

**Matters that fall under the remit of the Ministry of the Interior:**

**Reply to recommendation No. 99**

**99 (a)**

Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments: The State of Kuwait has always worked to promote and protect human rights in general through its Constitution, which includes many articles that are compatible with the relevant international instruments and covenants. Kuwait has acceded to several human rights conventions, including both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1996, in addition to the Convention on the Elimination of All Forms of Racial Discrimination in 1968, the Convention on the Elimination of All Forms of Discrimination against Women in 1994, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1994 and the Convention on the Rights of the Child in 1991. Kuwait also acceded to the two Optional Protocols to the Convention on the Rights of the Child in 2004.

**99 (b)**

Lift the reservations made concerning articles 9 (2) and 16 (1) (f) of the Convention on the Elimination of All Forms of Discrimination against Women: Article 9 (2) of the Convention reads as follows: “States parties shall grant women equal rights with men with respect to the nationality of their children.” Article 2 of the Kuwaiti Nationality Act stipulates that anyone born to a Kuwaiti father is a Kuwaiti citizen. However, in cases where the identity or nationality of the father is unknown, the child acquires Kuwaiti nationality through the mother. According to article 2 (5) of the Nationality Act, a Kuwaiti woman may pass on her nationality to her children if the following conditions are met: if the foreign father is a prisoner, if he has divorced the mother or if he has died.

Article 16 (1) (f) of the Convention stipulates that States parties shall ensure, on a basis of equality between men and women, the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children. With regard to the right of men and women to equal guardianship and

trusteeship, articles 3 and 5 of the Family Court Act, No. 12/2015, which regulates the right of women to guardianship and trusteeship of their children, grant women the right to guardianship and trusteeship in educational and health matters.

**99 (c)**

Repeal of all discriminatory provisions in the Personal Status Law, the Nationality Act and the Penal Code, ensuring equality before the law: Based on the principle of equality in rights and duties – a well-established principle that is generally applied without discrimination between the sexes – article 29 of the Constitution stipulates that all people are equal in human dignity and in public rights and duties before the law, without distinction as to race, origin, language, or religion.

With regard to the provisions of the Nationality Act, matters relating to nationality are considered to be matters of State sovereignty and are not subject to judicial oversight. However, pursuant to the provisions of Decree-Law No. 20 of 1981, a division was established in the High Court to hear administrative disputes. Article 1 of the Decree-Law stipulates that: “The Administrative High Court shall have exclusive jurisdiction over the following matters: requests submitted by individuals or organizations to annul final administrative decisions, with the exception of decisions issued on matters of nationality, residence and expulsion of non-Kuwaitis”.

**99 (d)**

Enact legislation, which could follow the principles of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), to prevent, combat and deal with all forms of gender-based violence: The State of Kuwait approved United Nations General Assembly resolution No. 134/48 on the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The State of Kuwait has also approved the Arab Charter on Human Rights and is fulfilling its obligations in this regard. In addition, Act No. 67 of 2012 on the establishment of the National Human Rights Office was enacted, and Act No. 16 of 2020 criminalizes violence against women and defines the mechanisms for reporting cases of violence, as well as the penalties for those who violate the law.

**99 (e)**

Establish an effective and independent complaint mechanism for women victims of violence: Act No. 16 of 2020 sets out the mechanisms for dealing with

victims of domestic violence and other forms of violence, as well as the mechanisms for filing complaints.

**99 (g)**

Ensure that labour law is in compliance with international standards, including maternity leave and equal pay for work of equal value: Articles 24–26 of the Labour Code, Act No. 6/2010, provides that women have the right to equal pay and the same work as men, as well as the right to paid maternity leave.

**99 (h)**

Ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189): Act No. 68/2015 on Domestic Workers aims to protect the rights of domestic workers. It defines the rights of domestic workers and the obligations of employers towards them. The Penal Code regulates and deals with any offences, assault or domestic violence to which a domestic worker is subjected.

**99 (i)**

Abolish the *kafala* system: Act No. 67/1980 regulates the *kafala* system and contains articles on the definition, elements and effects of *kafala*.

**Reply to recommendation No. 100**

**100 (c)**

Duly train police and justice operators: Specialized members of the police force are trained in receiving reports of violence and dealing with victims of violence in accordance with article 2 (6) of Act No. 16/2020: “Training programmes shall be organized for all those involved in dealing with cases of violence and abuse, including law enforcement and investigation teams”.

**Reply to recommendation No. 101**

**With regard to the institutional framework, we wish to report the following:**

**101 (b)**

Establish promptly the national human rights institution: Attention is drawn to Act No. 67/2015 on the establishment of the Human Rights Bureau, an institution dedicated to safeguarding human rights and dignity. Article 2 of the Act grants the Bureau legal personality and independence in the exercise of its functions, activities and competencies. The State of Kuwait spares no effort in

applying international conventions related to the protection and safeguarding of human rights.

**101 (c)**

Make use of Kuwaiti Women's Day (16 May) to raise awareness about what constitutes discrimination: The State of Kuwait has been keen to highlight the leadership role of women and their many achievements in various fields and has presented these achievements and experiences on Kuwaiti Women's Day. In accordance with Act No. 17 of May 2005 on women's access to political rights, including the rights to participate in the electoral process as candidates and voters, this date was adopted as a celebration of women's access to their rights, as well as to showcase and publicize the achievements and successes of Kuwaiti women in all fields of endeavour.

**Reply to recommendation No. 103**

**103 (a)**

Apply temporary special measures to ensure parity in public and political representation, in the executive and legislative branches, and in the judiciary: One of the measures taken by the State to empower women and address all forms of discrimination against them was the enactment of national legislation enabling women's access to and representation in the Kuwaiti parliament through Amiri Decree No. 130/2004, which amended article 1 of Act No. 35/1962 on the elections of members of the Kuwaiti National Assembly. Under Act No. 17/2005, every Kuwaiti has the right to vote and run for the National Assembly, thus realizing the principle of equality between men and women in exercising their rights to political representation in the executive and legislative branches. In addition, national legislation has endeavoured to ensure that women have the right to work in the judiciary through the decision of the Attorney General of the Supreme Judicial Council, issued in 2020, to appoint women to senior judicial positions such as chief judges in Kuwaiti courts.

**103 (c)**

Implement a comprehensive and effective strategy and plan of action for gender equality and the empowerment of women: The State of Kuwait continues to promote and ensure gender equality. Article 29 of the Kuwaiti Constitution lays down a general rule of equality between all persons: "All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion." There are also ongoing efforts to accede to

international conventions on the elimination of all forms of discrimination against women, including through Amiri Decree No. 24/1994. In addition, women occupy all positions and supervisory positions and have the same rights and duties in respect of their positions as men. The only criteria for distinguishing between employees are their competence and experience in performing the tasks assigned to them strictly within the limits of labour laws and regulations.

**103 (d)**

Enable the establishment of political parties in the country in place of the dominant bloc/coalition system: With regard to the adoption of a legal framework regulating the existence of political parties to participate in political life and to replace the system in place for elections in the State of Kuwait, it should be pointed out that article 6 of the Kuwaiti Constitution stipulates that: “The System of Government in Kuwait shall be democratic, under which sovereignty resides in the people, the source of all powers. Sovereignty shall be exercised in the manner specified in this Constitution.” Article 43 of the Constitution stipulates that: “Freedom to form associations and unions on a national basis and by peaceful means is guaranteed in accordance with the conditions and manner specified by law. No one may be compelled to join any association or union.” It is clear from the above that the two articles do not prohibit the formation of political organizations, nor do they encourage their formation, but rather they leave the matter to be regulated in law. The State of Kuwait wished to respond to political developments and the electoral system and to benefit from new developments in political thought and constitutional and electoral experiences in other countries. However, this is contingent on preserving the unity and stability of the country. The ban on the establishment of political parties in the State of Kuwait was due to political, legal and social considerations. Therefore, we believe that this matter falls within the competence of the legislative authority, which expresses the will of the nation and which has not yet decided to issue a law regulating the existence of political parties.

**103 (e)**

Maintain the practice of allowing women to take the prosecutor’s exam: Act No. 35/2001 establishes the basis for selecting and filling the post of public prosecutor on the basis of competence, as stipulated in article 8 of the Act: “Members of the General Directorate of Investigations shall be promoted to the position of public prosecutor based on merit.”

**103 (h)**

Ensure that freedom of expression and freedom of assembly is systematically realized for all: The protection of freedom of expression for all, especially human rights defenders and bloggers, is guaranteed by article 36 of the Kuwaiti Constitution, which grants the written and audiovisual press the freedom to express opinions: “Freedom of the press, printing and publishing is guaranteed in accordance with the terms and conditions prescribed by law.” Article 43 of the Constitution regulates the mechanism and formation of associations, providing for the freedom to form associations and trade unions on a national basis. Article 44 of the Constitution also affirms the right of individuals to assemble without prior permission or notification in accordance with the permissible conditions specified by law, provided that the assembly is for peaceful purposes and its means are peaceful. Act No. 3/2006 on Press and Publication was amended in 2016, article 8 of which affirms that newspapers are not subject to any prior censorship.

**Reply to recommendation No. 105****105 (b)**

Raise awareness about all forms of gender-based violence and establish accessible complaint mechanisms for reporting domestic violence: In accordance with the commitment of the State of Kuwait to respect and realize rights and freedoms and all principles, charters, covenants and conventions related to human rights that seek to preserve human dignity and achieve equality and social justice, the State of Kuwait ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment through Act No. 1 of 1991, which became an integral part of national legislation. Articles 8 to 16 of Act No. 16/2020 on Protection against Domestic Violence refer to reporting mechanisms and the procedures for receiving reports, in addition to the penalties that apply to perpetrators. This law also provides for the formation of committees whose mandate is to protect victims of violence and educate society about the effects of domestic, sexual and other forms of violence.

**Reply to recommendation No. 106****106 (a)**

Find a sustainable solution to the situation of Bidoon women to ensure that they are not victims of systemic discrimination: Attention is drawn to Amiri Decree No. 467 of 2010 on the establishment of the Central Agency for Addressing the Situation of Illegal Residents, which is the body concerned with

safeguarding the rights and duties of illegal residents and that takes all necessary measures to secure their basic rights, such as education, health and housing, and to regularize their status by proposing relevant draft laws in coordination with the concerned authorities, in addition to preparing studies and research related to their conditions and making any proposals it deems appropriate.

**106 (b)**

Ensure alternatives to the incarceration of women: Articles 28–32 of the Prisons Act, No. 26 of 1962, stipulate the measures to be taken in respect of category A prisoners. They are entitled to health care and visits from whomever they wish, may meet with their lawyer in private, and may not be employed due to their health condition. With regard to the treatment of female prisoners or detainees, particularly those who declare that they are pregnant, article 33 of the Act specifies that they are exempted from prison labour and given special medical care in terms of food and sleep, while article 34 provides the right for imprisoned women to keep their child with them until the child reaches the age of 2 years.

**106 (c)**

Reduce the gap between the rights given to Kuwaiti women and those given to migrant women: With regard to the equality of rights granted to Kuwaiti women and their foreign counterparts in the State, whatever the nature of their residency – family reunification, tourism, work in the private sector, or illegal residence – in accordance with the public order existing in the State of Kuwait, all are equal before the law, as stipulated in article 29 of the Constitution: “All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion.” The State of Kuwait continues to enact national legislation that guarantees the safety and health of residents and migrants, in terms of working hours and not being exploited in unauthorized work, and in terms of ensuring health insurance for them to receive treatment and health care, within the framework of Act No. 6/2010 on employment in the private sector and Act No. 1/1999 on health insurance.

**Matters that fall under the remit of the Public Authority of Manpower:**

**The Authority’s comments on the Working Group’s observations:**

The experts note that the domestic workers law does not meet the guarantees set out under the country’s general labour law and international standards. Ministerial Decree No. 2302 of 2016 established a minimum wage for

domestic workers of 60 dinars (\$200), guaranteeing domestic workers the same minimum wage as other workers under the labour law. Nevertheless, the experts note with concern how low this minimum wage is in comparison with the cost of living and the generally high incomes in the country: the estimated yearly earned income is \$40,000 for women and \$75,000 for men.

The law took a step towards prohibiting the confiscation of passports by the employer, but allowing it if the migrant worker agrees. However, there is an absence of penalties for employers who confiscate workers' passports and a lack of effective monitoring and enforcement mechanisms, which are of critical importance for the effective implementation of the law.

### **1. Regarding the minimum wage**

- Ministerial Decision No. 22 of 2022 was issued regarding the new implementing regulations of Act No. 68 of 2015 on Domestic Workers. Article 27 of the new implementing regulations set the minimum wage for domestic workers and similar workers at 75 dinars. The Minister shall issue a decision every five years at the least to set the minimum wage (see annex).

### **2. With regard to penalties for employers who confiscate workers' passports and monitoring and enforcement mechanisms**

- Article 12 of Act No. 68 of 2015 on Domestic Workers stipulates: "It is prohibited for an employer to keep any personal identification documents of a domestic worker, such as a passport or identity card, except with the consent of the domestic worker."
- With regard to enforcement mechanisms, article 32 of Ministerial Decision No. 22 of 2022, containing the new implementing regulations for Act No. 68 of 20015, the Domestic Workers Act, states: "If the competent entity upholds a complaint made against an employer pertaining to a violation of the employer's obligations under the Act, or if the employer fails to provide adequate justification for failing to collect a domestic worker from the recruitment office, or if the employer fails to attend an investigation hearing when summoned to appear, the competent entity shall have the right to suspend the issuance to the employer of entry visas for domestic workers for a period of six months. The penalty shall be doubled in the case of repeat offences."
- As stated in section V - General provisions of the model bilateral labour contract, paragraph 7, and section VII - General provisions of the model tripartite labour contract, paragraph 7: "The employer shall not keep any



documents or personal identification documents of the domestic worker, such as a passport.”

- If an amicable settlement between the parties to the dispute is not possible or if the complainant fails to refer the matter to the competent department after being notified, the dispute shall be referred to the competent court.

In addition to the adoption of the ground-breaking law on domestic workers, and the Government’s efforts in disseminating the law in five languages at the airport and on social media, the experts commend the establishment in 2014 of a pioneering shelter for domestic workers, with a capacity for 500 women. During the visit, the experts heard appalling accounts of abuses, including non-payment of wages for years, and violence against these workers by employers. The experts regret the low level of reporting (likely owing to fear of reprisals) and that perpetrators of violence are not systematically prosecuted and sentenced, despite existing legal safeguards. The appropriate application of sanctions would have a deterrent effect and would prevent the reoccurrence of such abuses.

- The experts also share the concerns expressed by the Special Rapporteur on trafficking in persons, especially women and children regarding the *kafala* system, as it creates a situation of vulnerability by binding every worker to a particular employer as a sponsor, which allows for abusive and exploitative work relationships. With regard to the experts’ observation that the level of reporting is low (likely owing to fear of reprisals) and that perpetrators of violence are not systematically prosecuted, despite existing legal safeguards:
  - The Public Authority of Manpower, through the Department for Regulating the Recruitment of Domestic Workers, has focused on making it easy for workers to complain and report any violations committed against them by their employer, whether by sending the complaint by email directly to the Department, sending it through the embassy of their country or going in person to the Department. The Department has posted on social media the details of how to lodge complaints and continues to do so periodically. The Public Authority of Manpower is seeking to establish a hotline to receive complaints from domestic workers around the clock.
  - The Department for Regulating the Recruitment of Domestic Workers summons the domestic worker and the employer by telephone to come to the Department’s headquarters to investigate the complaint submitted by the domestic worker, either in person or by email or through the embassy of his or her country.

- If the employer cannot be reached, the Department will enlist the help of the Ministry of the Interior to bring him to the nearest investigation hearing to complete the complaint procedures.
- According to the Domestic Workers Act (No. 68 of 2015), the Public Authority of Manpower is responsible for implementing international human rights law, preserving the human dignity and protecting the rights of domestic workers, and providing legal protection to the three parties to a domestic labour contract (the worker, the employer and domestic labour recruitment offices and companies).

With regard to the enforcement of the law, monitoring and ensuring the implementation of Act No. 68 of 2015 on Domestic Workers, the Public Authority of Manpower, through the Department for Regulating the Recruitment of Domestic Workers, follows up on all complaints received from the parties to the domestic labour contract and seeks to resolve them amicably by collecting the financial dues of employers from domestic worker recruitment offices and companies according to the complaints received by the Department, or referring these complaints to the competent court if the dispute cannot be resolved amicably.

- In order to increase the effectiveness and validity of the Act, Ministerial Decision No. 22 of 2022 containing the implementing regulations of Act No. 68 of 2015 on Domestic Workers was issued to revise the previous implementing regulations.
- The approved model bilateral and tripartite employment contracts for the recruitment of domestic workers, which became binding following the issuance of Ministerial Decision No. 2 of 2020 dated 2 February 2022 regarding their adoption, have been prepared as part of efforts to ensure the application of the rules and procedures for implementing Act No. 68 of 2015 on Domestic Workers (see annex).
- As for the efforts made to include in the law deterrent penalties that prevent employers from violating the law and breaching the obligations of the concluded contract and the provisions of Act No. 68 of 2015, the Department for the Regulation of Recruitment of Domestic Workers takes the legal measures provided for in Act No. 68 against employers who violate the provisions of the Act:

Article 30 of the Act stipulates that: "In the event that any complaints against the employer before the Domestic Workers Department are proven, the

issuance of any income visas to the employer shall be suspended for the period specified by the regulations.”

- Article 32 of Ministerial Decision No. 22 of 2022 states: “If the competent entity upholds a complaint made against an employer pertaining to a violation of the employer’s obligations under the Act, or if the employer fails to provide adequate justification for failing to collect a domestic worker from the recruitment office, or if the employer fails to attend an investigation hearing when summoned to appear, the competent entity shall have the right to suspend the issuance to the employer of entry visas for domestic workers for a period of six months. The penalty shall be doubled in the case of repeat offences.”
- The Domestic Workers Act and its implementing regulations provide for mechanisms to protect domestic workers after they submit a complaint, in accordance with the following articles of the implementing regulations:
  - Article 35: It is prohibited to register a report of abandonment of work against the domestic worker after submitting the complaint to the competent department, provided that he or she is registered among the residents of the migrant workers accommodation centre, and the ban is considered to be lifted two months after the complaint is settled or referred to the competent court.
  - Article 36: “The director of the competent department shall issue an order to temporarily extend the residence permit of the domestic worker until a final decision is made on the complaint and until the worker is paid all due entitlements.”
  - Article 38: “For reasons of public interest, the Authority shall have the right to issue an order to transfer a domestic worker from one employer to another in the following cases:
    - If it is proven that an act, statement or gesture with a sexual connotation by the employer or those who live with him towards the domestic worker has been committed that affects his body or honour, or violates his modesty, by any means, including modern technology, without prejudice to the worker’s right to resort to articles 198 and 199 of the Penal Code.

#### **Recommendation No. 98**

- The State of Kuwait has taken all measures to ensure equality between men and women in the field of employment, on the basis of article 29 of the Constitution, which states: “All people are equal in human dignity and

in public rights and duties before the law, without distinction to race, origin, language, or religion.” Article 41 stipulates: “Every Kuwaiti has the right to work and to choose the type of work. Work is a duty of every citizen necessitated by personal dignity and the public good. The State shall endeavour to make it available to citizens and to make its terms equitable.”

- Accordingly, a number of pieces of national legislation have been promulgated that guarantee and safeguard women’s rights, including the Private Sector Labour Code, No. 6 of 2010, article 1 (3) of which defines a worker as: “Any man or woman who performs manual or mental labour for the benefit of the employer, under his management and supervision, in return for remuneration.” The Code devotes a chapter to the employment of women. Article 26, for example, stipulates that: “Women shall be entitled to the same wage as men if they perform the same work.” Thus, women workers are equal to men in terms of receiving the same wage for the same work without any distinction between them.
- Articles 22 and 23 of the Labour Code, Act No. 6 of 2010, state the following:
  - Women shall not be employed at night between 10 p.m. and 7 a.m., save those who work in hospitals, health centres, private treatment houses and other health institutions, in respect of which a decision shall be issued by the Minister of Social Affairs and Labour, on condition that the employer in all the above cases ensures the security requirements for women in addition to the provision of means of transport to and from the place of work. The official work hours during the Holy month of Ramadan shall be excluded from the above provisions.
  - The employment of women in trades and jobs that are dangerous, hard or harmful to health shall be prohibited. Women shall also not be employed in jobs that violate their morals and use their femininity in a manner that is not in line with public morals. Moreover, women shall not be employed in institutions that provide services exclusively for men.
  - Ministerial Decree No. 177 of 2021, on prohibiting discrimination in private-sector employment and sexual harassment in the workplace (see annex).

**Reply to recommendation No. 99**

**99 (g)**

- Article 24 of the Labour Code (Act No. 6 of 2010) states:  
“Pregnant working women are entitled to 70 days of paid maternity leave, which shall not be counted against their other leaves, provided that the delivery takes place during this period.”
- A number of pieces of national legislation have been promulgated that guarantee and safeguard women’s rights, including the Private Sector Labour Code, No. 6 of 2010, article 1 (3) of which defines a worker as “Any man or woman who performs manual or mental labour for the benefit of the employer, under his management and supervision, in return for remuneration.” The Code devotes a chapter to the employment of women. Article 26, for example, stipulates that “Women shall be entitled to the same wage as men if they perform the same work.” Thus, women workers are equal to men in terms of receiving the same wage for the same work without any distinction between them.
- The Private Sector Labour Code, No. 6 of 2010, and its amending laws include a full chapter in Title IV that regulates wages in order to achieve full equality between workers in all different fields of work.

**99 (h)**

- Ratify the ILO Domestic Workers Convention, 2011 (No. 189) and ensure that the national law is in compliance with the Convention and that sufficiently funded monitoring mechanisms are in place to ensure efficient implementation of the law:
- The Public Authority of Manpower and the relevant government and private entities need to conduct a thorough study of the provisions of the Convention and further studies of the labour market on the ground, in order to reconcile the provisions of the Convention with the Kuwaiti Domestic Workers Act and its implementing regulations and all labour-related rules, regulations and legal texts.

**Matters that fall under the remit of the Ministry of the Health:**

**Reply to recommendation No. 104**

**104 (a)**

- Surgeries related to a woman's reproductive system are performed with the patient's consent, in accordance with the law governing medical practice, Act No. 70/2020.

**104 (b)**

- Provide free contraception to women. This is not available in the government sector, but all contraceptive methods are available in the private sector at low prices.

**104 (c)**

- Ensure access to abortion services. Article 17 of the law governing medical practice, Act No. 70/2020, deals with abortion services.