turkey.

13. Socio-economic disparities among different regions in Turkey had led the Government to devise targeted regional development strategies to guarantee the economic and social rights of the inhabitants of underdeveloped regions. One of the major initiatives to that effect was the South-Eastern Anatolia Project, known as GAP (Güneydogu Anadolu Projesi). The project was designed to develop the area's hydroelectric potential, promote economic and social development in the region, improve living standards, encourage economic growth, and enhance employment opportunities. The multisector project envisaged the construction of 22 dams and 19 hydroelectric power plants and the irrigation of 1.7 million hectares of land. It was also aimed at the development of infrastructure,

transportation, industry, health, education and tourism. Its total cost was estimated at US\$ 32 billion. To date, 56.4 per cent of that amount had been allocated to the project; cash investment had been 83 per cent in energy-generation projects and 24.5 per cent in agricultural projects.

14. In May 2008, the Turkish Prime Minister, Mr. Erdoğan, had announced an ambitious new Action Plan under the South-Eastern Anatolia Project for the 2008–2012 period, which aimed to bridge the gap in the level of development between the south-east and other parts of Turkey. The Government had earmarked €500 million for the plan and had made great strides since its launch. The greatest obstacle to socio-economic development in the region, however, was terrorism.

15. On the creation of an independent body to follow up on the Committee's concluding observations, he indicated that the Government had taken steps to create a national human rights institution in line with the Paris Principles. That institution would have the competence to promote and protect human rights and to ensure follow-up on treaty bodies' concluding observations. The Government was determined to create an Ombudsman institution, but it could only do so once the Constitutional Court had pronounced on the issue of separation of powers between the executive and legislative organs. The Government also envisaged establishing an Equality Commission under either the Ombudsman or the national human rights institution. Turkey had not received any recommendation from the European Commission against Racism and Intolerance (ECRI) to change its understanding of national minorities.

16. On the Greek Orthodox minority and the issue of religious schools, he confirmed that the theological school in Heybeliada had been closed since 1971 following a court ruling interpreting the provisions of the Constitution and the legislation on private education. According to Turkish legislation, religious schools were authorized only under the supervision of the State. That restriction applied not only to the Greek Orthodox community but to all other religious minorities in Turkey. The two proposals made in 1971 and 1999 to overcome the legal obstacles impeding the reopening of the Heybeliada seminary had been rejected by the Patriarchate. A proposal to reopen the school under the aegis of one of the State universities in Istanbul had not evoked any reaction to date. The Ministry of National Education was nevertheless still searching for a workable solution for the reopening of the school.

17. In accordance with the Lausanne Peace Treaty of 1923, the Patriarchate had been allowed to continue to reside in Istanbul on condition that it engaged only in strictly religious activities for the Greek Orthodox minority there. The Patriarchate had been obliged to give up all its political and administrative privileges granted by the Ottoman authorities. That condition had been essential, in view of the secular nature of the Republic of Turkey. That secular character was the reason why religious communities could not acquire legal personality, which was true for Muslim communities as well. Non-Muslim communities enjoyed their legal personality through their foundations. Following amendments made to the relevant legislation in 2002, the Greek Orthodox community foundations had lodged applications resulting in the registration of 190 properties in their names. An amendment in 2003 had abolished certain limitations on non-Muslim community foundations, giving them the right to acquire new real estate. It was not true that the number of properties held by non-Muslim minorities was in decline. In fact, in the last six months, 128 properties had been registered in the name of a non-Muslim religious foundation.

18. Regarding the case *Fener Rum Patrikliği (Ecumenical Patriarchate) v. Turkey*, in which the European Court of Human Rights had ruled that Turkey had violated article 1 of Protocol 1 (Protection of property) of the European Convention on Human Rights, he said

that the Turkish authorities were currently working on their response, which was required to be submitted to the Court by April 2009.

19. On the status of Roma in Turkey, he said that there were 931 Social Solidarity Foundations in the country, through which the local administrations of provinces inhabited by Turkish citizens of Roma origin provided financial support for families, education support, scholarships and housing assistance for students, among other services. The Ministry of Culture and Tourism carried out various cultural events to preserve and promote Roma music and folklore.

20. Regarding Turkish citizens of Kurdish origin and the comment that Kurdish politicians faced persecution in Turkey, he said that Turkish citizens of Kurdish origin who abided by the laws did not face persecution and that no particular group or individual was targeted on account of ethnic origin. The European Court of Human Rights had not found in any of its judgements that Kurds were discriminated against in Turkey. On the issue of registering children with names including letters that did not exist in the Turkish alphabet, a case concerning that issue was currently pending before the European Court of Human Rights, and the Turkish authorities were waiting for the Court's ruling before taking measures.

21. He noted that several Committee members had raised the issue of racially motivated violence. Regarding the murder of Hrant Dink, a Turkish journalist of Armenian origin, the alleged perpetrators of the crime had been arrested within 36 hours after the incident, an investigation had immediately been launched, and the legal process was ongoing. Although racial motivation was not an aggravating circumstance according to Turkish legislation, the crime in question had been held by the courts to constitute an act of premeditated murder, which was punishable by life imprisonment under article 82 of the Turkish Criminal Code. Such incidents received a prompt and diligent response from the relevant authorities, and all possible measures were taken to bring those responsible to justice. In a circular issued in June 2007, the Ministry of the Interior had instructed all relevant authorities to pay utmost attention in order to prevent a recurrence of similar incidents.

22. In 2005, in the context of Turkey's process of accession to the European Union, the Government had announced its intention to lift its geographical limitation to the 1951 Convention relating to the Status of Refugees. The limitation would probably be lifted in 2012 under the European Union entry procedure.

23. Elimination of violence against women was a high-priority issue in the Government's national human rights agenda, and combating violence against women was an integral part of the National Development Plan 2007–2013. With the adoption of the new Criminal Code, which had entered into force in 2005, penal provisions on murders committed against women in the name of custom had been introduced into domestic law. Article 82 of the Code now treated the fact that a killing had been performed in the name of custom as an aggravating circumstance, and such a killing carried a sentence of life imprisonment.

24. In July 2005, a parliamentary inquiry commission had published a comprehensive report on the root causes of violence against women and children in Turkey. The Government had fully endorsed the report and had acted on its recommendations in July 2006 by issuing a circular establishing a road map for preventing and eliminating violence against women, including honour and custom-related killings. The General Directorate on the Status of Women had been designated as the national coordinator for the implementation of the circular, and many concerted actions were under way. In 2004, an awareness campaign on violence against women had been initiated under a long-term programme implemented by the State Ministry for Women and Family Affairs and the United Nations Population Fund (UNFPA).

25. A monitoring committee for violence against women had been established by the General Directorate on the Status of Women with the participation of representatives of non-governmental organizations and all relevant public services. The committee was responsible for verifying that the aforementioned circular was being effectively implemented. In 2008, the Minister of State for Women and Family Affairs had submitted a draft bill to Parliament that would establish an Equal Opportunities Commission, and Parliament was currently deliberating on the bill.

26. In the circular of July 2006, the Government had encouraged local authorities to speed up their efforts to implement the law requiring all municipalities with a population of more than 50,000 people to establish protective shelters for women and children who were victims of domestic violence. As of January 2009, there had been 49 shelters of that kind in operation.

27. Turkey had ratified both the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and the Special Rapporteur on violence against women, its causes and consequences, Ms. Yakin Ertürk, had visited the country twice, in May 2006 and in 2008. Some of the recommendations in the Special Rapporteur's report had already been implemented.

28. He was dismayed by the comparison made by certain Committee members between the situation in northern Cyprus and the situation in the territories occupied by Israel. A Turkish military presence in the north of the island was fully legitimate because its purpose was to maintain peace and security for the population. In his view, it was not within the Committee's mandate to deal with political issues, and there were other United Nations bodies that were better qualified to address the situation in Cyprus.

29. Finally, he said that a public television channel, TRT-6, had begun 24-hour broadcasting in Kirmanchi and in Zaza, and in the near future it would also broadcast in Sorani and Persian.

30. **Mr. Lindgren Alves** asked for clarification on the crime of denigration and wished to know whether strong criticism of Turkey was subject to prosecution, reminding the delegation that freedom of expression was a sacred principle, unless the comments made posed a threat to national security. He also asked whether it was true that proper names written in an alphabet other than the Turkish alphabet were banned, as that would make it impossible for members of certain ethnic groups to give their children a name from their own community.

31. Granting minority status to ethnic groups was not the only way to protect them from persecution. More generally, the use of excessive force against any group was reprehensible.

32. **Mr. Diaconu** agreed that the State party was not obliged to officially recognize the country's different ethnic groups as national minorities, but he thought that recognition should be based on certain objective criteria — such as language, culture, traditions or religion — to make a distinction among those groups with a view to granting them certain rights. In any case, he believed that granting ethnic minority status to certain groups would in no way pose a threat to State sovereignty.

33. Given that the International Convention on the Elimination of All Forms of Racial Discrimination was an integral part of domestic law, it was imperative that, either officially or otherwise, the State party should collect statistical data on the various ethnic groups in the country to determine whether they were victims of discrimination on one of the grounds outlined in the Convention. Doing so would enable the State party to create policies to improve the country's political and social situation, as it had already done in the Anatolia region.

34. Ethnic diversity was one of the country's great assets and should be preserved. The State party should thus ensure that within its territory the rights laid down in article 5 of the Convention were respected, particularly the rights to education and training and the right to equal participation in cultural activities. To do so, it must ensure that education was provided for the different ethnic groups in their mother tongues.

35. **Mr. de Gouttes** said he understood that, under article 216 of the Criminal Code, incitement to racial hatred was only classified as an offence if it involved a group of people and if it constituted "a clear and imminent danger to the public order". He wished to know whether individuals were protected by that provision of the Criminal Code, particularly when they were victims of acts that did not endanger public order.

36. Referring to paragraph 86 of the State party's report, he also wondered whether any prosecutions had been brought against persons who had unlawfully collected personal data on racial or ethnic origin.

37. He asked whether the State party planned to introduce a provision in its criminal legislation that would define racial motivation of a crime or offence as an aggravating circumstance, and whether it planned to reverse the burden of proof in civil cases, particularly in cases of racism and racial discrimination. In criminal matters, he wished to know whether the State party allowed testing to ascertain whether the managers of restaurants, nightclubs and other establishments discriminated when admitting clients.

38. **Mr. Sicilianos** cited a report from the European Commission against Racism and Intolerance (ECRI) that urged the Turkish authorities to enter into constructive dialogue with representatives of minority groups, which were still seen more as a threat than as an asset for the State party. That was proof that ECRI had asked the State party to change its attitude in that regard.

39. The European Court of Human Rights had handed down a number of judgements in cases concerning Kurds. Those cases involved forced disappearances as well as violations of the articles of the European Convention on Human Rights concerning the right to life, the prohibition of torture or the right to property. The only reason the State party had not been expressly censured under article 14 of that Convention was that the article was not a free-standing provision and must be read in conjunction with one of the instrument's substantive provisions. It could not be assumed, then, that there had been no cases of racial or ethnic discrimination in the State party, or that members of the Greek and Kurdish minority groups were not affected by the problem.

40. As for the drastic reduction in the size of the Greek minority, the figures spoke for themselves. At the time the Lausanne Peace Treaty had been signed in 1923 it had had 130,000 members; that number had currently fallen to 3,000. Those statistics corroborated the information given in the ECRI report, which asked the State party to take urgent measures to ensure the survival of the Greek community in Turkey.

41. In its judgement of 10 May 2001 on the case of *Cyprus v. Turkey*, the European Court of Human Rights had ruled that the European Convention on Human Rights also applied outside national territory, notably in the northern part of Cyprus, and that the violations of that Convention were attributable to Turkey.

42. **Mr. Prosper** said it was the Committee's task to ensure that States parties created conditions conducive to equal opportunity in their country and that different ethnic groups were given the same means for social advancement.

43. He did not think it was necessary for the State party to grant national minority status to ethnic groups, but it should try to collect statistical data on those groups to gain a more accurate understanding of the ethnic composition of the population. Knowing the size of each of those ethnic groups would allow the competent authorities to evaluate their

individual situation regarding discrimination and, if necessary, take corrective measures. An official census was not necessarily required to collect such statistical data; a voluntary procedure could work equally well.

*The meeting was suspended at 11.55 a.m. and resumed at 12.15 p.m.*

44. **Mr. Göğüş** (Turkey) informed the Committee that the second Forum of the UN Alliance of Civilizations would be held in Istanbul from 6 to 7 April 2009. He assured the Committee members that the principle of equal opportunity was duly applied and respected in Turkey, as witnessed by the fact that Turkish citizens of different origins, including Kurds, occupied positions of responsibility in the administration and the army and also held seats in Parliament.

45. In response to a comment from one of the Committee members, he observed that the European Court of Human Rights had never affirmed in its judgements that the members of minority groups in Turkey were victims of racial or ethnic discrimination. Furthermore, population exchanges between Turkey and Cyprus had always been on a voluntary basis. No minority had ever been forced to move from Turkish territory to the Greek part of Cyprus, for example. The European Court of Human Rights had never used the term “occupation” to describe Turkey’s military operations in northern Cyprus.

46. He confirmed that no one had ever been convicted for collecting data on racial or ethnic origin for scientific or academic purposes. Various mechanisms were authorized at a local level to receive complaints from individuals who believed themselves to be victims of discrimination. As his delegation had already explained, there were more than a dozen communities that spoke languages and dialects other than Turkish, and Turkey could not be required to provide education in each community’s mother tongue. On the other hand, minorities were free to express themselves in the language of their choice and to organize courses to teach their own language.

47. He took note of the suggestion to make racial motivation an aggravating circumstance for offences, and said he would convey the suggestion to the Ministry of Justice. He agreed with the Committee member who had said that security forces should not use excessive force against peaceful demonstrations, including those organized by minority groups. To combat abuses of that kind, the Government had decided to inscribe a number on the helmet of every law enforcement official. Those officials could then be duly identified and denounced if they committed human rights violations or abuses.

48. Finally, he affirmed that parents were free to give their children any name they chose, as long as that name could be written in the Turkish alphabet. No other restrictions applied.

49. **Mr. Thornberry** (Country Rapporteur) expressed his satisfaction with the numerous amendments made to Turkish legislation, especially in the context of Turkey’s bid for accession to the European Union. The delegation had provided a good deal of valuable information about Turkey’s legislation. As for de facto discrimination, the Committee would like the State party to include clarification in its next periodic report on the status of national minorities and on restrictions on freedom of expression. He noted with satisfaction that the exercise of fundamental rights posed less and less of a problem in the country, but he regretted that anti-discrimination legislation had not been adopted. Turkey was among the rapidly developing countries on the European continent. In addition to promoting equal opportunity and equal treatment for all citizens, the State party must also make progress in promoting diversity.

50. **The Chairperson** warmly thanked the Turkish delegation for the meaningful dialogue it had established with the Committee. Turkey was a country that had decided to open the borders of Europe to new horizons, particularly to the Muslim world. That



political decision would certainly have a considerable effect on the promotion of human rights throughout the world.

51. **Mr. Göğüş** (Turkey) said that his country was determined to fulfil all its obligations under the various international human rights instruments. Turkey did not tolerate any discriminatory practice and spared no effort to promote the rule of law and equal treatment among all its citizens without any distinction. The Turkish delegation had taken note of the constructive suggestions and observations made by the Committee members and would relay them to the competent authorities upon its return to the capital.

*The meeting rose at 12.50 p.m.*