



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

Distr.: General  
18 October 2012  
English  
Original: French

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## Committee on the Elimination of Racial Discrimination Eightieth session

### Summary record of the 2143rd meeting

Held at the Palais Wilson, Geneva, on Thursday, 23 February 2012, at 3 p.m.

*Chairperson:* Mr. Avtonomov

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article 9 of the Convention (*continued*)

*Combined sixth and seventh periodic reports of Turkmenistan*

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

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

*Combined sixth and seventh periodic reports of Turkmenistan (CERD/C/TKM/6-7;  
CERD/C/TKM/Q/6-7)*

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

2. **Mr. Erniyazov** (Turkmenistan) said that his country condemned racial discrimination and that its policies aimed to promote mutual understanding between peoples and prohibit any exclusion or differential treatment on the grounds of race or national or ethnic origin or affiliation. Since 1991, Turkmenistan had been building a democratic State based on the rule of law, under the leadership of President Gurbanguly Berdimuhamedov, and was carrying out important reforms in all economic and social areas. Turkmen domestic policy was based on the principles of democracy, the rule of law, humanism and equity. In that spirit, the Government had successfully embarked upon the reform of the justice system. In order to lay the foundations of a State based on the rule of law, the President of Turkmenistan had established a State commission responsible for improving national legislation and a Constitutional commission to draft proposals to improve the Constitution. Once the Constitutional commission had completed its work Turkmenistan had, in September 2008, adopted a new Constitution, which respected universally acknowledged international human rights principles and extended the range of rights and freedoms of Turkmen citizens. In line with the Committee's recommendations, article 19 of the Constitution, which dealt with the equality of citizens, had been amended to establish the additional principles of gender and racial equality. Under the Constitution, all citizens had equal human rights and freedoms and were equal before the law, without distinction on grounds of ethnic nationality, race, sex, origin, financial situation, occupation, place of residence, language, religion, political opinion, or membership (or non-membership) of a political party. Turkmenistan scrupulously honoured its obligations under the international human rights instruments it had ratified, and to that end was overhauling its national human rights protection system. Consequently, there was no discrimination against ethnic minorities in Turkmenistan.

3. In 2011 and early 2012, the Government had passed important legislation, including the Family Code, the Prison Code, the Act on the Status of Foreigners and the Act on Political Parties. The Family Code guaranteed the right to marriage, without distinction on grounds of ethnic nationality, race or religion, and men and women enjoyed equal rights in marriage. Turkmenistan recognized marriages registered by State authorities, but not religious marriages. All children in the country had equal rights, without distinction on grounds of ethnic nationality, race, place of residence, language or religion. Foreigners and stateless persons enjoyed the same rights and freedoms and had the same obligations as Turkmen citizens, in accordance with national legislation and the international instruments to which Turkmenistan was a party. Under the new Criminal Code, convicted persons could not be discriminated against on grounds of race, language, religion or political conviction. Convicted foreigners had the right to consult their respective national consulate or, if there was no consulate, to benefit from the diplomatic protection of the State responsible for defending their interests. The Criminal Code guaranteed convicted persons freedom of religion and worship; they were free to practise any religion, or none at all. Prisoners had the right to visit a place of worship near their place of detention.

4. The rights, freedoms and obligations of Turkmen citizens established in the Constitution also applied identically to foreigners and stateless persons in Turkmenistan, save for the special rights bestowed by Turkmen citizenship. The 2011 Act on the Status of

Foreigners guaranteed the equality of foreigners before the law, irrespective of their origin, financial status and occupation, race, nationality, place of residence, language or religion. The Migration Act specified the procedures applying to citizens, foreigners and stateless persons when entering and leaving the country. Article 4 of the Migration Act prohibited any form of discrimination or violation of human rights and freedoms on the grounds of origin, sex, race, ethnic nationality, language, religion, political opinions or religious convictions, or on any other grounds. The Government of Turkmenistan had lifted the previous restrictions on freedom of movement in Turkmenistan, for all citizens. In 2007, the President of Turkmenistan had abolished the obligation to obtain travel authorization for Turkmen citizens, including in border areas.

5. Citizens were guaranteed freedom of religion under the Freedom of Worship and Religious Organizations Act. Any direct or indirect restriction of citizens' rights or, conversely, the granting of privileges on the grounds of citizens' religious or atheist convictions was punishable under the law, as was incitement to hostility or hate, on the same grounds. Registration of religious organizations was the affair of the Ministry of Justice. There were currently 128 registered organizations, including 104 Muslim, 13 Orthodox and 11 organizations relating to other faiths. The Religious Affairs Council, directly accountable to the President, was a consultative expert body that provided information to registered or unregistered organizations, believers, and representatives of State bodies on organizational, legal, social and economic matters. The State had become a party to the Convention relating to the Status of Stateless Persons in 2011. That same year, the President had signed naturalization decrees granting 3,290 persons Turkmen citizenship. A human rights information centre had been opened in May 2011 in Ashgabat, within the framework of a joint project between the Government of Turkmenistan, the European Union, the United Nations Development Programme (UNDP) and the Office of the United Nations High Commissioner for Human Rights for capacity-building in the area of human rights promotion and protection in the country. During the period under consideration, Turkmenistan had become a party to the Convention for the Safeguarding of the Intangible Cultural Heritage of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Education Act guaranteed that Turkmen citizens could receive education without distinction on grounds of sex, race, ethnic nationality, language, origin, place of residence, religion, convictions, social situation, financial situation or occupation. The Turkmen, Russian and English languages were taught in preschools and schools.

6. Pupils would soon be given electronic textbooks in several languages (Turkmen, Russian and English) and several private and public schools, including one in Ashgabat, offered computer-based foreign-language teaching. As part of the national programme for socioeconomic development for the period 2011–2030, Turkmenistan was implementing an extensive plan for developing infrastructure and services, including the building of roads, schools, kindergartens and cultural centres. In 2011, no less than 380 such projects had been carried out and some 75 per cent of State budgetary resources would be allocated to social expenditure in 2012. The State was acquiring modern infrastructure and equipment in all areas, including transport, health, education and telecommunications. Reform of the Social Security Code had led to an increase in family allowance and disability benefit payments. Turkmenistan, whose health-care system was known for its efficiency, actively cooperated with international organizations, including the World Health Organization (WHO) and the United Nations Population Fund (UNFPA) on health issues, particularly in the area of maternal and child health and reproductive health.

7. Turkmenistan was engaged in numerous cultural exchanges with neighbouring countries, including Bulgaria and the Russian Federation, and was endeavouring to expand the State's cultural, scientific and literary influence. Article 5 of the Culture Act guaranteed everyone the right to take part in cultural activities, without distinction on grounds of ethnic

nationality, race, sex, origin, economic status, place of residence, language, religion, political opinion, or membership (or non-membership) of a political party. The country was open to other cultures: the State recognized the traditional holidays of ethnic groups and organized annual events to promote cultural exchange and mutual enrichment between cultures, with the active participation of the media. Turkmenistan had several foreign-language television and radio stations. There were numerous bilingual Russian/Turkmen publications, as well as a vast array of cultural events and television programmes in Russian. Several publications and newspapers were also published in English and Turkmen. The text of the Convention, which had been translated into Turkmen and Russian, had been broadly disseminated. To date, the National Institute for Democracy and Human Rights had published 19 compilations of national and international legal instruments, in cooperation with specialized United Nations bodies. Various training courses in international law were offered to justice officials, with a view to capacity-building in the area of human rights promotion and protection. Efforts were also under way to set up a training centre for lawyers, establish a group of experts and prepare a manual and glossary on international law, with the aim of creating enabling conditions for the enjoyment of social and cultural rights by all Turkmen nationals, including ethnic minorities, and eliminating all forms of racial discrimination and intolerance.

8. **Mr. Diaconu** (Country Rapporteur) requested specific data on the distribution of minorities in the country. Recalling that, in its previous concluding observations (CERD/C/TKM/CO/5), the Committee had drawn the State party's attention to the need to prevent forced assimilation of members of the Baluchi minority, he would like information about the Baluchi population, whether they were recognized as a minority, and whether there was any mechanism for consulting them on matters that concerned them. He commended the precedence over domestic legislation accorded to the international instruments to which Turkmenistan was a party, and the constitutional stipulation that all citizens were equal. He noted with satisfaction that foreigners had the right to use their mother tongue and that discrimination was prohibited. It was regrettable, however, that Turkmen legislation lacked a definition of discrimination in line with that contained in the Convention, and he urged the State party to make good that lacuna by establishing a definition applicable to all areas, including social life, employment, social security, criminal law, education, family and marriage.

9. Recalling that the Committee had expressed concern about the cases of hate speech against national or ethnic minorities, he would be grateful for updated information on the subject. While he welcomed the fact that, in line with article 4, paragraph (b), of the Convention, organizations and associations that encouraged racism were prohibited by law, committing offences for racial reasons constituted an aggravating circumstance, and human rights violations committed because of a person's race or nationality were prohibited by the Criminal Code, he considered implementation of article 4, paragraph (a), to be unsatisfactory. He would like information on the provisions of the Criminal Code and the Code of Administrative Offences in order to assess their conformity with article 4, paragraph (a). Recalling the State party's assertion that it did not impose the "third-generation" criterion on members of minorities applying for posts in the civil service, he asked the delegation for any statistical data on the representation of members of ethnic minorities in parliament, the justice system and the civil service in general.

10. Noting with satisfaction that the State party had granted citizenship to 13,000 refugees, and permanent residency to 3,000 others, he invited the delegation to comment on reports that persons who had obtained Russian and Turkmen nationality at the time when the bilateral agreement between the Russian Federation and Turkmenistan on dual citizenship was in force were being made to renounce Turkmen nationality. He would like to know the conditions for stateless persons and nationals of third countries to obtain Turkmen nationality, how persons from other countries of the former Soviet Union, who

were of Turkmen origin, were dealt with if they wished to return to Turkmenistan, and what measures were planned for resolving the problem of statelessness. Noting the regrettable lack of disaggregated data on minority groups' enjoyment of economic, social and cultural rights in the report, he invited the State party to provide statistical data on equal treatment and opportunities in the area of employment, in particular for minority groups. He wished to know how the right to mother-tongue instruction, established by the Constitution, was applied and how many schools offered classes in the languages of minority groups. The delegation might also provide more information on the employment and education situation of women and girls from minority groups.

11. He wished to have more information on the participation of minority groups in cultural activities, the efforts made by the State party to help them preserve their cultural identity, and the publication of books in minority languages. In addition, he wished to have further information about paragraph 214 of the report, which stated that complaints of human rights violations were examined by the Bar and by the editorial office of a newspaper: what role did those bodies play in the examination of complaints? Could they act in place of the courts? The lack of any complaints of human rights violations in five years, suggested that the population was not aware of its rights or did not trust the justice system. Could the delegation address that issue? It would be interesting to discover how the State party implemented the Convention relating to the Status of Refugees, how many refugees were accepted every year and how they were dealt with. He urged the State party to set up a national human rights institution in line with the Paris Principles, to involve NGOs more closely in human rights protection, and to accede to the Convention on the Reduction of Statelessness. The State party should also make the declaration to recognize the competence of the Committee to receive and consider communications, provided for under article 14 of the Convention.

12. **Mr. Saidou** said that Turkmenistan must create a national human rights institution in line with the Paris Principles, given that the existing National Institute for Democracy and Human Rights was attached to the office of the President of the Republic and its independence was not guaranteed. He asked whether the social rights enjoyed by Turkmen citizens were also extended to minorities, which was not the case according to a 2006 United Nations report. Recalling that the Constitution affirmed that people were the prime asset of society and the State, and had natural and inalienable rights, he wondered what justification there was for the acts of discrimination committed against certain minorities. A number of reports also described cases of infringement of freedom of the press. Since in some countries offences against legislation on the press were being decriminalized and prison sentences commuted to fines, were there similar trends in Turkmenistan?

13. He asked whether legislation had been introduced in the State party to combat discrimination in sport. He also wished to know whether Turkmenistan planned to ratify the ILO Convention concerning Discrimination in Respect of Employment and Occupation (No. 111), and to make the declaration provided for under article 14 of the Convention authorizing the Committee to receive individual communications. Lastly, with regard to the independence of the justice system, he had noted from the report that the President of Turkmenistan had sole responsibility for appointing and dismissing the Minister of Justice and the President of the Supreme Court. Was there an institution similar to a supreme council of justice, which laid down the conditions for appointing senior members of the judiciary, in order to ensure that the justice system was truly independent?

14. **Mr. De Gouttes**, noting that Turkmenistan, in its periodic report, had cited the articles of the Criminal Code and the legislative provisions that punished racial discrimination, said that it was still difficult to discover whether the provisions met the requirements of article 4 of the Convention, since the report vouchsafed no information on how the texts were implemented in practice. While it described a complaints procedure, no

complaints had been recorded to date. In that scenario, the Committee, as stated in its general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system (2005), considered that the absence of complaints was not necessarily positive and could reveal that there was a lack of trust in the police and justice authorities or insufficient awareness on the part of the authorities vis-à-vis victims of racism. Accordingly, he invited the State party to include in its subsequent report statistical data on prosecutions for racial discrimination. The delegation might indicate the follow-up given to the recommendations made in the context of the universal periodic review of Turkmenistan, including efforts to eliminate discrimination against minorities, the establishment of a national human rights institution in line with the Paris Principles, and increased independence of the judiciary.

15. **Mr. Murillo Martínez** said that the lack of disaggregated data showing the different ethnic groups living in Turkmenistan was regrettable. The only statistics submitted showed the percentage of representatives of ethnic groups in the civil service. However, a number of NGOs had drawn attention to the ethnic groups' low rates of employment, which could be linked to the requirement that all persons recruited must be able to prove that their Turkmen origin dated back three generations. Could the delegation say whether that requirement was still in force, and, if so, how it was implemented? He wished to know whether minorities were represented in competitive sports and whether that enabled them to gain access to higher education, given that — according to NGO sources — young people needed the backing of senior officials in order to enter higher education. He would like more detailed information on persons of African descent and whether the activities that had been organized for them in 2011 had been intended to mark the International Year for People of African Descent. Lastly, he wished to know if the Committee's general recommendation No. 34 on racial discrimination against people of African descent (2011) had been taken into consideration, and whether Turkmenistan planned any activities for the United Nations Decade for People of African Descent.

16. **Mr. Vázquez** expressed concern that certain legislative provisions giving effect to the obligations under article 4 of the Convention went beyond the requirements of that article, citing offences against national pride, ostracism or demeaning national values. The obligation to prohibit incitement to racial hatred could, in Turkmenistan's interpretation, conflict with freedom of expression. Also, Turkmenistan's planned legislation to implement article 4 was too vague, and could well have the opposite result, namely persecution, rather than protection, of minorities. Similarly, the temporary restrictions placed on the right of citizens to leave the country, especially when they possessed information that constituted a State secret or if their departure could jeopardize national security, were not specific enough, and could lead to abuse. The Committee also had concerns as to how Convention rights were implemented in practice. In that regard, there was considerable discrepancy between the information provided in the report and information from other sources to the effect that, contrary to the State party's affirmations regarding freedom of religion, only certain religions were recognized (Sunni Islam, the Russian Orthodox Church and Catholicism). In addition, there were reports of widespread discrimination in employment, and the contracts of non-Turkmen employees were frequently terminated on account of their origin. He invited the delegation to comment on those points.

17. **Mr. Thornberry** said that the lack of information on article 3 of the Convention was regrettable and recalled that article 3 concerned not only apartheid but racial segregation, including racial segregation arising from acts committed by private individuals. He wished to know what strategies, in addition to criminal law, were planned to combat hate speech against certain groups. The delegation could perhaps comment on reports of strict controls on the use of Internet in Turkmenistan, and indicate who was subject to such controls, how the controls were applied and what their justification was.

Lastly, he would like the State party to ensure that NGOs attended subsequent meetings at which Turkmenistan's periodic reports were considered.

18. **The Chairperson**, speaking in his capacity as expert, noted that freedom of religion was a constitutional right guaranteed to citizens, in the sense that all persons had the right to practise or not to practise a religion. He wished to know whether the Turkmen authorities registered all religious organizations that so requested, including the Armenian Apostolic Church. He also wished to know if any Roma lived in Turkmenistan; if so, it would be useful to know how many there were, and what parts of the country settled communities lived in. The Committee was particularly interested in the Roma minority, whose members were victims of widespread discrimination throughout the world; indeed, in 2000 the Committee had adopted general recommendation No. 27 on discrimination against Roma. Could the delegation explain the status and role of the National Institute for Democracy and Human Rights?

19. **Mr. Erniyazov** (Turkmenistan) explained that the Ministry of Justice had established a unit for receiving and examining citizens' complaints and answering their questions about the law or the interpretation of laws. It was an advice centre, where officials from the Ministry of Justice, Supreme Court judges and representatives of the Office of the Procurator-General and the Bar answered citizens' questions in their respective areas of competence. The Freedom of Worship and Religious Organizations Act of 2003, and a presidential decree, laid down the procedures for the registration of religious organizations and groups. Turkmenistan had 104 Muslim organizations, including 99 Sunni and 5 Shia, and many other religious organizations including the Seventh-day Adventist Church, the Turkmenistan New Apostolic Church, the Turkmenistan Bahá'í Faith organization, the Evangelical Christian Church, the Evangelical Baptist Church and the Full Gospel Church. All religious organizations that had requested registration with the Ministry of Justice had been registered.

20. As to the manner in which the Minister of Justice and the President of the Supreme Court were appointed, the President of Turkmenistan submitted applications to parliament for approval. Turkmenistan did not recognize dual nationality. Issues relating to Turkmen citizenship were governed by the Turkmen Citizenship Act of 30 September 1992, which stated: "When a Turkmen citizen is a citizen of another State, the other citizenship shall not be recognized in Turkmenistan." The right to leave the country could be refused only in cases where a person was the subject of an investigation or criminal procedure, had been convicted by a court, or was in possession of State secrets or classified information. A special board had been established by presidential decree to review contested cases, when requested by the persons concerned. The board was made up of the Procurator-General or deputy procurators, an immigration department official and a member of parliament, who examined the appeals made by citizens who had been ordered not to leave the country. The board met twice a week and decided whether the order was justified or not.

21. **Ms. Atajanova** (Turkmenistan) said that the National Institute for Democracy and Human Rights offered free legal advice to citizens, examined complaints it received and referred them to the relevant State bodies. The Institute was also responsible for submitting proposals to enhance legislation and, on a yearly basis, providing information to relevant ministries and departments and regional authorities on the main issues raised in the complaints it received.

*The meeting rose at 6 p.m.*