



**International Covenant on
Civil and Political Rights**

Distr.: General
7 May 2012
English
Original: Arabic

Human Rights Committee

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

Kuwait*

Addendum

**Information received from Kuwait on the implementation of
the concluding observations of the Human Rights Committee
(CCPR/C/KWT/CO/2)**

[27 April 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Replies of Kuwait to the concluding observations of the Human Rights Committee regarding the State's second periodic report on the implementation of the International Covenant on Civil and Political Rights

1. With regard to the concluding observations of the Human Rights Committee which were discussed on 20 and 21 October 2011 and the concerns and recommendations set forth therein, and in line with the recommendation in paragraph 33 that the State should provide, within one year, relevant information on its implementation of the recommendations in paragraphs 18, 19 and 25, we should like to provide the information set out below, noting that the subjects raised in paragraphs 18 and 19 fall within the purview of the Ministry of the Interior.

Reply regarding the recommendations in paragraph 18 of the concluding observations (CCPR/C/KWT/CO/2)

2. The designation sponsor does not refer to a system but rather to an employer. All employment relationships in the governmental and private sectors involve two parties: the employer and the employee. These relationships could not exist in the absence of either party. However, in some laws, including Amiral Decree No. 17/59, the term "sponsor" is used to refer to an employer and employers are afforded certain rights that some unscrupulous individuals have exploited, a situation which certain States and human rights organizations have used in their turn as a pretext for interfering in the internal affairs of States.

3. Hence, if the precise and proper term — "employer" — were to be reinstated and the term "sponsor" eliminated, and if regulations were to be enacted defining the rights of employers in such a way as to prohibit arbitrary abuse of those rights, that would pose absolutely no problems, so long as the regulations served to do justice to both parties in the contractual relationship.

4. We should explain that the State does everything possible to safeguard the rights of domestic migrant workers who are employed in the private sector. To begin with, it regulates agencies that recruit domestic workers and workers in similar functions in accordance with Decree-Law No. 40/92 and Ministerial Decree No. 617/2010, establishing the rules and procedures for granting licences to agencies that recruit private domestic workers and employees in similar functions. These laws ensure that the rights of domestic migrant workers are respected.

5. As for the creation of a mechanism that actively controls respect for legislation by employers and investigates and sanctions their violations, the State created an entire department to carry out this control function. The Department of Domestic Workers receives complaints from domestic workers about their employers. It summons sponsors, questions them about such complaints and attempts to resolve cases amicably. Moreover, the State has given the Immigration Investigation Department a wider remit and turned it into a general department; it used to be a small department within the General Department for Immigration.

6. When the legislature updated the Private Sector Labour Code, pursuant to Act No. 6/2010, it took care to make provision for the establishment of a general authority to address workforce issues, particularly in relation to migrant workers. The process of

recruiting workers for employment in the private sector is managed through the authority, the aim being to overcome the negative aspects of the sponsorship system.

Reply regarding the recommendations in paragraph 19 of the concluding observations

7. According to the recommendations in this paragraph of the concluding observations, the State should adopt legislation to ensure that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours and should ensure that all other aspects of law and practice on pretrial detention are harmonized with the requirements of article 9 of the Covenant, including by providing detained persons with immediate access to counsel and contact with their families.

8. Article 42 of the Code of Criminal Procedure (Act No. 17 of 1960) provides that police officers must record, in their investigation reports, statements and arguments that are made by accused persons in their own defence. If a statement includes a confession to a crime, the officer must make a note of it, on principle, in the report. The accused will be referred to an investigator for questioning to verify the authenticity of the confession. Article 98 of the Code states that if the accused is present, the investigator must ask him or her about the charges before beginning the examination. If the accused confesses to the crime, at any given time, the confession must be recorded in the examination report without delay and subsequently explored in detail. If the accused denies the charges, he or she must be closely questioned after witnesses have been heard. The accused must sign his statement after it has been read out to him. Otherwise, a note must be added to the record stating that he cannot or will not sign.

9. Article 9, paragraph 3, of the International Covenant on Civil and Political Rights provides that: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody." This provision is identical to those found in the laws that regulate this matter in Kuwait. Persons in custody and pretrial detention are afforded all possible guarantees for a fair trial, including the right to communicate with their families and to be represented by a lawyer.

10. In addition, the Government has tabled a bill to amend article 60, paragraph 2, of the Code of Criminal Procedure (Act No. 17/1960) so as to reduce the length of police custody to 24 hours instead of the 4-day period has obtained hitherto and to amend article 69 of the Code so as to reduce the term of pretrial detention from 3 weeks to 1.

11. Consistent with the above, the Kuwaiti Code of Criminal Procedure provides that accused persons must be brought promptly before an independent judicial body after being placed in detention and that relatives, lawyers and physicians have the right to communicate with the accused as soon as they are detained. This constitutes a fundamental safeguard for all persons without exception.
