



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Summary record of the first part (public)* of the 959th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 3 November 2010, at 3 p.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 3.15 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third periodic report of Turkey (CAT/C/TUR/3; CAT/C/TUR/Q/3; HRI/CORE/TUR/2007)

1. *At the invitation of the Chairperson, the delegation of Turkey took places at the Committee table.*
2. **Mr. Esener** (Turkey) said that Turkey's third periodic report had been submitted in accordance with the new optional reporting procedure adopted by the Committee in 2007. The report therefore consisted of the State party's replies to the list of issues prepared by the Committee prior to its submission. Since the consideration of its second periodic report in May 2003, the Government of Turkey had continued the reform process towards enhanced human rights promotion and protection. The most important legal reform had been the amendment, in 2004, of article 90 of the Constitution to establish the primacy of international conventions protecting fundamental rights and freedoms over the provisions of domestic legislation. There had been a moratorium on the death penalty since 1984, and it had been definitively abolished in 2001. Turkey was a party not only to Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty but also to Protocol No. 13 to the Convention, concerning the abolition of the death penalty in all circumstances.
3. A constitutional amendment package adopted by referendum in September 2010 had eliminated the shortcomings highlighted by the European Court of Human Rights in its decisions concerning Turkey and had made it possible to implement several recommendations made by regional and international monitoring bodies. The amendments had brought a number of improvements: the right of petition had been incorporated into the Constitution; the obstacles to the establishment of an ombudsman's office had been eliminated; the right of individual application to the Constitutional Court in the event of violation of the fundamental rights and freedoms established in the Constitution had been introduced and provisions establishing that civilians could not be tried before a military court, except in times of war, had been adopted.
4. The Law on Combating Terrorism had been amended in July 2010 to stipulate that all minors under 18 years of age should be tried in juvenile courts. Pursuant to the amendments, minors who attended unauthorized meetings and demonstrations or distributed propaganda for illegal organizations could no longer be tried on terrorist charges in assize courts. In addition, the penalties for minors found guilty of terrorist offences had been reduced.
5. As stated in paragraphs 4 to 14 of the periodic report, the Turkish Government had adopted a policy of zero tolerance for torture, and the effectiveness of that policy has been acknowledged by the European Committee for the Prevention of Torture (CPT) as early as 2004. In its report on its visit to Turkey in 2005, CPT had stated that the new criminal codes and a revised version of the Regulation on Apprehension, Detention and Statement-Taking were capable of effectively combating torture and ill-treatment. More recently, CPT had commended the Turkish authorities' efforts to ensure compliance with the zero tolerance policy and had stressed that the facts found on the ground were encouraging. Those achievements had also been acknowledged by non-governmental organizations (NGOs) including Amnesty International and Human Rights Watch.
6. The State Security Courts had been abolished in 2004 following a constitutional amendment and had been replaced by courts specialized in serious crimes. The new Penal Code adopted by Parliament in that same year laid down sentences of between 3 and 12

years' imprisonment for acts of torture while the use of sexual violence as a form of torture should carry a sentence of between 10 and 15 years' imprisonment.

7. Turkey had signed the Optional Protocol to the Convention against Torture in 2005. The ratification process was under way and should shortly be finalized. In 2001, Turkey had extended a standing invitation to all thematic special procedures mandate holders, whose recommendations, in particular those of the Special Rapporteur on torture, were given serious consideration. Despite those encouraging developments, the Turkish Government did not take for granted that it had achieved all its objectives in combating torture and was aware that much remained to be done to eliminate the practice entirely.

8. **The Chairperson** noted that the consideration of Turkey's third periodic report was a significant occasion in the Committee's history, as it was the first time that the Committee had considered a periodic report submitted in accordance with the new optional reporting procedure adopted in 2007. He commended Turkey for having chosen the new method.

9. **Mr. Bruni** (First Country Rapporteur) welcomed the submission of the periodic report. He endorsed comment by the Chairperson concerning Turkey's pioneering role as the first State party to adopt the new optional reporting procedure. Referring to paragraph 2 of the report, he asked whether the Convention could be invoked before Turkish courts in the event of a conflict between its provisions and those of domestic legislation and whether it could serve as a legal basis for a judicial decision. If so, could the Turkish delegation give examples of judicial decisions in which the provisions of the Convention had been applied directly?

10. The State party indicated in paragraphs 5, 71 and 77 of the report that it intended to ratify the Optional Protocol to the Convention against Torture as soon as the national human rights institution responsible for monitoring its implementation had been established. He would be interested to know what selection criteria would be used to appoint the institution's staff, what its functions and responsibilities would be and how the independence required by the Paris Principles would be guaranteed. He asked the delegation whether civil society organizations had been or would be consulted about the institution's establishment.

11. Paragraph 16 of the periodic report stated that when it was not possible to notify suspects of the grounds for their arrest in writing, they would be informed orally. Clarification of that point would be appreciated, together with an explanation of the circumstances in which the maximum periods of custody referred to in the same paragraph could be extended. With regard to offences committed collectively, including acts of terrorism in particular, it would be useful to know how long suspects could be detained before being brought before a judge and whether derogations from the fundamental rights of persons deprived of their liberty (the right of suspects to be notified of the grounds for their arrest in a language they understood, the right to consult a lawyer and a doctor and the right to contact a family member) were permitted. He asked the delegation whether there were any recent examples of cases in which the period of custody had been extended beyond four days and, if so, what had been the grounds for and the length of the extension.

12. Information from reliable sources indicated that torture and ill-treatment continued to be used in detention centres, particularly unofficial places of custody, and that the perpetrators of such violations went unpunished. He invited the delegation to comment on that allegation. Referring to paragraph 30 of the periodic report, he asked which authority appointed the doctors responsible for examining persons held in custody or pretrial detention, how their impartiality was guaranteed and whether the delegation knew of cases in which detainees had requested a medical examination after their interrogation. In a document submitted in May 2010 to the Human Rights Council for Turkey's universal periodic review, Amnesty International had highlighted that often no official medical report

documenting injuries sustained as a result of torture or ill-treatment was issued and police officers were routinely present during detainees' medical examinations. He asked the delegation to comment on the discrepancy between that information and the information on the training of medical personnel given in the periodic report.

13. Referring to paragraph 40 of the report, which stated that convicts with a psychiatric disorder were held in specially designated sections of prisons, he asked whether those sections were totally segregated from other areas, whether the prisoners who served their sentences there still had contact with other detainees and what training was given to the staff responsible for their supervision. Noting that, according to paragraph 58 of the report, the public officials responsible for inspecting police stations and detention centres received training in human rights, he asked whether that training covered the Istanbul Protocol. The report also stated that a number of different bodies were authorized to visit prison establishments, which was commendable. However, he would like to know whether the competent authorities acted upon their observations. He asked the delegation to give examples of places of detention recently visited and to specify the result of the inspection and the measures adopted to resolve any irregularities identified. He also invited the delegation to comment on information from a non-governmental source to the effect that the State party had no independent mechanism for investigating allegations of human rights violations and no independent prison inspection system.

14. He would appreciate clarification of the current prison occupancy rate, as well as information about measures to alleviate overcrowding, steps taken to guarantee the confidentiality of meetings between prisoners and lawyers, the manner in which detainees were disciplined, the maximum period during which disciplinary sanctions could be imposed without a judge having to be notified and the typical features, including the standard dimensions, of solitary confinement cells.

15. Paragraph 65 of the report stated that 333 of the 987 gendarmerie and police lockups visited by members of the provincial and sub-provincial human rights boards between January and March 2008 did not comply with the relevant standards. He would like to know whether anything had been done to remedy that situation, and if so, by which authority and with what results. Noting from paragraph 74 of the report that the General Directorate of Prisons and Detention Houses, in conjunction with NGOs and other organizations, was giving special emphasis to prisoner rehabilitation, he asked the delegation to comment on progress achieved in that area since the report's publication. Paragraphs 78 to 80 of the report provided information on access to information and statistics by human rights defenders, but no information about the condition on which they were allowed to visit places of detention. He asked for clarification. If visits were permitted, did they always have to be announced in advance or were unannounced visits possible? It would also be useful to know how the confidentiality of meetings was guaranteed.

16. Noting from paragraph 81 of the report that 7,917 asylum applications had been refused in 2008, he asked whether the failed asylum-seekers had been expelled and, if so, whether the principle of non-refoulement had been respected in all cases. After visiting Turkey from 28 June to 3 July 2009 to assess the human rights situation of asylum-seekers, the Commissioner for Human Rights of the Council of Europe had expressed concern about difficulties in accessing the asylum procedure, which had also been highlighted by numerous NGOs, and about the increased use of forced displacement and the State party's failure to investigate alleged cases of torture and ill-treatment. He invited the delegation to comment on those points.

17. In paragraphs 114 to 119 of the report, the State party gave a detailed account of the legislative provisions introduced to give effect to article 4 of the Convention and to ensure that torturers were prosecuted and convicted. It would be useful to know how those

provisions were applied in practice. He asked the delegation to cite examples of prosecutions brought against persons responsible for acts of torture and ill-treatment and, where applicable, to give details of the sentences handed down. According to information brought to the Committee's attention, the Parliamentary Human Rights Inquiry Commission had published a report on the prosecutions brought against the persons allegedly responsible for acts of torture and ill-treatment committed in Istanbul between 2003 and 2008 which indicated that only 35 of a total of 432 State officials accused of torture and ill-treatment in that period had been prosecuted and that none of the prosecutions had resulted in a conviction. He asked if the delegation was familiar with that report and, if so, how it could account for those numbers. Some NGOs had also reported an increase in cases of torture and ill-treatment in the previous year and a half, including deaths in custody or during prison transfers. The delegation's comments on those reports would be welcome. Apparently the 19 officials given custodial sentences for acts of torture which caused the death in custody of Mr. Engin Çeber in October 2008 had appealed against the verdict. He asked whether the delegation could confirm that information and update the Committee on the current status and outcome of the case.

18. He would also like to know whether the State party had taken steps to ensure that complainants and witnesses in cases of torture were protected, in accordance with article 13 of the Convention, and whether detainees who claimed to have been subjected to torture or ill-treatment were immediately transferred to alternative places of detention. He also sought clarification regarding the statute of limitations for offences of torture. In its report, the State party expressed the view that repealing the statute of limitations for the crime of torture alone was contrary to the principle of equality. However, article 77 of the Penal Code already established an exception by stipulating that statutory time limits could not be invoked in cases where civilians were systematically tortured. He emphasized that repealing the statute of limitations for the crime of torture was an effective preventive measure as it sent a clear message to the perpetrators of acts of torture and ill-treatment that they could not avoid justice.

19. With regard to the measures taken to guarantee that detention records were properly kept from the outset of the period of custody, the State party had confirmed that the name of every person taken into custody was recorded in a register but had given no further details. Information about the usual period between arrest and registration, and the legal deadline for registration, if one existed, was essential. The information from certain sources that suspects were sometimes interrogated before their arrest was officially recorded was disturbing as it meant that detainees were beyond the protection of the law during their interrogation. To clarify that point, he asked the delegation whether it could confirm or deny allegations that suspects were often initially taken to unofficial places of detention upon arrest.

20. According to paragraph 160 of the report, custody and interrogation procedures were recorded digitally. He asked whether the recording system operated 24 hours a day and what procedures were envisaged in the event of a breakdown. It would also be useful to know whether the courts could disallow confessions obtained during an unrecorded interview.

21. The State party had not provided an adequate reply to the request for information on the measures taken by the Turkish authorities to implement the recommendations of the Special Reporter on the promotion and protection of human rights and fundamental freedoms while countering terrorism regarding the investigation of allegations of torture and extrajudicial killings brought to his attention during his visit to Turkey in 2006. Further information would therefore be appreciated.

22. The State party had provided detailed information about the regulations governing pretrial detention, including its maximum permitted duration. However, as the 2007 report

of the Working Group on Arbitrary Detention stated that some prisoners in Turkey had been in pretrial detention for up to 10 years, clarification was required. He also asked whether the delegation could confirm reports that the new article 74 of the Constitution would establish the right of individual complaint to a government-appointed Ombudsman. If that was the case, it would be useful to know how the independence of the Ombudsman would be guaranteed. It would also be interesting to know whether the Ombudsman would be competent to receive complaints about acts of torture and ill-treatment and, if so, to refer them to the courts.

23. **Ms. Gaer** (Second Country Rapporteur) wondered whether the provisions of criminal law adopted since 2005, particularly those relating to counter-terrorism, did not in fact constitute a step backwards in terms of human rights safeguards. The amendments introduced in June 2007 to Act No. 2559 on the Powers and Duties of the Police gave police officers the power to stop members of the public and to ask to see their identity papers. That provision appeared to be applied arbitrarily, resulting in an increasing number of violent clashes with the police. The 2005 law establishing systematic access to free legal aid had also been amended to make free legal assistance available only to minors, suspects with certain forms of disability and persons charged with offences liable to custodial sentences of more than 5 years. Amendments introduced in June 2006 to Act No. 3716 on Combating Terrorism meant that terror suspects could be denied access to a lawyer for the first 24 hours of their detention. Furthermore, in 2007 the Working Group on Arbitrary Detention had expressed concern that some of the Act's provisions undermined the confidentiality of meetings between lawyers and their clients. Lastly, a report published by the Department of State of the United States of America indicated that in 2007 the Ministry of Justice had issued a circular that placed restrictions on access to terror suspects by members by Parliament. All those provisions were a source of concern for the Committee and clarification of how they were applied would therefore be appreciated.

24. The European Court of Human Rights had on numerous occasions, including seven times in 2010 alone, found Turkey to be in violation of articles 2, 3 and 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. She invited the delegation to comment on that fact, which suggested that torturers went unpunished and victims did not obtain redress.

25. The Committee had received allegations that the new provisions of criminal law, specifically articles 125, 265 and 277 of the new Penal Code of 2005, had been used to protect officials accused of acts of torture or ill-treatment and to deter victims from lodging complaints. Those allegations were all the more disturbing because Turkey still lacked an efficient and fully independent mechanism for receiving and investigating complaints of torture and ill-treatment. The Government-affiliated Forensic Medicine Institute was the only institution authorized to issue medical certificates documenting acts of torture or ill-treatment. Public officials accused of using physical violence against detainees were often charged under article 256 (excessive use of force) and article 86 (assault and intentional wounding) of the Penal Code, which established lighter or suspended sentences for the offences, rather than under article 94 of the Penal Code on the crime of torture. The Committee would welcome the delegation's comments on that point.

26. The Committee had received numerous reports of police brutality in the previous three years. The recent trial and conviction of 19 officials charged with acts of torture showed that Turkey was capable of bringing fair and impartial prosecutions against the perpetrators of such acts. However, such instances appeared to be exceptional. In that connection, she would like to know whether the death in police custody of Mr. Mustafa Kicker had been properly investigated since, according to certain sources, the public prosecutor had discontinued the case on the basis of a report issued by the Forensic Medicine Institute which had concluded that Mr. Kicker had died after a fall. She would

also appreciate additional information on the huge number of arrests made in the past two years as a result of inquiries in the Ergenekon case and on the conditions of detention of those arrested.

27. A number of legal safeguards concerning the right of all suspects to be informed of the charges against them immediately upon their arrest, the right of access to a lawyer and the right to contact a family member had been undermined by the revision of the Penal Code and the Criminal Procedure Code in 2005. According to NGOs, persons placed in custody had been forced to sign forms waiving the right of access to a lawyer. She would appreciate information on the circumstances in which the forms were filled out, on the measures adopted to ensure that persons taken into custody were able to make prompt contact with their family and on the enforcement of legal safeguards in general. She asked what percentage of convicted prisoners received sentences of less than 5 years, noting that such persons were not entitled to free legal aid.

28. According to the State party, allegations of torture and ill-treatment were subject to thorough investigation and the 2005 Penal Code had introduced stiffer penalties for the perpetrators of such acts. However, the statistical information on prosecutions for acts of torture given in paragraph 120 of the report did not specify under which articles of the Penal Code charges had been brought. The report stated that there had been 850 cases pending in 2007, but according to the Human Rights Foundation of Turkey there had been only 256 cases pending under article 94 on torture offences. Data disaggregated for each article of the Penal Code was therefore needed.

29. According to Human Rights Watch, those who complained of police brutality against persons who had been arrested or detained found themselves in court for attempting to influence members of the judiciary (article 277 of the Penal Code) or for insulting a public official. For example, Mehmet Tursun, whose son had been killed by a police officer in November 2007, had been prosecuted for having expressed doubt as to whether justice had been served in his son's case. She asked whether persons convicted under article 277 of the Penal Code could appeal against their sentences. She would particularly appreciate further details about the conviction of Muammer Öz under article 265 of the Penal Code, noting that, in contrast, police officers who made public statements about specific legal cases suffered no form of criminal sanction.

30. According to Human Rights Watch, juveniles facing terrorist charges did not have access to a lawyer, in contravention of legally-established requirements in cases involving minors. In that connection, she asked what had happened to the juveniles arrested in May and June 2009 for participating in demonstrations, whether they had been found guilty and whether they had been detained with adults. The State party had failed to indicate whether members of the security forces investigated and tried on torture charges had been suspended from duty pending the investigations and trials. Referring to the case of Gazi Ozuak, a police officer who had been promoted and transferred to an antiterrorist unit while facing charges for the crime of torture, she asked why that officer, who had been found guilty of causing the death during interrogation of Festus Okey, an Algerian asylum-seeker, had been given responsibility for investigating his death.

31. She would like to know what had become of the custody records in the Resul İlçin case and whether police officers systematically kept records of whether or not they had interrogated a person or were required to do so only for persons held in official custody. More generally, she would appreciate information about any mechanisms in place to monitor conditions of pretrial detention. She also sought information about the measures taken to shed light on the cases of the 88 missing persons reported in 2006. In 2001, the European Court of Human Rights had found Turkey guilty of failing to investigate the disappearance of a number of Greek Cypriots in 1974. She would like to know whether

investigations had been initiated and whether any criminal charges had been brought as a result.

32. With regard to violence against women, she noted that Turkey had only some 50 shelters for battered women and asked for statistics on investigations and prosecutions in cases of domestic and sexual violence. Information about steps taken to end the virginity tests that women were forced to take in cases of rape and prostitution would also be appreciated. Lastly, she asked whether the approximately 65,000 members of the Village Guards, who could be considered State officials within the meaning of the Convention, had received the same training as law enforcement officers.

33. **Mr. Mariño Menéndez** asked whether the State party had maintained the geographical limitations established in its reservations to the 1951 Geneva Convention relating to the Status of Refugees in its new asylum legislation, whether the new legislation recognized the principle of subsidiary protection and whether asylum-seekers whose applications were initially rejected were immediately expelled or had the right to appeal against the decision. He would also like to know why, in paragraph 98 of the report, the State party made reference to the United Nations Convention against Transnational Organized Crime when addressing the issue of the expulsion of illegal migrants. Lastly, he asked why Turkey maintained its reservations to article 27 of the International Covenant on Civil and Political Rights, which did not refer to minorities as such but to individuals, and requested additional information about the existence of minorities not officially recognized by the State party.

34. **Ms. Sveaass** asked what steps had been taken to address the extremely alarming problem of violence against women prisoners and to punish those responsible for such acts. Several women's associations had expressed concern about the twofold discrimination suffered by Kurdish women, particularly sexual harassment on the part of State officials. She would like to know what the State party was doing to redress that situation and assist victims.

35. Noting that Turkey was both a destination and a transit country for trafficking in human beings, she asked how many trafficking cases had been brought before the courts and what sentences convicted traffickers had received. She asked whether NGOs had been given a role in the Government's anti-trafficking action plan, particularly in providing assistance to victims, and whether witness-protection programmes had been established. She also asked about progress in the construction of reception centres for victims of trafficking. Lastly, she asked why the very sensible proposal that joint, multidisciplinary training should be organized for judges, public prosecutors and forensic medical experts had met with opposition.

36. **Mr. Gallegos Chiriboga** asked for additional information about the action taken by the Turkish authorities to eliminate the culture of violence and put an end to the impunity of State officials. He would also like to know more about how prisoners with disabilities were generally treated, noting that they were often detained with other prisoners with no consideration for their disability.

37. **Ms. Belmir** said that the procedure used to appoint judges and to compose the High Council of Judges and Public Prosecutors, chaired by the Minister of Justice, cast doubt on the judiciary's independence from the executive. The delegation's comments on that issue would be welcome. She asked whether the delegation could confirm the veracity of reports that almost 250 juvenile terror suspects aged between 12 and 15 years' old were in detention awaiting trial at that time and whether they were facing criminal charges. If that was the case, the Turkish authorities would be violating international norms on the minimum age of criminal liability. The lighter penalties established for minors under

antiterror laws were undoubtedly a good thing, but she would appreciate confirmation that the sentences handed down reflected the change in the law.

38. **Ms. Kleopas** said that the State party's imminent ratification of the Optional Protocol to the Convention against Torture was excellent news and that she hoped that its national preventive mechanism would be in place very soon. In paragraph 114 of the report, the State party stated that allegations of torture had to be supported by concrete evidence, such as medical reports, if the public prosecutors were to initiate criminal proceedings. However, according to some non-governmental sources, a detainee's right to be examined by an independent doctor was not always respected. That situation raised a question mark over how persons who suffered torture during detention might substantiate their claims.

39. Although she understood that the gendarmerie commander found guilty of torture by the European Court of Human Rights in the *Aydin v. Turkey* case had not been dismissed from duty, she would appreciate confirmation. Assuming that was the case, she would like to know why the commander had not been subject to disciplinary measures. That case was not the only one in which the European Court of Human Rights had found violations committed by Turkish State officials. Alternative sources had on several occasions made substantiated denunciations of ill-treatment by State officials, and particularly of Greek Cypriots by Turkish soldiers. Since the State party had an obligation to initiate inquiries whenever there were reasonable grounds to believe that an act of torture had been committed in any territory under its jurisdiction, she would like to know what action had been taken to investigate those acts.

40. Although corporal punishment of children was prohibited by law in schools and correctional institutions, it appeared that the prohibition was not properly enforced. Could the delegation indicate what the State party planned to do to ensure enforcement of the legal prohibition and whether it envisaged outlawing corporal punishment in all circumstances, including in the family environment and in alternative childcare facilities? Amnesty International's submission to the Committee indicated that children continued to be arrested during demonstrations despite amendments to antiterrorism laws; they were held in illegal police custody without the opportunity to notify their family or make contact with a lawyer, and were subjected to ill-treatment. She invited the delegation to comment on those reports. Recalling that CPT had visited Turkey in June 2009, she asked whether the State party planned to authorize the report's publication.

41. **The Chairperson** noted that, according to information submitted to the Committee, certain improvements to the provisions of the former Criminal Procedure Code had not been maintained in the new Code. The provisions omitted included those establishing that, in cases involving torture and ill-treatment, hearings could be postponed for no more than 30 days and that the sentences handed down were to be enforced immediately and could not be commuted to fines. She asked whether hearings had ever been postponed and sentences stayed, and if so, for how long and for what reasons.

42. CPT had highlighted numerous cases of forced hospitalization without a court ruling. Clarification of the provisions applicable in those situations, particularly the safeguards established to protect patients' rights, would therefore be welcome. The right to be assisted by a lawyer at all stages of the legal process was guaranteed under article 149 of the Criminal Procedure Code, which, as stated in paragraph 21 of the report, expressly prohibited any act preventing or restricting the exercise of that right and, consequently, established the criminal liability of any person who committed an act of that kind. It would be useful to know whether any complaints had been filed on the basis of that article and, if so, whether they had resulted in trials and convictions. The Turkish Medical Association had published a report in which it had highlighted the shortage of doctors and other health-care professionals in the prison system. While that situation was certainly not unique to

Turkey, it needed to be rectified. He therefore asked what steps the authorities were taking to that end.

43. In paragraph 78 of the report, the State party indicated that the right of access to information could be subject to restrictions in situations where disclosure might compromise crime prevention measures or impede the satisfactory progress of investigations and trials. He would appreciate details of the scope of those restrictions and of the criteria governing their application. He would also like to know whether any requests for information had already been refused in application of those restrictions. If so, could the delegation explain the reasons for refusal and specify the nature of the requests that had been refused?

44. The Committee had heard that four Iraqi asylum-seekers who had been expelled in April 2008 had drowned. He invited the delegation to comment on that information and, in particular, to indicate whether an inquiry had been carried out and, if so, what its outcome had been. In application of Act No. 2802, any public prosecutor who dismissed or ignored an item of evidence submitted to support allegations of torture was liable to prosecution. It would be interesting to know whether any public prosecutors had been tried and convicted on those grounds. Noting that judges and public prosecutors seemingly did not always give primacy to international norms in the event of a conflict with domestic legislation on human rights and fundamental freedoms, in violation of article 90 of the Convention, he asked the delegation to explain what measures, including training initiatives, were in place to ensure the primacy of international instruments in the judiciary's working practices.

45. The fact that the statute of limitations for torture had been extended did not fully allay the concerns of the Committee, which had recommended that statutory time limits should be eliminated for torture cases. He would like to know why the State party appeared unwilling to amend its legislation in line with that recommendation. In its reply to question No. 16, the State party indicated that the family of persons taken into custody could obtain information about their relative's condition from the law enforcement officers. He asked whether families were made aware of that provision and what procedure they were required to follow when requesting information.

46. Article 141 of the Criminal Procedure Code established the right of persons who had suffered injury during investigation or trial to compensation. He would appreciate detailed statistics on the number of compensation requests filed in application of that article, particularly those filed by victims of torture or ill-treatment, and on the outcome of those requests. The right of non-self-incrimination was enshrined in the Constitution but he would like to know what measures were in place to ensure that that right was respected in practice. For example, were suspects systematically informed, at least verbally, of their right to remain silent? An NGO report submitted to the Committee alleged that nine Kurdish women had been killed by gendarmerie officers in 2010. Could the delegation confirm that information and, if so, had an inquiry been initiated? The incorporation into the Constitution of the principle of equal rights for men and women was undoubtedly an excellent initiative. However, it would also be useful to know about any other provisions specifically prohibiting discrimination against women, as defined in the Convention on the Elimination of All Forms of Discrimination against Women.

47. In its 2010 Annual Report, the Observatory for the Protection of Human Rights Defenders stated that several human rights defenders in Turkey had been subjected to judicial harassment because of their activities. The delegation's comments on that allegation would be appreciated. According to a non-governmental source, in May 2010 five transgender rights activists had been detained and beaten by police officers. Not only had no inquiry been initiated, the victims had also been charged with resisting arrest and faced prison sentences of 3 years if convicted. Could the delegation provide further information on that case?

48. **Mr. Esener** (Turkey) said that the delegation had taken note of the Committee's numerous questions but that it would be very difficult for him to gather all the information necessary to reply to all the issues raised in the very limited period of time available for that purpose. The delegation would have been able to prepare its answers more thoroughly and the dialogue would thus have been more even if the State party had been informed of the Committee's questions a few weeks in advance. He suggested that the Committee might consider adjusting its working methods accordingly.

49. **The Chairperson** said that some things could undoubtedly be improved but that the Committee had only limited room for manoeuvre because of the constraints on its time and resources. However, he thanked the head of the delegation for his suggestion and assured him that it would be given due consideration. The dialogue would resume at the next meeting.

The first part (public) of the meeting rose at 5.25 p.m.