



International Covenant on Civil and Political Rights

Distr.: General
24 December 2012
English
Original: French

Human Rights Committee

106th session

Summary record of the 2928th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 17 October 2012, at 3 p.m.

Chairperson: Ms. Majodina

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant

Initial periodic report of Turkey (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Initial periodic report of Turkey (continued) (CCPR/C/TUR/1; CCPR/C/TUR/Q/1 and Add.1; HRI/CORE/TUR/2007)

1. *At the invitation of the Chairperson, the members of the delegation of Turkey resumed places at the Committee table.*
2. **Mr. Alacaci** (Turkey) said that the policy of the Ministry of Education was to integrate children with disabilities in the mainstream education system, to the extent possible. Children with severe disabilities attended special establishments. Each case was considered by a commission, which took objective criteria into consideration. Everything was being done to fulfil the commitment made by the Government in 2007 to make all public buildings, including schools, accessible to persons with disabilities before the end of 2012.
3. In primary education, the enrolment rate was 98.5 per cent for girls and boys and approximately 66 per cent for girls and 69 per cent for boys in secondary education. The Ministry of Education was working to reduce that gap.
4. **Mr. İşcan** (Turkey) said that Alawites were not considered as a minority in Turkey and that since there was no universally recognized definition of minorities, Turkey was not under an obligation to recognize the country's different ethnic, religious, cultural and linguistic communities as minorities. Under the Constitution, only non-Muslim communities were recognized as minorities. Nevertheless, efforts continued to be made to further protect the rights of members of other groups that were recognized as an integral part of Turkish society. The arrest and conviction of three transgender women members of the Pembe Hayat (Pink Life) group had not been discriminatory in any way; the police had been informed that the persons concerned had been engaging in prostitution and, when the police attempted to bring them to the police station for questioning, they had resisted violently, damaging property and injuring a police officer. They had appealed against the conviction and the appeal was currently being heard.
5. The Antiterrorism Act was broad in scope because Turkey was vulnerable to particular risks, in view of its geographical location and the current instability in the region. At the national level, there were mechanisms that made it possible to monitor the implementation of the Antiterrorism Act. In addition, it was possible to apply to international bodies such as the European Court of Human Rights and the Human Rights Committee if violations were committed in that context and the Government gave due consideration to any decisions that were handed down. The delegation did not have any information that would indicate that minors had been arrested for investigation and charged under the Antiterrorism Act. Lastly, there were two countries with which Turkey did not maintain diplomatic relations and to which it did not, therefore, apply the provisions of the Covenant, namely, Armenia and Cyprus.
6. **Ms. Sirmen** (Turkey) said that in December 2011, some 73,000 women had benefited from temporary special measures to improve their access to employment, social protection and education and that as a result of those measures, the number of female students and of women active in the labour market had increased significantly.
7. **Mr. İşcan** (Turkey) confirmed that in the event of a conflict between domestic law and the international instruments to which Turkey was a party, the latter had precedence. Moreover, measures had been taken to bring the legislation into line with international standards and jurisprudence.

8. **The Chairperson** thanked the Turkish delegation for its replies and invited members of the Committee to ask additional questions.
9. **Ms. Motoc** said that Turkey was one of the few member States of the Council of Europe that had refused to sign the Council's Framework Convention for the Protection of National Minorities and said that she wished to know why it had refused to do so.
10. **Mr. Kälin** said that he did not understand the State party's objective in applying the Covenant only to States parties with which it had diplomatic relations and encouraged it to reconsider the reservation that it had entered in that regard.
11. **Mr. Flinterman** asked whether the State party envisaged adding sexual orientation and gender identity as prohibited grounds of discrimination.
12. **Ms. Waterval** said that she wished to know what procedural guarantees were available to persons convicted under antiterrorism legislation.
13. **Mr. İşcan** (Turkey) said that the amendments that had been introduced to article 10 of the Antiterrorism Act in 2012 had strengthened the procedural guarantees available to persons charged under the Act; the revised text would be made available to the Committee. Public debate on lesbian, gay, bisexual and transgender rights was still at an early stage; substantial educational and outreach work on international standards on that issue would be needed. Some efforts had been made in that direction, but it was a long-term process. The Framework Convention for the Protection of National Minorities did not contain a universally recognized definition of minorities and even those States that had ratified it used their discretion in defining those groups that they recognized as national minorities. Whether or not Turkey acceded to that Convention was, therefore, not the point. The point was that nobody should be deprived of their rights because of their membership of a particular group, whether recognized as a minority or not, as was the case in Turkey.
14. **The Chairperson** thanked the delegation for its replies to the follow-up questions and invited members of the Committee to move on to items 10 to 19 of the list of issues.
15. **Mr. Flinterman** requested information on the measures taken recently by the State party to remedy the excessive use of pretrial detention and overcrowding in places of detention, and to generally strengthen the protection of the rights of persons deprived of liberty. In particular, he would like to know the circumstances under which judicial supervision could be used as an alternative measure to detention, which acts remained liable to penalties as "propaganda for terrorist organizations" since the scope of that offence had been reduced, and when the amnesty for journalists who faced charges, were being prosecuted or were subject to a sentence would take effect. The State party had not responded to questions relating to measures taken to review the Right to Access Information Act, which restricted access to details concerning places of detention, measures to equip prisons with sufficient personnel, including medical staff, and to ensure that detainees had access to health care. It would be beneficial if the delegation could fill that gap.
16. **Ms. Waterval** asked whether the State party would in fact have made all buildings and public transport accessible to persons with disabilities in 2012 as it had stated in its written replies to item 18 on the list of issues.
17. **Mr. Kälin** said that a number of public reports, including an Amnesty International report, had indicated that there were frequent violations of the law with regard to detainees' access to a lawyer. He asked what measures had been taken or were envisaged to improve implementation of the law and whether, as appeared to be the case, there were differences or even a conflict between the provisions on arrest, custody and statements and the antiterrorism legislation with regard to the right of persons held in pretrial detention to contact a lawyer.

18. **Mr. Salvioli** said that the written replies of the Turkish Government with regard to item 10 on the list of issues indicated that it was still difficult to bring the perpetrators of acts of torture to justice and to obtain a conviction, and asked whether the State party envisaged taking rapid action to establish the national mechanism for the prevention of torture. No information had been given on whether there was rehabilitation assistance or compensation for victims. The State party had not given information on the murder of human rights defender Mr. Hrant Dink, the death of seven members of the same family in Kurdistan and the death in detention of Mr. Resul Ḋlçin.

19. The written reply to the questions raised in item 11 was brief and too broad to shed light on the matter; it would be helpful to know what was meant by the “strictly codified” use of pepper gas and pressurized water.

20. With regard to item 12 and, in particular, to enforced disappearances, he called on the delegation to indicate what measures the State party had taken to investigate the mass graves, how victims were identified and whether reparations were envisaged.

21. In connection with item 14, he asked the delegation to provide information on cases in which the perpetrators of acts of violence against women or children had been tried and sentenced and, in addition, to indicate whether sufficient funds had been allocated under the State budget to implement the law against domestic violence. Lastly, with regard to item 15, it would be useful to have some figures concerning honour crimes.

22. **Mr. Thelin** asked, with reference to item 17, what the criteria on the basis of which an organization could be declared illegal were, whether those criteria were defined exclusively by the Criminal Code and whether a member of an organization that had been declared illegal could challenge such a decision.

23. **Sir Nigel Rodley**, returning to the case of Pembe Hayat (Pink Life), expressed surprise that the police had made arrests solely on the basis of reported prostitution and asked whether that was the procedure established by law.

24. **The Chairperson** suggested that the meeting should be suspended for a few minutes to allow the delegation to prepare its replies to the questions of Committee members.

The meeting was suspended at 4.15 p.m. and resumed at 4.35 p.m.

25. **Ms. Sirmen** (Turkey), in reply to the questions raised under item 17 of the list, provided the figures that had been requested on prison capacity and noted that legislative reforms had introduced the possibility of early release for good behaviour and broadened the category of offences for which penalties could be served in open prisons. Units reserved for young offenders had been opened in order to eliminate the risk of abuse by adult prisoners. Currently, the law provided that a suspect could be placed under judicial supervision instead of being held in pretrial detention in cases involving acts punishable by less than 3 years’ imprisonment, and that decisions to place individuals in pretrial detention must indicate clearly that the measure was proportionate to the suspicions against the person concerned and that it was duly substantiated. With regard to press offences, Turkish courts referred to the decisions of the European Court of Human Rights on freedom of expression. Lastly, there were no restrictions on detainees’ access to information.

26. **Ms. Şanal** (Turkey) said that in addition to the adoption of the Persons with Disabilities Act in 2005, considerable progress had been made in all fields, particularly in connection with the enrolment of children in schools, access to buildings and other public infrastructure and allowances paid to persons with disabilities and rehabilitation services.

27. **Ms. Sirmen** (Turkey) said that the right of detainees to contact a lawyer was absolute; although under the antiterrorism legislation that right could be restricted during the first 24 hours of custody at the request of the prosecutor, such a restriction came with a

guarantee since the suspect could not be heard during that period. There was no conflict between the Antiterrorism Act and other, existing legislation.

28. In connection with the Amnesty International report and the allegations that some families had not been informed that their children had been arrested, she was not familiar with the details of the case but explained that in Turkey, any person who claimed to have been deprived of a right enshrined in law, such as the right to be informed of the imprisonment of a relative, could claim compensation if the person arrested or placed in pretrial detention was ultimately acquitted or if it was decided to close the case with no further action.

29. **Ms. Orbay** (Turkey) said in connection with the case of Mr. Dink that, following the inquiry, criminal charges had been brought against the person suspected of the murder, who had been sentenced in July 2011 to rigorous imprisonment for life; the sentence had eventually been reduced to 21 years and 6 months' imprisonment because the perpetrator had been a minor at the time the act had been committed. Following the submission of a petition to the Office of the Public Prosecutor in Istanbul in 2011 by Mr. Dink's relatives' lawyers requesting that investigations be conducted and charges brought against certain officials, an investigation had been launched against two members of the national intelligence agency; however, it had been decided to close the case without taking further action because the acts with which they were charged were subject to a statute of limitations. Ten police officers had been subjected to disciplinary measures for gross misconduct. With regard to the circumstances of the death of Mr. Döğün, he had died while being transferred to hospital after sustaining a blow to the head as he arrived at the police station. It had been decided to close the case but that decision had been challenged and was currently before the court of appeal. Mr. Döğün's relatives had asserted that he had been killed intentionally by police officers while in custody, but the investigation had not substantiated those allegations. A complaint had been submitted to the European Court of Human Rights.

30. **Ms. Şanal** (Turkey) said that the amendments to the Criminal Code in 2005 had increased the penalties applicable to honour killings, which were the worst form of violence against women. A considerable number of the changes under the new law against domestic violence had been introduced. In particular, the number of shelters had increased and the specified target should be attained by 2013.

31. **Mr. İscan** (Turkey) said that Turkey had been the first country to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence without entering any reservations, even though some provisions in the domestic legislation were incompatible with that Convention. The objective of the Government had been to force amendments to the legislation.

32. An organization could be prohibited on grounds of terrorist activities on the basis of four criteria: use of violence, incitement to violence, incitement to discrimination and use of firearms. The police were required to summon the parties concerned when they received information in order to attempt to resolve the dispute. They did so by means of a simple invitation, as the judicial authorities alone were authorized to order an arrest. In the case of the Pembe Hayat incident, those concerned had resisted police officers.

33. **Ms. Sirmen** (Turkey) said that while the right to consult a lawyer was absolute, subject to the exceptions under the Antiterrorism Act, there was no legal obligation to allow a suspect to notify his family.

34. **The Chairperson** thanked the delegation for its replies and invited those members of the Committee who wished to do so to ask additional questions.

35. **Sir Nigel Rodley**, referring again to the case of Pembe Hayat (Pink Life), asked how a refusal to respond to an “invitation” could be considered as resistance. On the topic of prison overcrowding, the State party had announced that it would increase prison capacity from 100,000 places to 247,000 places by 2017, which suggested that it anticipated a considerable increase in the number of defendants (currently 126,000) over a few years. It would be interesting to know the basis on which that forecast had been made and why solutions other than the construction of additional prisons, such as alternative forms of punishment, were not envisaged.

36. **Mr. Flinterman** said that he welcomed the ratification of the Council of Europe Convention and hoped that the State party would withdraw the reservations that it had made to other human rights instruments. He also welcomed the many legislative amendments that had been introduced but recalled that it was also necessary to ensure that they were implemented in practice, and to assess their impact. In addition, he recalled that the delegation had not replied to the question concerning disappearances. It would be interesting to know what action had been taken on the basis of the recommendations made by the Committee against Torture on that subject in 2010 and, in particular, what the State party intended to do with regard to the disappearances reported in the Turkish Republic of Northern Cyprus, given that it did not consider itself bound by international obligations in respect of that territory.

37. **Mr. Kälin** said that according to some sources, the judicial guarantees provided under the Antiterrorism Act were not being implemented. The mere existence of remedies was not enough, since victims often hesitated to resort to them. The State should be proactive and ensure that Government officials complied with the law. In any event, even if a suspect did not make a statement during the period when he did not have the right to consult a lawyer, that period was still too long as experience showed that the risk of torture and ill-treatment was greatest during the first 24 hours after an arrest. The number of juveniles charged under the Antiterrorism Act appeared to be disproportionate; one could draw the logical conclusion that the definition of terrorism was too broad.

38. **Mr. Thelin** requested further information on the way in which organizations were defined as illegal, the compatibility of that definition with article 22 of the Covenant and the number of organizations that had been declared illegal.

39. **Mr. Bouzid** requested clarification on action against trafficking in persons.

40. **Mr. İşcan** (Turkey) said that the increase in prison capacity aimed to reduce prison overcrowding, but also to improve conditions of confinement. In addition, the adoption of new measures for the administration of justice meant that cases would be processed more rapidly and more people would be sentenced to imprisonment.

41. Translating legislative amendments into practice was a long and often difficult process, as it required people to change their way of thinking. Turkey had worked on that for 10 years, with substantial results, as had been highlighted in the reports of various bodies and non-governmental organizations. Political will was essential in that regard, and training was of great importance.

42. Enforced disappearances had been a cause for grave concern during the 1990s and 2000s, although much had been done since that time. The Minister of the Interior had devoted specific attention to that issue and, pending the instatement of the Ombudsman, which was a recently-created post, the parliamentary Committee for Human Rights dealt with cases of disappearance, in particular those involving children, with the assistance of a special commission of inquiry.

43. With effect from 2013, the implementation of the Second National Plan of Action against Trafficking in Human Beings would be supported by a joint Turkish-European

Union project with a budget of some 2 million euros. A framework for action against trafficking and for victim protection was currently being developed with numerous stakeholders, and steps were being taken towards the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings. Turkey was a country both of destination and transit.

44. As in other countries, the only means of meeting the needs of justice if a person refused to comply was to bring them by force to the police station. That was what had happened in the case of Pembe Hayat (Pink Life): members of the group had refused to concede to police officers and had resisted and even attacked them.

45. **The Chairperson** thanked the delegation for its replies and invited members of the Committee to turn to items 20 to 27 on the list of issues.

46. **Mr. Kälin** noted that instead of being granted legal personality, non-Muslim communities could form foundations or associations and that the Foundations Act had been amended in 2011 to better protect their property rights. It would be useful to know whether that amendment applied solely to property registered at that time or whether it also applied to the restitution of property confiscated previously. Did it also apply to communities that were not recognized in the Treaty of Lausanne? If not, could those communities form a foundation under the Civil Code? The principle of secularism invoked by the State party was not incompatible with the Covenant; it concerned only the State and did not prevent freedom of worship.

47. Some civil society organizations had asserted that they had not been able to participate in the preparation of the reports submitted by Turkey to the Committee and other bodies. Although it was clear that they could not all contribute, further information on that point would be welcome.

The meeting rose at 6 p.m.