



25 July 2013

Mr Fabián Omar SALVIOLI  
Special Rapporteur for Follow-up on Concluding Observations  
Human Rights Committee  
Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
8-14, avenue de la Paix  
1211 Geneva 10

BY EMAIL: ccpr@ohchr.org  
BY FAX: +41 22 917 90 08

## **FOLLOW UP**

**Re: Kuwait – Comments on additional information on priority recommendations provided by the State of Kuwait in April 2013**

Mr Special Rapporteur,

We are writing to provide comments on the second follow up provided in April 2013 by the State of Kuwait following its review by the Human Rights Committee in November 2011. We received the State party information on 15 July 2013, following our 5 July 2013 submission of comments the initial follow up provided by Kuwait in May 2012. These comments are provided to you following our visit to the country in February 2013.

To recall, the Committee selected recommendations at paragraphs No. 18, 19 and 25 of its Concluding Observations, concerning migrant domestic workers, length and conditions of pre-trial detention and restrictions on freedom of expression respectively, as requiring urgent attention by Kuwait, and accordingly requested Kuwait to provide follow up information within one year, by 18 November 2012.<sup>1</sup> It sent a reminder letter to Kuwait on 12 November 2012 as the information provided earlier in the year was unsatisfactory.

Following on the information provided by the State party in April 2013, Alkarama welcomes its cooperation with the Committee earlier this year. However, we regret that the new information provided only concerns one of the three selected recommendations, and that the information submitted is substantially not satisfactory. As concerns the two other recommendations, we do not consider these to have been implemented in a satisfactory manner, and in fact, to have regressed, particularly when it comes to the question of freedom of expression. We set out briefly below our comments under each specific recommendation for your information.

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<sup>1</sup> See paragraph 33 of the Human Rights Committee's Concluding Observations on the second periodic review of Kuwait (CCPR/C/KWT/CO/2) available at <http://www.un.org/Docs/journal/asp/ws.asp?m=CCPR/C/KWT/CO/2> (accessed 16 July 2013).

### Recommendation 18

In the new information provided in April 2013, the State party only addresses recommendation 18 stating that “[T]he State party should abandon the sponsorship system and should enact a framework that guarantees the respect for the rights of migrant domestic workers. The State party should also create a mechanism that actively controls the respect for legislation and regulations by employers and investigates and sanctions their violations, and that does not depend excessively on the initiative of the workers themselves.”<sup>2</sup>

In its letter, Kuwait provided the Committee with further information regarding its commitment to establishing a public body responsible for the recruitment of labour, with the organisational chart of the body. It also addressed the Committee’s recommendation to abolish the sponsorship system, as we set out below.

Alkarama welcomes the steps taken for the creation of this public body, but remains concerned that this institution is still not operational and that its establishment still needs to be acknowledged by the Parliament. We are particularly concerned at the lack of timeframe set to complete the establishment of this institution, especially as no concrete steps have been taken to change the situation of migrant workers since Kuwait’s review by the Committee in November 2011.

Regarding the abolition of the sponsorship system, the State party states in its letter that “it took concrete steps for the establishment of a judicial committee in charge of studying the negative aspects of the sponsorship system”. Alkarama is concerned that no firm steps have been taken to abolish the sponsorship system, despite the Committee’s recommendation to do so. Moreover, the establishment of this “judicial committee” remains very vague, with no further information on its composition, its prerogatives or its expected output.

We therefore recommend the Committee give a grade of **C1** with regards to implementation of this recommendation, in that although a reply has been provided, the actions taken do not implement the recommendation.

### Recommendation 19

As was stated in our follow up report, Alkarama welcomes the implementation of recommendation 19 regarding arrest and detention, especially the adoption of law No. 3/2012 amending law No. 17/1960 reducing the period of police custody to 48 hours at stated as its article 60 paragraph 2, as well as reducing the length of preventive custody to 10 days as stated at article 69, paragraph 1.<sup>3</sup> However, we remain concerned that the facts on the ground may not reflect the changes in legislation, as we are not aware of any measures taken to ensure that anyone arrested or detained be brought before a judge within 48 hours.

In this context, we recommend the Committee find that grade of **B2** be granted, in that initial action has been taken, but additional information on implementation is required.

<sup>2</sup> See paragraph 18 of the Human Rights Committee’s Concluding Observations on the second periodic review of Kuwait (CCPR/C/KWT/CO/2) available at <http://www.un.org/Docs/journal/asp/ws.asp?m=CCPR/C/KWT/CO/2> (accessed 16 July 2013)

<sup>3</sup> El Watan newspaper, *تعديل أحكام القانون رقم 12 لسنة 1960 من قانون الإجراءات والمحاكمات الجزائية* (in Arabic only - Amend the provisions of Law No. 12 of 1960 of the Code of Criminal Procedure), 20 June 2012, <http://kuwait.tt/articledetails.aspx?Id=202928> (accessed 29 June 2013).

**Recommendation 25**

In its November 2012 letter, the Committee found that no information had been provided by the State party on this recommendation, relating to press freedoms, and that the recommendation had not been implemented. This was confirmed in our initial follow up submission, in which we provided multiple examples of recent cases of individuals who had suffered prosecution for matters relating to their freedom of expression. This is especially pertinent in the current context of increasing harassment of human rights defenders and cyber activists and the upcoming parliamentary elections scheduled to take place today.

In light of this development and as indicated in our 5 July 2013 submission, we have found that space granted to freedom of expression has reduced since the State party's review in 2011. In the replies provided by the state of Kuwait, no information was provided on this question. We therefore recommend the Committee grant a grade of **D2** to the State party in this regard, in that with regards to this recommendation, there has been no cooperation with the Committee, as no reply has been given despite the reminder sent in November 2012.

We would further recommend that when the Committee communicates the outcome of the follow up to the State party, it should refer to the "Unified Media Law" draft and suggest that the State party should withdraw this law, or propose a draft in conformity with international standards. The State party should also reconsider its "Law for the Protection of National Unity" which severely restricts the right to freedom of association and assembly. Should this law be adopted, we would recommend the Committee reviews its grading of implementation of this recommendation to **E**.

**Conclusion**

We would like to refer you to our 5 July 2013 report for more detailed information on the above, and we remain in any case available to provide any further information you might require with regards to the above, or for any other matter.

Yours faithfully,



Mr Rachid Mesli  
Director, Legal Department